

ESTTA Tracking number: **ESTTA441375**

Filing date: **11/16/2011**

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	Adam Zwig
Granted to Date of previous extension	12/21/2011
Address	2285 NW Flanders #304 Portland, OR 97210 UNITED STATES

Attorney information	KATIE JEREMIAH JORDAN RAMIS PC 2 CENTERPOINTE DR, SIXTH FLOOR LAKE OSWEGO, OR 97035 UNITED STATES katie.jeremiah@jordanramis.com Phone:503-598-5539
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### Applicant Information

Application No	85157058	Publication date	08/23/2011
Opposition Filing Date	11/16/2011	Opposition Period Ends	12/21/2011
Applicant	Parr, Ryan Matthew Apt. 113 711 West 32nd Street Austin, TX 78705 UNITED STATES		

### Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Composition of music for others; Entertainment services by a musical artist and producer, namely, musical composition for others and production of musical sound recordings; Entertainment services in the nature of live musical performances; Entertainment services in the nature of recording, production and post-production services in the field of music; Entertainment services, namely, providing a web site featuring non-downloadable musical performances, musical videos, related film clips, photographs, and other multimedia materials featuring music; Entertainment, namely, live music concerts; Music composition and transcription for others; Music composition for others; Music production services; Production of musical sound recording
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### Grounds for Opposition

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

U.S. Application	85188032	Application Date	12/01/2010
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CONSCIOUS RECORDS MUSIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2000/02/01 First Use In Commerce: 2000/02/01 Entertainment marketing services, namely, marketing promotion and advertising for independent recording artists; Retail music and record stores Class 041. First use: First Use: 2000/02/01 First Use In Commerce: 2000/02/01 Audio recording and production; consultation and advice regarding musical selections and arrangements for sound recordings and live performances; editing or recording of sounds and images; music production services; production of sound and music video recordings; recording studios		

Attachments	85188032#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition.pdf ( 6 pages )(138371 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	/Katie Jeremiah/
Name	KATIE JEREMIAH
Date	11/16/2011

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

In the Matter of Application Serial No. 85157058  
Published on 23-Aug-2011  
Time to Oppose until 21-Dec-2011

Zwig, Adam

Opposer,

v.

Parr, Ryan Matthew,  
DBA Conscious Music

Applicant.

**NOTICE OF OPPOSITION  
OPPOSITION NO. \_\_\_\_\_**

**NOTICE OF OPPOSITION**

Adam Zwig (“Opposer”) is an individual located and doing business at 2285 NW  
Flanders #304, Portland, Oregon 97210.

To the best of Opposer’s knowledge, the name and address of Applicant is as follows:

Ryan Matthew Parr  
DBA Conscious Music  
409 West 34th Street  
Austin TX 78705  
214-886-1313  
rparr13@sbcglobal.net

Opposer believes that he will be damaged by registration of the mark CONSCIOUS  
MUSIC which is the subject of application **Serial Number:** 85157058 **Filing Date:** 20-Oct-  
2010 for the mark CONSCIOUS MUSIC for:

composition of music for others; Entertainment services by a  
musical artist and producer, namely, musical composition for  
others and production of musical sound recordings; Entertainment  
services in the nature of live musical performances; Entertainment  
services in the nature of recording, production and post-production  
services in the field of music; Entertainment services, namely,  
providing a web site featuring non-downloadable musical  
performances, musical videos, related film clips, photographs, and

other multimedia materials featuring music; Entertainment, namely, live music concerts; Music composition and transcription for others; Music composition for others; Music production services; Production of musical sound recording

in International Class 41, and hereby opposes registration of said mark.

As grounds for opposition, it is asserted that:

1.

Opposer is the owner of the common law trademarks/service marks for CONSCIOUS RECORDS MUSIC and CONSCIOUS RECORDS (hereinafter collectively “Opposer’s marks”).

2.

Opposer is the owner of the mark for CONSCIOUS RECORDS MUSIC in trademark application 85188032 for:

entertainment marketing services, namely, marketing promotion and advertising for independent recording artists; Retail music and record stores, and audio recording and production; consultation and advice regarding musical selections and arrangements for sound recordings and live performances; editing or recording of sounds and images; music production services; production of sound and music video recordings; recording studios.

3.

