

ESTTA Tracking number: **ESTTA75414**

Filing date: **04/10/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Blue Collar Records, Inc.
Granted to Date of previous extension	04/09/2006
Address	2243 Cairns Court Orlando, FL 32835 UNITED STATES

Attorney information	Mark D. Passler Akerman Senterfitt 222 Lakeview Avenue, 4th Floor West Palm Beach, FL 33401 UNITED STATES mark.passler@akerman.com Phone:(561) 653-5000
----------------------	--

Applicant Information

Application No	76619804	Publication date	10/11/2005
Opposition Filing Date	04/10/2006	Opposition Period Ends	04/09/2006
Applicant	Creed Rosary Manufacturing, Inc. 15 Kenneth Miner Drive P.O. Box 2014 Wrentham, MA 02093 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 2004/10/01 First Use In Commerce: 2004/10/01
All goods and services in the class are opposed, namely: Jewelry, namely, medallions, necklaces, anklets and bracelets

Attachments	wp298435.pdf (7 pages)
-------------	--------------------------

Signature	/Mark D. Passler/
Name	Mark D. Passler
Date	04/10/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No.: 76/619,804
Mark: SURFER'S CREED
Filed: November 8, 2004
Published in the *Official Gazette*: October 11, 2005

BLUE COLLAR RECORDS, INC.)
 Opposer,)
)
v.)
)
CREED ROSARY MANUFACTURING,)
 INC.)
 Applicant)
_____)

Opposition No.: _____

FILED VIA ESTTA
U. S. Patent And Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Blue Collar Records, Inc., a Florida corporation, (the "Opposer"), is the worldwide owner of the trademarks for the world famous rock band CREED. Opposer believes that it will be damaged by registration of the mark SURFER'S CREED (the "Applicant's Mark") for "jewelry, namely, medallions, necklaces, anklets and bracelets" in International Class 14 (the "Applicant's Goods"), which mark is the subject of Application Serial No. 76/619,804 (the "Application"), filed November 8, 2004 by Creed Rosary Manufacturing, Inc. (the "Applicant"), and published for opposition in the Official Gazette of October 11, 2005, and, having previously been granted an extension of time to oppose, by and through its undersigned attorneys, hereby opposes the same.

The grounds for this opposition are as follows:

1. Prior to October 1, 2004, the date of first use claimed by Applicant in the Application, Opposer, adopted and used and has continued to use the mark CREED (the "CREED Mark") in interstate commerce on and in connection with the sale of jewelry, among other goods and services.

2. Opposer is the owner of multiple registrations and applications, including:

A. U.S. Trademark Registration No. 2,667,648 for CREED and design for rings being of jewelry, pendants, brooches, and badges of precious metal in International Class 14, paper goods and printed matter, namely posters; and printed paper and cardboard materials for a rock band, namely, paper name badges, magazines, greeting cards, trading cards, postcards, stationary, gift cards, stickers, decals, and temporary tattoos in International Class 16, and clothing featuring a rock band, namely, t-shirts, sweatshirts, tank tops, polo shirts, hats, jackets, windbreakers, visors, bandanas; and clothing for infants, toddlers, and babies in International Class 25;

B. U.S. Trademark Registration No. 2,770,582 for CREED for metal key rings and metal key chains in International Class 6, rings being jewelry, pendants, jewelry, and bracelets in International Class 14, paper goods and printed matter, namely, posters, cardboard cutouts, stickers, decals, badges, temporary tattoos, trading cards, stationery, postcards, and greeting cards, in International Class 16, bed blankets, in International Class 24, clothing, namely, T-shirts, sweatshirts, tank tops, polo shirts, jackets, jerseys, wind-resistant jackets, infantwear; and headwear, namely, hats and caps, in International Class 25, and entertainment services, namely, live music performances by a musical group; providing

information about musical groups via a computer communications network; audio recording and production; and entertainment, namely, production of shows and videos featuring musical performances, in International Class 41;

C. U.S. Trademark Registration No. 2,204,984 for CREED for musical sound and video recordings in International Class 9;

D. U.S. Trademark Registration No. 2,612,813 for entertainment in the nature of live performances by a musical group in International Class 41;

E. U.S. Trademark Registration No. 2,865,592 for CREED for clothing, namely, knit shirts, hooded shirts, and headwear, namely, visors and bandanas in International Class 25, and ornamental novelty patches for clothing, ornamental novelty pins in International Class 26; and

F. U.S. Trademark Registration No. 2,919,348 for CREED for paper goods and printed matter, namely, tour books relating to musical performances, appointment books, song books, magazines relating to a musical group in International Class 16 and backpacks in International Class 18.

3. All of the goods and services collectively listed in the above-noted registrations are hereinafter referred to as "Opposer's Goods and Services."

4. Prior to the filing date of the Application, the CREED Mark was applied to Opposer's Goods and Services and to advertisements and promotional materials used in connection with the sale of Opposer's Goods and Services. Opposer's Goods and Services offered and sold under the CREED Mark have been extensively advertised and promoted,

making clear and prominent use of the CREED Mark to identify and distinguish Opposer's Goods and Services from those offered and sold by others. As a result of such advertising and promotion, Opposer has enjoyed extensive sales of distinguish Opposer's Goods and Services offered and sold under Opposer's CREED Mark.

