

ESTTA Tracking number: **ESTTA412653**

Filing date: **06/03/2011**

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	06/15/2011
Address	6282 Blakeford Drive Windermere, FL 34786 UNITED STATES

Attorney information	Mark D. Passler Akerman Senterfitt P.O. Box 3188 West Palm Beach, FL 33402-3188 UNITED STATES ip@akerman.com, angela.martin@akerman.com Phone:561-653-5000
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Applicant Information

Application No	85122983	Publication date	02/15/2011
Opposition Filing Date	06/03/2011	Opposition Period Ends	06/15/2011
Applicant	Daniel Mervenne 9300 Forest Path NE Ada, MI 49301 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Entertainment in the nature of live performance of a musical group; Production and distribution of motion pictures

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2204984	Application Date	03/19/1997
Registration Date	11/24/1998	Foreign Priority Date	NONE
Word Mark	CREED		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 009. First use: First Use: 1996/10/11 First Use In Commerce: 1996/10/11 musical sound and video recordings

U.S. Registration No.	2770582	Application Date	02/08/2002
Registration Date	10/07/2003	Foreign Priority Date	NONE

Word Mark	CREED
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 006. First use: First Use: 1998/01/00 First Use In Commerce: 1998/01/00 metal key rings and metal key chains</p> <p>Class 014. First use: First Use: 2001/02/00 First Use In Commerce: 2001/02/00 rings being jewelry, pendants, jewelry, and bracelets</p> <p>Class 016. First use: First Use: 1996/10/00 First Use In Commerce: 1996/10/00 paper goods and printed matter, namely, posters, [cardboard cutouts,] stickers, decals, [badges,] temporary tattoos, [trading cards, stationery, postcards, and greeting cards]</p> <p>Class 024. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 bed blankets</p> <p>Class 025. First use: First Use: 1996/10/00 First Use In Commerce: 1996/10/00 clothing, namely, T-shirts, sweatshirts, tank tops, polo shirts, jackets, jerseys, wind-resistant jackets, infantwear; and headwear, namely, hats and caps</p> <p>Class 041. First use: First Use: 1996/10/00 First Use In Commerce: 1996/10/00 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</p>
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U.S. Registration No.	2919348	Application Date	12/14/2001
Registration Date	01/18/2005	Foreign Priority Date	NONE

Word Mark	CREED
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Design Mark	CREED
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1998/07/01 First Use In Commerce: 1998/07/01 paper goods and printed matter, namely, tour books relating to musical performances, appointment books, song books, magazines relating to a musical group Class 018. First use: First Use: 2002/01/01 First Use In Commerce: 2002/01/01 backpacks

U.S. Registration No.	2865592	Application Date	12/14/2001
Registration Date	07/20/2004	Foreign Priority Date	NONE

Word Mark	CREED
Design Mark	CREED
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1998/07/00 First Use In Commerce: 1998/07/00 clothing, namely, knit shirts, hooded shirts, and headwear, namely, visors [and bandanas] Class 026. First use: First Use: 2002/09/00 First Use In Commerce: 2002/09/00 ornamental novelty patches for clothing, [ornamental novelty pins]

Attachments	75983027#TMSN.gif (1 page)(bytes) 76349431#TMSN.gif (1 page)(bytes) 76976074#TMSN.gif (1 page)(bytes) 201106~1.PDF (6 pages)(259609 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mark D. Passler/
Name	Mark D. Passler
Date	06/03/2011

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

In the matter of
Application Serial No.: 85/122,983
Applicant: Daniel Mervenne
Mark: JABLES CREED
Filing Date: September 3, 2010
Publication Date: February 15, 2011

BLUE COLLAR RECORDS, INC.)	
)	
Opposer)	Opposition No. _____
)	
v.)	
)	
Daniel Mervenne,)	
)	
Applicant)	
)	

NOTICE OF OPPOSITION

Blue Collar Records, Inc. ("Opposer"), a Florida corporation, having its principal place of business at 6282 Blakeford Drive, Windermere, Florida 34786, believes it will be damaged by the registration of the trademark shown in Application Serial No. 85/122,983 for the recited services and hereby opposes that application under the provisions of 15 U.S.C. § 1063.

Application Serial No. 85/122,983 was filed on September 3, 2010 on an Intent to Use basis for the trademark JABLES CREED in connection with "entertainment in the nature of live performance of a musical group; production and distribution of motion pictures," in International Class 41. The mark was then published for opposition in the *Trademark Official Gazette* on February 15, 2011.

Notice of Opposition
In re Serial No.: 85/122,983
Applicant: Daniel Mervenne
Mark: JABLES CREED
Our ref: 7164-270

Having been granted extensions of time to oppose up to and including June 15, 2011, Opposer opposes registration of the above-referenced trademark application, and alleges:

1. In 1996, the rock band CREED adopted and began using the trademark CREED (the "CREED Mark") in connection with its music, performances and related merchandise. The rock band CREED has used the CREED Mark continuously and without interruption since at least as early as 1996, over a decade before Applicant filed its U.S. Trademark Application Serial No. 85/122,983 and over a decade before said Application's constructive date of first use.

