

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

Applicant: Raw Vibe Entertainment, Inc.

Trademark: RAWVIBE

Serial No.: 78/254,486

Filed: May 27, 2003

Published: June 1, 2004

Goods: Pre-recorded audio, visual and audio-visual performances in analog and digital configurations and formats contained in analog magnetic tapes and discs, all containing music in International Class 9

VIBE VENTURES LLC,

Opposer,

Opposition No.

v.

RAW VIBE ENTERTAINMENT, INC.,

Applicant.

NOTICE OF OPPOSITION

Opposer, Vibe Ventures LLC ("Opposer"), a Delaware limited liability company, with an address at 1110 Santa Monica Boulevard, Suite 1910, Los Angeles, California 90025, believes that it would be damaged by registration of the mark shown in Serial No. 78/254,486 and hereby opposes same.

As grounds for opposition, it is alleged as follows:

1. Opposer has been using the mark VIBE (the "Mark") in commerce in connection with a general interest magazine since at least as early as 1992.

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2. Opposer also has been using the Mark in commerce in connection with computer services, namely providing an on-line magazine in the fields of urban culture and entertainment since at least as early as 1994.
3. Opposer owns a Registration for the mark VIBE in Class 16 (No. 1,800,105 dated October 19, 1993).
4. Opposer also owns a Registration for VIBE (Stylized) in Class 16 (No. 2,144,655 dated March 17, 1998).
5. Opposer also owns a Registration for VIBE in Class 25 (No. 2,563,930 dated April 23, 2002).
6. Opposer also owns a Registration for VIBE in Classes 41 and 42 (No. 2,303,664 dated December 28, 1999).
7. Opposer also owns a Registration for VIBE RECORDS [by assignment] (No. 1,819,799 dated February 8, 1994) in Class 9.
8. Opposer also has applications pending before the Patent and Trademark Office for the following marks:

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Class</u>
VIBE	76/380,804	March 11, 2002	41
VIBE CONFIDENTIAL	76/541,278	August 19, 2003	16
VIBE'S 20 QUESTIONS	76/541,277	August 19, 2003	16

9. Applicant, Raw Vibe Entertainment, Inc. ("Applicant"), has applied for a trademark registration based on its intent to use the mark RAWVIBE in commerce for "Pre-recorded audio, visual and audio-visual performances in

analog and digital configurations and formats contained in analog magnetic tapes and discs, all containing music” in International Class 9 (the “Application”).

10. Applicant’s mark is confusingly similar to the Mark and dilutes the distinctive quality of Opposer’s famous VIBE mark and name.
11. Applicant’s goods are not only a form of entertainment, but one which features music as indicated in Applicant’s description of goods.
12. Opposer’s longstanding, continuous, and successful use of the Mark has created, in the mind of the public, a strong association between the Mark and Opposer.
13. Opposer’s Mark is famous due to its longstanding use of the Mark in commerce, the duration and extent of Opposer’s advertising of the Mark and associated goods and services, the nationwide nature of Opposer’s use of the Mark, the federal registration of the Mark, and the degree of recognition of the Mark by the public.
14. Applicant’s use of the mark RAWVIBE is likely to cause confusion, or to cause mistake or to deceive by suggesting that Applicant’s goods are endorsed, authorized, sponsored, associated with, or approved by Opposer.

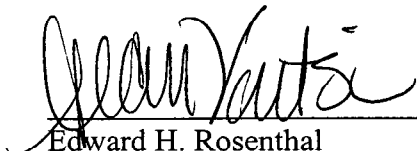
WHEREFORE, Opposer requests that this opposition be sustained pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and that Application Serial No. 78/254,486 be rejected.

A duplicate copy of this Notice of Opposition along with the required fee are enclosed herewith.

Dated: September 28, 2004

Respectfully submitted,

FRANKFURT KURNIT KLEIN
& SELZ, PC

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September 28, 2004

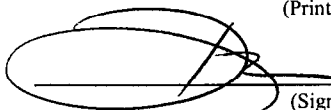
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EXPRESS MAIL CERTIFICATE

"Express Mail mailing label number EV038033309US
 Date of Deposit September 28, 2004. I hereby certify that this paper or
 fee is being deposited with the United States Postal Service
 "Express Mail Post Office to Addressee" service under 37 CFR 1.10
 on the date indicated above and is addressed to the Commissioner for
 Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.



(Print)



(Signature)

Via EXPRESS MAIL

Commissioner for Trademarks
 2900 Crystal Drive
 Arlington, VA 22202-3514

09-29-2004

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #66

Re: Trademark Serial No. 78/254,486
 Mark: **RAWVIBE**
 Class: 9
Our Ref. No. 5315-0701-M190

Dear Sir/Madam:

We enclose herewith:

1. Notice of Opposition;
2. Check for \$300.00; and
3. Postcard receipt.

This request is being submitted in triplicate as required by 37 C.F.R. § 2.102(d). Please stamp the enclosed postcard to acknowledge receipt.

Respectfully submitted,



-Deirdre Clarke

Encl.