5. Opposer's CREED Mark has been used by Opposer since prior to the filing date of this Application and continues to be used by Opposer for the purposes of identifying and distinguishing Opposer's Goods and Services from the goods and services of others, and the trade and the consuming public have come to know and recognize Opposer's CREED Mark as identifying the goods and services of Opposer as the exclusive source thereof.

6. Prior to the filing of the Application, as a result of the skill and care exercised by Opposer in the conduct of its business, the uniform standards of high quality of Opposer's Goods and Services offered and sold under Opposer's CREED Mark, and the advertising, promotion, distribution and acceptance thereof by the trade and consuming public, goods and services bearing Opposer's CREED Mark have become well and favorably known. In this regard, the rock band CREED has earned a multitude of accolades and accomplishments, including record albums sales, winning a Grammy and multiple artists of the year awards, and thus, have been the subject of extensive news stories and unsolicited media articles in the United States and throughout the world. As a result, the CREED Mark has acquired an extensive and favorable reputation, symbolizing the goodwill that Opposer has created throughout the United States and elsewhere in connection with the marketing and sale of Opposer's Goods and Services.

7. By the Application, Applicant seeks to register the designation SURFER'S CREED as a trademark for "jewelry, namely, medallions, necklaces, anklets and bracelets."

8. Applicant's goods in Class 14 that are to be offered under Applicant's Mark, SURFER'S CREED, are the same as or similar to the goods in Class 14 on and in connection with which Opposer has used and continues to use the well known CREED Mark.

9. The goods in Class 14 covered by the Application will be encountered by the same or similar class of purchasers as those who are interested in or familiar with the goods in Class 14 promoted, offered and provided by Opposer under the well known CREED Mark.

10. The goods in Class 14 on which Applicant's claimed mark is used and the goods in Class 14 on and in connection with which Opposer has used and continues to use its CREED Mark will be advertised, promoted, offered and distributed through the same or similar channels of trade to the same or similar classes of purchasers, and the use by Applicant of a mark that is similar to Opposer's CREED Mark in connection with such goods will be likely to cause confusion, or to cause mistake, or to deceive purchasers, all to the damage of Opposer.

11. Applicant's Mark, SURFER'S CREED, so closely resembles multiple registrations of Opposer's registered CREED Mark as to be likely, when applied to Applicant's Goods, to cause confusion, to cause mistake and to deceive, with consequent injury to Opposer and to the public.

12. Applicant's Mark, SURFER'S CREED, so closely resembles Opposer's registered CREED Mark that, when Applicant uses the designation SURFER'S CREED,

potential purchasers are likely to mistakenly believe that Opposer is the source of Applicant's Goods or that Opposer has authorized, sponsored, approved of, or in some manner associated itself with the goods of Applicant, and such use will therefore create a likelihood of confusion, deception or mistake, all to the damage of Opposer.

13. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's Mark and would give color of exclusive statutory rights to Applicant; all in violation and degradation of the prior and superior rights of Opposer to the well know CREED Mark.

14. As alleged above, Opposer has adopted and used and has continued to use the CREED Mark, for which Applicant has acquired multiple federal registrations, in interstate commerce on or in connection with jewelry. The CREED Mark has become strong, distinctive and famous mark qualifying for protection under Section 13 and Section 43(c) of the Lanham Act of 1946, as amended, 15 U.S.C. §§ 1063 and 1125(c).

15. Opposer's CREED Mark is a famous mark with the meaning of Section 43(c) of the Lanham Act of 1946, as amended, 15 U.S.C. § 1125(c), and the use by Applicant of the designation SURFER'S CREED would cause dilution of the distinctive quality of Opposer's CREED Mark, in violation of Section 43(c).

16. By reason of the foregoing, Opposer believes that it will be damaged by the registration of Applicant's Application.

WHEREFORE, Opposer respectfully prays that its opposition to Applicant Serial No. 76/619,804 for registration of Applicant's Mark, SURFER'S CREED, be sustained and that registration sought by Applicant be refused.

Please direct all correspondence to the attention of:

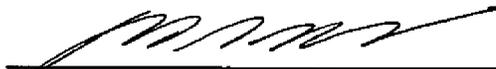
Mark D. Passler
Reg. No. 40,764
AKERMAN SENTERFITT
222 Lakeview Avenue, 4th Floor
West Palm Beach, FL 33402-3188
(561) 653-5000 (telephone)
(561) 659-6313 (facsimile)

The commissioner is hereby authorized to charge the fees for this Notice of Opposition to Deposit Account No. 50-0951. Authorization is also give to charge any required fees and credit any overpayments of Petitioner throughout the pendency of this opposition proceeding.

Respectfully Submitted,

AKERMAN SENTERFITT

Date: 4-10-06



Mark D. Passler, Reg. No. 40,764
Peter A. Chiabotti, Reg. No. 54,603
222 Lakeview Avenue, 4th Floor
Post Office Box 3188
West Palm Beach, FL 33402-3188
561-653-5000 - Telephone
561-659-6313 - Facsimile

Attorneys for Opposer Blue Collar Records, Inc.