

ESTTA Tracking number: **ESTTA193415**

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	Blue Jeanne Inc.
Granted to Date of previous extension	02/17/2008
Address	1996 Marshall Ave Saint Paul, MN 55014 UNITED STATES

Correspondence information	Stephen R. Baird Attorney Winthrop & Weinstine 225 S. 6th St. Suite 3500 Minneapolis, MN 55402 UNITED STATES kbrennan@winthrop.com, trademark@winthrop.com, sbaird@winthrop.com Phone:(612) 604-6400
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Applicant Information

Application No	78914837	Publication date	08/21/2007
Opposition Filing Date	02/19/2008	Opposition Period Ends	02/17/2008
Applicant	Rock & Republic Enterprises, Inc. 3525 Eastham Drive Culver City, CA 90232 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, jeans t-shirts, shorts, pants, sweatshirts, sweatpants, skirts, underwear, blouses, bandannas, scarves, aprons, socks, jackets, ties, tank tops, vests, neckties, coveralls, infantwear, shirts, loungewear, pajamas, ponchos, sweaters, suspenders, swim wear, dresses, and clothing wraps; headwear, and footwear
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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/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	ROCK THE CURE
Goods/Services	clothing, hats and calendars; other goods and services, including entertainment services, musical performances and events, fund raising services and events, promotional events, website services and providing information about the organization and events.

Attachments	Notice of Opp2.pdf (5 pages)(183093 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	/Karen A. Brennan/
Name	Karen A. Brennan
Date	02/19/2008

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

In the matter of Application Ser. No.: 78/914,837
Filed: June 22, 2006
For the mark: ROCK THE CURE
Published in the Trademark Official Gazette on August 21, 2007

Blue Jeanne Inc.,

Opposer,

v.

Opposition No. _____

Rock & Republic Enterprises, Inc.

Applicant.

NOTICE OF OPPOSITION

Blue Jeanne, Inc., d/b/a Rock the Cure (“Opposer”), believes that it will be damaged by the registration of the mark shown in Application Serial No. 78/914,837 (the “Application”) in International Class 25 and hereby opposes the same.

The grounds for opposition are as follows:

1. Rock & Republic Enterprises, Inc. (“Applicant”) seeks to register ROCK THE CURE in connection with “clothing, namely, jeans t-shirts, shorts, pants, sweatshirts, sweatpants, skirts, underwear, blouses, bandannas, scarves, aprons, socks, jackets, ties, tank tops, vests, neckties, coveralls, infantwear, shirts, loungewear, pajamas, ponchos, sweaters, suspenders, swim wear, dresses, and clothing wraps; headwear, and footwear” in International Class 25 (“Applicant’s Rock the Cure Mark”).

2. Applicant’s Rock the Cure Mark was published for opposition in the Trademark Official Gazette on August 21, 2007. On September 19, 2007, Opposer filed

a Request for Extension of Time to oppose registration of Applicant's Rock the Cure Mark. The Trademark Trial and Appeal Board granted Opposer's extension request, extending the time to oppose the mark up to and including October 20, 2007. On October 15, 2007, Opposer sought an additional Extension of Time to oppose the registration and the extension request of time to oppose was granted up to and including December 19, 2007. Finally, Opposer, with the consent of Applicant, sought a final extension and filed a Request for Extension of Time to Oppose Upon Consent on December 19, 2007. The Trademark Trial and Appeal Board granted Opposer's extension with consent, extending the time to oppose the mark up to and including Sunday February 17, 2008.

3. Upon information and belief, Applicant has not made use of Applicant's claimed Rock the Cure Mark in connection with the goods set forth in Paragraph 1, prior to Applicant's filing date.

4. Prior to Applicant's filing date, Opposer adopted and has continuously used the mark ROCK THE CURE™ in commerce in connection with clothing and other goods and services, including entertainment services, musical performances and events, fund raising services and events, promotional events, website services and providing information about the organization and events, as well as merchandise, including clothing, hats and calendars.

5. Not only has Opposer used the ROCK THE CURE™ mark in connection with a wide variety of goods and services related to fund raising for breast cancer including clothing, but it has used its ROCK THE CURE™ mark in commerce nationwide including concerts, promotions and entertainment services in Minnesota and Illinois, an internet website with world-wide access and which provides information on

ROCK THE CURE™ services and for the ordering and sale of ROCK THE CURE™ goods nationwide, promotional services on various radio stations streamed over the internet nationwide, publication in magazines sold nationwide, and television promotions on national networks.

6. Opposer's goods and services are closely related to and overlapping of Applicant's goods set forth in Paragraph 1.

7. Opposer adopted and has continuously used the ROCK THE CURE™ mark in connection with clothing and other goods and services since at least as early as April 2005. On April 30, 2005 Opposer held its first benefit concert to raise money for the Susan B. Komen Breast Cancer Foundation. As noted, since that time, Opposer has continuously used its ROCK THE CURE™ mark in connection with goods and services related to charitable fund raising for breast cancer.

8. Opposer owns prior common law rights in the ROCK THE CURE™ mark for various goods and services including clothing.

9. Opposer has expended considerable time, effort, and expense in promoting, advertising, and popularizing its distinctive ROCK THE CURE™ products and services offered under the ROCK THE CURE™ mark.

10. Upon information and belief, the public has come to know, rely upon, and recognize the ROCK THE CURE™ mark as a strong indicator of the source of Opposer's products and services.

11. Upon information and belief, Opposer has priority of rights in the ROCK THE CURE™ mark.

12. The goods for which Applicant seeks to apply Applicant's claimed Rock the Cure Mark are similar to, and overlap with, Opposer's products and services that bear or are associated with its ROCK THE CURE™ mark.

13. Applicant's Rock the Cure Mark is identical to Opposer's ROCK THE CURE™ mark and therefore will be likely, when used on or in connection with the goods described in Paragraph 1, to cause confusion, mistake, or to deceive.

14. Because of the identical commercial impressions between Applicant's Rock the Cure Mark and Opposer's ROCK THE CURE™ mark and the close similarity and overlap between the goods and services offered under the respective marks, purchasers and prospective purchasers are likely to mistakenly believe that the goods Applicant intends to offer under Applicant's claimed Rock the Cure Mark are sponsored, endorsed, or approved by Opposer, or are in some other way affiliated, connected, or associated with Opposer, all to the detriment of Opposer.

15. For all the reasons stated above, Applicant's Rock the Cure mark is likely to cause consumer confusion. Therefore, registration of the mark shown in the Application should be refused under 15 U.S.C. §1052(d) (2007).

WHEREFORE, Opposer respectfully requests that the Trademark Trial and Appeal Board sustain its opposition and enter judgment in favor of Opposer.

Dated: 2/19/08

WINTHROP & WEINSTINE, P.A.

Karen A Brennan

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