2. Over the years, the rock band CREED has expanded its trademark usage and has adopted and used, and extensively promoted and advertised, the CREED Mark in connection with a host of products and services that are identical to, related to, or within the natural zone of expansion of, the goods identified in the Application. Such expansion and recognition occurred well before Applicant's constructive date of first use of September 3, 2010.

3. Opposer is the owner of multiple registrations and applications for the CREED Mark, including:

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

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, stickers, decals, temporary tattoos, 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

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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. 2,919,348 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;

D. U.S. Trademark Registration No. 2,865,592 for CREED for clothing, namely, knit shirts, hooded shirts, and headwear, namely, visors in International Class 25, and ornamental novelty patches for clothing in International Class 26 (all of the services and goods collectively listed in the above-noted registrations are hereinafter referred to as “Opposer’s Services and goods”);

4. The CREED Mark has been clearly and prominently displayed on Opposer’s promotional and advertising materials related its services and on Opposer's products and in the United States and throughout the world, and as a result of such advertising and promotion, Opposer has enjoyed extensive sales and tremendous consumer recognition of its CREED Mark. Accordingly, the CREED Mark is widely recognized as an indicator of the source of origin for services and goods that are sponsored, approved or related to the rock band CREED.

5. Prior to the filing date 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 services and goods, and the advertising, promotion and distribution thereof to the

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trade and the consuming public, services employing and goods bearing Opposer's CREED Mark have become well and favorably known. In fact, the rock band CREED has earned a multitude of accolades and accomplishments, including record album sales, a Grammy, and multiple artists of the year awards. In view of the band's popularity, the band and the CREED Mark 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 services and goods.

6. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark JABLES CREED for "entertainment in the nature of live performance of a musical group; production and distribution of motion pictures," in International Class 41.

7. The Application was filed on or about September 3, 2010 on an intent to use bases, over a decade after the rock band CREED first adopted and used the CREED Mark. Accordingly, Opposer has rights of priority in the CREED Mark superior to those of Applicant.

8. The services set forth in the Application are identical and related to those offered by Opposer, and are also within the natural zone of expansion of services characteristic of the Opposer's services and goods.

9. The applied-for mark JABLES CREED is confusingly similar, to the Opposer's CREED Mark in terms of its appearance, sound, meaning and overall commercial impression and it is likely to cause confusion, mistake, and deception as to an affiliation, connection or association between Opposer and Applicant, or as to the origin, sponsorship or approval of

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Applicant's services, all to Opposer's detriment, thereby causing Opposer damage. Potential consumers are likely to believe that Applicant's services originate from, or are sponsored or approved by, Opposer, when such is not the case.

10. Applicant is not affiliated with or connected in any way to Opposer and Opposer has not consented to Applicant's use of Opposer's CREED Mark.

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

WHEREFORE, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained, that Application Serial No. 85/122,983 be rejected, and that the mark applied for therein be refused registration.

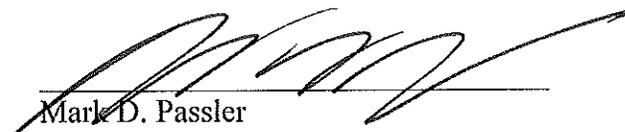
Authorization is given to charge \$300.00 for the filing fee for this opposition to Deposit Account No. 50-0951. Authorization is also given to charge any deficiencies, or credit any overpayments, to Deposit Account No. 50-0951 throughout the pendency of this Opposition.

Respectfully submitted

AKERMAN SENTERFITT

Date: June 3, 2011

By:



Mark D. Passler
Rachel B. Rudensky
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West Palm Beach, FL 33401
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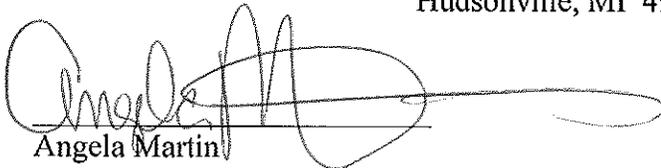
ATTORNEYS FOR OPPOSER

Notice of Opposition
In re Serial No.: 85/122,983
Applicant: Daniel Mervenne
Mark: JABLES CREED
Our ref: 7164-270

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete company of the foregoing OPPOSER'S
NOTICE OF OPPOSITION has been served by mailing said true and complete copy on June 3,
2011, via First Class Mail, postage prepaid, to:

Jovan N. Jovanovic, Esq.
The Watson IP Group, PLC
3133 Highland Drive
Suite 200
Hudsonville, MI 49301


Angela Martin