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July 7, 2005

Box TTAB FEE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: *House of Blues Brands Corp. v. Celebrities Publishing Corporation*
Mark: IN ROCK WE TRUST
Serial No. 78/441,158
Attorney Docket No. 064163.0064

Dear Madam:

Enclosed please find the following for filing in the above-identified matter:

- Notice of Opposition (Original and two copies);
- The Commissioner is authorized to withdraw the filing fee of \$300.00 from Deposit Account No. 01-0477. A duplicate of this cover letter is enclosed; and
- A return receipt acknowledgment postcard.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment in the fees indicated above to Deposit Account No. 01-0477.

Respectfully submitted,



Marissa Lawson

Enclosures



07-11-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #74

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

House of Blues Brands Corp.,	§	Serial No. 78/441,158
	§	
Opposer,	§	
	§	Mark: IN ROCK WE TRUST
v.	§	
	§	
Celebrities Publishing Corporation,	§	Opposition No. _____
	§	
Applicant.	§	

NOTICE OF OPPOSITION

HOUSE OF BLUES BRANDS CORP., a Delaware corporation having an office at 6255 Sunset Boulevard, 16th Floor, Hollywood, California 90028, believes that it will be damaged by registration of the mark shown in application Serial No. 78/441,158 in International Class 18, and hereby opposes same.

As grounds for opposition, it is alleged:

1. Applicant seeks registration on the Principal Register of the word mark, IN ROCK WE TRUST, in International Class 18 for “handbags, shoulder bags, purses, wallets, bill folds, credit card holders, coin purses, tote bags, backpacks, briefcases, attaches, travel bags, duffel bags, satchels, suitcases, key cases, leather key chains.” Said efforts by Applicant are evidenced by the publication of said mark in the Trademark Office Official Gazette on page TM 463 of the June 7, 2005 issue.

2. On information and belief, Applicant’s application for the mark IN ROCK WE TRUST was filed based upon an intent to use the mark in connection with the aforementioned goods.

3. Opposer, in conjunction with its parent company, HOB Entertainment, Inc., is a nationally and internationally renowned provider of restaurant and nightclub services, branded

merchandise, and related services. Said goods and services are offered under the mark, IN BLUES WE TRUST, in association with Opposer's famous "House of Blues" themed restaurants.

4. Opposer operates prominent restaurant/nightclub establishments using the mark, HOUSE OF BLUES, in major U.S. cities, including Los Angeles, New Orleans, Chicago, Orlando, Myrtle Beach, Las Vegas, Anaheim, Cleveland, and San Diego. Opposer has offered its restaurant/nightclub services since at least as early as November 1992. Opposer has the exclusive right to use IN BLUES WE TRUST as a service mark for bar and restaurant services, in Class 42, as evidenced by Opposer's U.S. Registration No. 2,050,935, now incontestable, obtained on April 8, 1997, a true and correct copy of which is attached hereto as Exhibit "A", which is incorporated hereby by referenced for all purposes. In conjunction with the operation of its world-famous HOUSE OF BLUES restaurant/nightclub establishments and the use of IN BLUES WE TRUST in connection therewith, Opposer has also offered IN BLUES WE TRUST branded merchandise, including clothing such as shirts, hats and jackets, since at least as early as November 1, 1994. Opposer also has the exclusive right to use IN BLUES WE TRUST and variants thereof as a trademark for clothing, namely, shirts, hats and jackets, as evidenced by Opposer's U.S. Registration No. 1,981,453, now incontestable, obtained on June 18, 1996, a true and correct copy of which is attached hereto as Exhibit "B". Opposer has also filed an application for registration based upon an intent to use the IN BLUES WE TRUST mark in connection with casino entertainment services as shown in U.S. Application Serial No. 78/584,785 filed on March 10, 2005.

5. As a result of Opposer's efforts, Opposer has become widely known as a leading provider of restaurant/nightclub services and related merchandise and services under the IN BLUES WE TRUST mark.

6. Prior to any use by Applicant of the mark IN ROCK WE TRUST in connection with the goods recited in application Serial No. 78/441,158, and prior to the filing of said application by Applicant, Opposer adopted and began to use the IN BLUES WE TRUST family of marks to identify and distinguish its restaurant/nightclub services and related merchandise and services from those of others.

7. Opposer is the owner of the mark IN ROCK WE TRUST, and has the right to use said mark for restaurant and nightclub services and related merchandise and services, including clothing.

8. As a result of Opposer's nationwide sales of its high-quality goods and services under the IN BLUES WE TRUST mark, and Opposer's nationwide advertising and promotion of such goods and services in connection with the said mark, said mark has come to exclusively identify Opposer as the source of such goods and services in the minds of the consuming public. Opposer's IN BLUES WE TRUST mark represents Opposer's substantial goodwill which has accrued to Opposer by virtue of its widespread and prominent use of said mark for its restaurant and nightclub services and related merchandise and services, including clothing.

I.

COUNT ONE: LIKELIHOOD OF CONFUSION

9. The allegations of paragraph 2 – 8 above are realleged as if fully set forth herein.

10. Applicant's proposed IN ROCK WE TRUST mark, when used as proposed in connection with the goods recited in application Serial No. 78/441,158, is likely to cause confusion, or to cause mistake, or to deceive, as to the source or origin of Applicant's or Opposer's goods and services, or is likely to cause consumers to believe that Opposer sponsors or approves the goods of Applicant when it does not. The proposed use would thereby inflict great injury and damage on Opposer, the reputation of Opposer, and the goodwill accruing to

Opposer through its extensive use of the IN BLUES WE TRUST mark in connection with its restaurant and nightclub services and related merchandise and related services, including clothing.

11. If the registration herein opposed is granted, Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark, IN ROCK WE TRUST, in connection with the goods recited in application Serial No. 78/441,158, in class 18. Such registration would be a source of great injury and damage to Opposer, the rightful owner of the IN BLUES WE TRUST mark for the goods and services set forth hereinabove; and would impair Opposer's continued exclusive right to use said mark in connection with such goods and services.

II.

COUNT TWO: TRADEMARK DILUTION

12. The allegations of paragraph 2 – 11 above are realleged as if fully set forth herein.

13. Opposer has established a business reputation because of its uniformly high quality extensive advertising and sales of its goods and services under the IN BLUES WE TRUST mark. Opposer's business reputation has created a distinctive quality in the IN BLUES WE TRUST mark. As a result of the distinctiveness of the IN BLUES WE TRUST mark and its extensive and widespread use and advertising in connection with Opposer's high-quality goods and services, the IN BLUES WE TRUST mark has become well known.

14. Applicant's proposed IN ROCK WE TRUST mark, when used as proposed in connection with clothing for men, women, and children, and advertising and promotional materials associated therewith, is likely to dilute the distinctive quality of Opposer's IN BLUES WE TRUST mark. The proposed use would thereby inflict great injury and damage on Opposer, the reputation of Opposer, and the goodwill accruing to Opposer through its extensive use of the

IN BLUES WE TRUST mark in connection with its quality restaurant and nightclub services, and related merchandise and services, including clothing.

15. If the registration herein opposed is granted, Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark, IN ROCK WE TRUST, in connection with the goods recited in application Serial No. 78/441,158, in class 18. Such registration would be a source of great injury and damage to Opposer, the rightful owner of the IN BLUES WE TRUST mark for the goods and services set forth hereinabove; and would impair the fame and distinctive quality of Opposer's IN BLUES WE TRUST mark.

WHEREFORE, Opposer prays that the application Serial No. 78/441,158 be denied, and that registration of the mark therein sought for the goods therein specified in Class 18 be denied and refused.

The Commissioner is hereby authorized to withdraw the filing fee in the amount of \$300 as required under 37 C.F.R. §2.6(a)(17) from Deposit Account No. 01-0477.

Respectfully submitted,

HOUSE OF BLUES BRANDS CORP.

Dated: July 7, 2005

By: Marissa Lawson

Kirt S. O'Neill, Reg. No. 38,257

Marissa Lawson

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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Box TTAB FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Name of Person Signing Certificate: Michele Patterson

Signature: Michele Patterson

Date of Mailing: 7/7/05



Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,050,935

Registered Apr. 8, 1997

**SERVICE MARK
PRINCIPAL REGISTER**

IN BLUES WE TRUST

**HOUSE OF BLUES BRANDS CORP. (DELA-
WARE CORPORATION)
8439 SUNSET BOULEVARD, SUITE 107
WEST HOLLYWOOD, CA 90069**

**FIRST USE 11-0-1992; IN COMMERCE
11-0-1992.**

SER. NO. 75-107,768, FILED 5-21-1996.

**FOR: RESTAURANT AND BAR SERVICES,
IN CLASS 42 (U.S. CLS. 100 AND 101).**

**JODI LAUTERBACH, EXAMINING ATTOR-
NEY**





Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 1,981,453

Registered June 18, 1996

**TRADEMARK
PRINCIPAL REGISTER**

IN BLUES WE TRUST

HOUSE OF BLUES BRANDS CORP. (DELA-
WARE CORPORATION)
114 MT. AUBURN STREET
CAMBRIDGE, MA 02138

FIRST USE 11-1-1994; IN COMMERCE
11-1-1994.

SN 74-480,363, FILED 1-18-1994.

FOR: CLOTHING; NAMELY, SHIRTS, HATS,
JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

JOAN LESLIE BISHOP, EXAMINING ATTOR-
NEY