

ESTTA Tracking number: **ESTTA198638**

Filing date: **03/17/2008**

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	03/16/2008
Address	1996 Marshall Avenue St. Paul, MN 55014 UNITED STATES

Attorney information	Stephen R. Baird Winthrop & Weinstine, P.A. 225 South Sixth Street Suite 3500 Minneapolis, MN 55402 UNITED STATES kbrennan@winthrop.com, trademark@winthrop.com, sbaird@winthrop.com
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Applicant Information

Application No	78914871	Publication date	09/18/2007
Opposition Filing Date	03/17/2008	Opposition Period Ends	03/16/2008
Applicant	Rock & Republic Enterprises, Inc. 3525 Eastham Drive Culver City, CA 90232 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Providing a website featuring information regarding charitable fundraising

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	a variety of goods and services, including website services and providing information about the organization and events and featuring information regarding charitable fundraising at www.rockthecure.org ,		

	as well as entertainment services, musical performances and events, fund raising services and events, promotional events, and merchandise including clothing, hats and calendars
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Attachments	Notice of Opp - 78914871.pdf (5 pages)(181095 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	03/17/2008

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

In the matter of Application Ser. No.: 78/914,871

Filed: June 22, 2006

For the mark: ROCK THE CURE

Published in the Trademark Official Gazette on September 18, 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. 78/914,871 (the “Application”) in International Class 36 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 “providing a website featuring information regarding charitable fundraising” in International Class 36 (“Applicant’s Rock the Cure Mark”).

2. Applicant’s Rock the Cure Mark was published for opposition in the Trademark Official Gazette on September 18, 2007. On October 15, 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 January 16, 2008. On

January 14, 2008, Opposer filed a Request for Extension of Time to Oppose upon Consent after receiving consent from counsel for Applicant. The Trademark Trial and Appeal Board granted Opposer's consented extension request, extending the time to oppose the mark up to and including March 16, 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 identical mark ROCK THE CURE™ in commerce in connection with a variety of goods and services, including website services and providing information about the organization and events and featuring information regarding charitable fundraising at www.rockthecure.org, as well as entertainment services, musical performances and events, fund raising services and events, promotional events, and 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 providing website services related to fundraising, 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 identical 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 its fundraising goods and services since 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, including the operation of its www.rockthecure.org website.

8. Opposer owns prior common law rights in the ROCK THE CURE™ mark for various goods and services including providing a website featuring information regarding its charitable fundraising.

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 identical 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 high degree of 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 and services 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: 3/17/08

WINTHROP & WEINSTINE, P.A.



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