

ESTTA Tracking number: **ESTTA250951**

Filing date: **11/24/2008**

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	Crossroads Productions LLC
Granted to Date of previous extension	11/26/2008
Address	2777 Loker Ave West Carlsbad, CA 92010 UNITED STATES

Attorney information	Victoria Newland, Esq. Law Offices of Victoria Newland, APC 3460 Marron Road, Suite 103-356 Oceanside, CA 92056 UNITED STATES victoria@vnewlandlaw.com Phone:760-216-6440
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Applicant Information

Application No	77418364	Publication date	07/29/2008
Opposition Filing Date	11/24/2008	Opposition Period Ends	11/26/2008
Applicant	DIMEFF, BLAKE A 21474 Shady Lane Iledale, CO 80453 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Winter boots; Snow boarding suits; Snow boots; Snow pants; Snow suits; Jogging pants; Pants; Ski pants; Snowboard pants; Sweat pants; Dress shirts; Golf shirts; Knit shirts; Long-sleeved shirts; Night shirts; Polo shirts; Rugby shirts; Shirts; Short-sleeved or long-sleeved t-shirts; Sleep shirts; Sports shirts; T-shirts; Yoga shirts; Blouses; Dress suits; Dresses; Skirts and dresses; Ankle socks; Socks; Thermal socks; Woollen socks; Headgear, namely, baseball caps, snow hats, knitted hats, ski hats and caps; Swimsuits; Bikinis; Sleepwear; Pajama bottoms; Pajamas; Lingerie; Thermal underwear; Sandals; After ski boots; Boots; Hiking boots; Ski boot bags; Ski boots; Head scarves; Scarves; Shoulder scarves; Coats; Heavy coats; Leather coats; Over coats; Sport coats; Wind coats; