

ESTTA Tracking number: **ESTTA193532**

Filing date: **02/19/2008**

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	JetBlue Airways Corporation
Granted to Date of previous extension	02/17/2008
Address	118-29 Queens Blvd. Forest Hills, NY 11375 UNITED STATES

Attorney information	Joseph F. Nicholson, Esq. Kenyon & Kenyon LLP One Broadway New York, NY 10004 UNITED STATES tmdocketny@kenyon.com Phone:2124257200
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Applicant Information

Application No	77107228	Publication date	08/21/2007
Opposition Filing Date	02/19/2008	Opposition Period Ends	02/17/2008
Applicant	Advanced Services, Inc. 510 S. Hangar Street Georgetown, TX 78628 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. All goods and services in the class are opposed, namely: Repair and maintenance of aircraft; fueling services for aircraft; inner and outer cleaning of aircraft
Class 039. All goods and services in the class are opposed, namely: Rental of hangar space

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2905786	Application Date	06/18/2003
Registration Date	11/30/2004	Foreign Priority Date	NONE

Word Mark	JETBLUE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1999/12/03 First Use In Commerce: 1999/12/03 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR

U.S. Registration No.	2896785	Application Date	06/18/2003
Registration Date	10/26/2004	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/01/28 First Use In Commerce: 2000/01/28 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Registration No.	2449988	Application Date	07/09/1999
Registration Date	05/08/2001	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Transportation of passengers, parcels, freight and cargo by air; providing information about air transportation via a website on a global computer network; travel agency services, namely, making reservations and bookings for transportation; airline passenger services in the nature of a frequent flyer program		

U.S. Registration No.	2451955	Application Date	07/09/1999
Registration Date	05/15/2001	Foreign Priority Date	NONE
Word Mark	JETBLUE AIRWAYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Transportation of passengers, parcels, freight and cargo by air; providing information about air transportation via a website on a global computer network; travel agency services, namely, making reservations and bookings for transportation; airline passenger services in the nature of a frequent flyer program		

U.S. Registration	2896784	Application Date	06/18/2003
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No.			
Registration Date	10/26/2004	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/03/07 First Use In Commerce: 2000/03/07 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Registration No.	2971984	Application Date	06/18/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2002/02/28 First Use In Commerce: 2002/02/28 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Registration No.	2947348	Application Date	06/18/2003
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2003/01/31 First Use In Commerce: 2003/01/31 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

Attachments	76523401#TMSN.jpeg (1 page)(bytes) 76523404#TMSN.jpeg (1 page)(bytes) 76523402#TMSN.jpeg (1 page)(bytes) 76523403#TMSN.jpeg (1 page)(bytes) 76523405#TMSN.jpeg (1 page)(bytes) 77107228 Opposition.pdf (6 pages)(214434 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	/JFN/
Name	Joseph F. Nicholson, Esq.

Date	02/19/2008
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

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JETBLUE AIRWAYS CORPORATION, :
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 : Opposer, : Opposition No. _____
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 : v. :
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 : ADVANCED SERVICES, INC., :
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 : Applicant. :
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NOTICE OF OPPOSITION

JetBlue Airways Corporation (“JetBlue” or “Opposer”), through its undersigned counsel, hereby opposes trademark Application Serial No. 77/107,228, filed on February 14, 2007 (“the ‘228 Application”), by Advanced Services, Inc. (“Applicant”) for registration of the alleged mark JET BLACK and Design in International Classes 37 and 39, respectively, for “Repair and maintenance of aircraft; fueling services for aircraft; inner and outer cleaning of aircraft” and “Rental of hangar space” (collectively, “Applicant’s Goods and Services”).

JetBlue, a Delaware corporation with its principal place of business at 118-29 Queens Blvd., Forest Hills, New York, 11375, believes it will be damaged by registration of JET BLACK and Design as sought with the filing and prosecution of the ‘228 Application. As explained more fully below, JetBlue opposes registration of the ‘228 Application on the basis that (1) use by Applicant of JET BLACK in connection with Applicant’s Goods and Services, as

proposed, would create confusion, mistake and deception with many marks, both registered and unregistered, owned by JetBlue for a wide variety of goods and services in the aircraft and aviation industry; and (2) use by Applicant of JET BLACK would dilute the distinctive quality of famous marks owned by JetBlue.

1. Opposer has been continuously engaged in providing high quality, low cost air travel under the trademark, service mark and trade name JETBLUE since at least as early as the year 2000. As a result of Opposer's extraordinary efforts, in a relatively short number of years, Opposer has grown to become one of the premier and most highly recognized and respected domestic airlines in the United States and a "major carrier", as defined by U.S. Department of Transportation standards. Opposer currently serves over fifty destinations in fifteen U.S. states, Puerto Rico, Mexico, The Dominican Republic, The Bahamas, and Aruba. Opposer operates more than 550 flights per day and transports more than 21 million passengers per year.