Opposer has used Opposer’s marks since at least as early as 2000, long prior to any date of first use upon which Applicant can rely, and continues to use Opposer’s marks in interstate commerce, both alone and together with another word or words and/or design for a wide variety of services, including:

entertainment marketing services, namely, marketing promotion and advertising for independent recording artists; Retail music and record stores, and audio recording and production; consultation and advice regarding musical selections and arrangements for sound recordings and live performances; editing or recording of sounds and images; music production services; production of sound and music video recordings; recording studios.

4.

Opposer has invested substantial time, effort and money using and promoting Opposer's marks and the services bearing them. As a result of Opposer's long and extensive prior use, promotion and advertising in interstate commerce of Opposer's marks in connection with entertainment, retail music and record stores, production and recording studio services, Opposer's marks have acquired valuable and protectable goodwill, have developed a high degree of distinctiveness, are well known and recognized as identifying high quality goods and services, which have their origin with or have been authorized by Opposer.

5.

Upon information and belief, Opposer's filing date and use of Opposer's marks predates any use by Applicant of CONSCIOUS MUSIC for entertainment, music composition, and production services.

6.

Applicant has filed an application to register the mark CONSCIOUS MUSIC for services described as:

composition of music for others; Entertainment services by a musical artist and producer, namely, musical composition for others and production of musical sound recordings; Entertainment services in the nature of live musical performances; Entertainment services in the nature of recording, production and post-production services in the field of music; Entertainment services, namely, providing a web site featuring non-downloadable musical performances, musical videos, related film clips, photographs, and other multimedia materials featuring music; Entertainment, namely, live music concerts; Music composition and transcription for others; Music composition for others; Music production services; Production of musical sound recording

This application was assigned Application Serial No. 85157058 and was published for opposition on August 23, 2011. The application was filed based on Applicant's bona fide intention to use the mark in commerce.

7.

Applicant's CONSCIOUS MUSIC mark so resembles Opposer's previously used Opposer's marks as to be likely, when applied to Applicant's services, to cause confusion, mistake or deception within the meaning of Section 2(d) of The Trademark Act, as to the source of origin of Applicant's goods in that the public, the trade and others are likely to believe that Applicant's services are: (a) the same services as Opposer's; or (b) provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Opposer and/or his services, thereby resulting in damage to Opposer.

8.

Applicant's services are identical or nearly identical to the services sold and provided in connection with Opposer's marks and such services would travel and/or be promoted through the same channels of trade for sale to, and use by, the same class of purchasers.

9.

The examining attorney for Opposer's application for registration of Opposer's marks has implied that if CONSCIOUS MUSIC is registered, it may be a basis for refusal of registration of Opposer's marks.

10.

Registration of the mark sought by Applicant herein is barred by provisions of the Trademark Act of 1946, as amended, for the reason that the Application consists of a mark which is so similar to Opposer's previously used and famous mark, as to dilute the distinctive quality of Opposer's marks within the meaning of the Lanham Act, thereby resulting in damage to Opposer.

11.

This Notice of Opposition is accompanied by the required \$300 fee pursuant to Section 2.6.

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and Applicant's application to register the mark CONSCIOUS MUSIC be denied in all respects.

Dated this 16th day of November, 2011.

JORDAN RAMIS PC

/Katie Jeremiah/

By:

**KATIE E. JEREMIAH**  
**Attorney for Opposer Adam Zwig**  
2 Centerpointe Drive  
Sixth Floor  
Lake Oswego OR 97035  
Telephone: (503) 598-5539  
Facsimile: (503) 598-7373  
Email:katie.jeremiah@jordanramis.com

**CERTIFICATE OF SERVICE**

I hereby certify that on the date shown below, I served a true and correct copy of the foregoing NOTICE OF OPPOSITION on:

Parr, Ryan Matthew  
DBA Conscious Music  
409 West 34th Street  
Austin TX 78705  
214-886-1313  
rparr13@sbcglobal.net  
Applicant

- by first class mail, postage prepaid.
- by hand delivery.
- by facsimile transmission.
- by facsimile transmission and first class mail, postage prepaid.
- by electronic transmission and first class mail, postage prepaid.

**CERTIFICATE OF ELECTRONIC MAILING**

I hereby certify that the foregoing Notice of Opposition is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 16th day of November, 2011.

DATED: November 16, 2011.

\_\_\_\_\_/Katie Jeremiah/\_\_\_\_\_  
Katie E. Jeremiah  
Attorney for Adam Zwig