2. As a reflection of its status as a leading domestic airline, Opposer has won numerous awards and industry accolades, not only for its superior products and services, but also for the JETBLUE brand and image itself. For example, Opposer recently has been named Best Domestic Airline (*Conde Nast Traveler*, 2005 Business Travel Awards), World's Best Low-Cost Airline (*Skytrax*, 2005 Airline of the Year Survey), Best Domestic Airline (*North American Travel Journalists Association*), Best U.S. Airline (*Airline Quality Ranking Survey*, University of Nebraska), the airline with the Best Branding (*The Association of Travel Marketing Executives*, 2005 Atlas Rewards), No. 1 in Airline Quality 2006 (*Barton School of Business and University of Nebraska at Omaha Aviation Institute*), Top Low Cost Airline for Customer Satisfaction (*J.D. Power and Associates*, 2007), #1 Airline Brand (*2007 Brand Keys Customer Loyalty Engagement Index*) and Rated #1 Airline by Consumer Reports (*Consumer Reports*, July 2007).

3. In addition to its famous trade name, Opposer owns many well-known trademarks and service marks which comprise or include the word JETBLUE, as well as, *inter alia*, the marks associated with the following United States Registrations for JETBLUE, JETBLUE & Design and JETBLUE AIRWAYS in International Class 39 (collectively, “Opposer’s Registrations”):

Registration Number	First Use Date
2,905,786	December 3, 1999
2,896,785	January 28, 2000
2,449,988	February 11, 2000
2,451,955	February 11, 2000
2,896,784	March 7, 2000
2,971,984	February 28, 2002
2,947,348	January 31, 2003

Opposer also owns a large number of unregistered marks incorporating or comprising the word JETBLUE as used in connection with a wide variety of goods and services relative to the aircraft, aviation and air transportation industry.

(All of the foregoing collectively referred to herein as “Opposer’s Marks.”)

4. Opposer actively and prominently features Opposer’s Marks in widespread and ongoing nationwide and regional advertising campaigns, as well as on each of its aircraft and concomitant support and promotional goods and materials, thus entitling Opposer to a wide scope of protection for Opposer’s Marks. As a result of Opposer’s enormous investment in advertising, marketing and promotion, and its widespread use of Opposer’s Marks, as well as extensive publicity and news coverage generated by third-parties, the public and trade have come to associate Opposer’s Marks with the aircraft, aviation and air transportation industry, and related

goods and services, emanating exclusively from Opposer. As a result, Opposer's Marks are "famous" as defined under 15 U.S.C. § 1125(c)(1).

5. Opposer's Marks were in use long prior to any use of the alleged mark which is the subject of the '228 Application, and in fact were already famous at the time Applicant applied to register JET BLACK and Design, as evidenced in part by the facts recited in Paragraph 2, above.

6. Upon information and belief, Advanced Services is an aircraft maintenance company based in Georgetown, Texas. Upon information and belief, Applicant intends to provide airline maintenance assistance and related services in Classes 37 and 39 within the United States under the alleged mark JET BLACK and Design as applied for in the '228 Application.

7. Upon information and belief, Applicant intends to use JET BLACK and Design in connection with services closely related to the goods and services with which Opposer uses Opposer's Marks, and to market those services to the identical customers and through identical channels of trade as those of Opposer.

8. In light of the foregoing, Applicant's alleged JET BLACK and Design mark so resembles Opposer's Marks as to be highly likely to create confusion, mistake or deception as to the source of Applicant's Goods and Services, in violation of 15 U.S.C. § 1052(d). If Applicant is permitted to use and register its proposed mark in Classes 37 and 39, such use and registration would likely cause confusion based on the significant similarities between the respective marks and the closely related nature of the parties' respective goods and services. Accordingly, a grant of registration of the mark in Applicant's '228 Application in Classes 37 and 39 would cause irreparable damage to Opposer.

9. Moreover, Applicant's proposed mark, used in connection with Applicant's intended Goods and Services, would dilute the distinctive quality of Opposer's Marks, which are famous, and would tarnish the fine reputation of Opposer's brand and Opposer's Marks, thereby causing additional irreparable damage to Opposer.

10. Opposer reserves the right to amend its Notice of Opposition in accordance with applicable Trademark Rules of practice.

11. The statutory fee of six hundred dollars (\$600.00), and any additional required fees, should be charged to the undersigned's Deposit Account No. 11-0600.

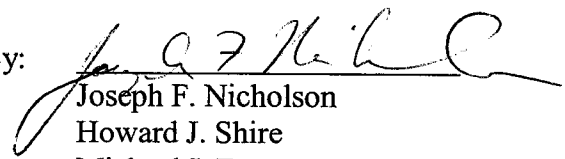
WHEREFORE, Opposer prays that Application Serial No. 77/107,228 be rejected, and that the registration of the mark therein sought be denied and refused, and that this Opposition be sustained.

Dated: February 19, 2008
New York, New York

Respectfully submitted,

KENYON & KENYON

By:



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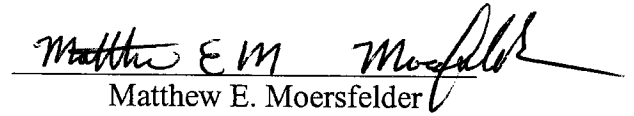
JetBlue Airways Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of JetBlue Airways Corporation's *Notice of Opposition* against U.S. Trademark Application Serial No. 77/107,228 was served by first class mail on the following counsel on this 19th day of February, 2008:

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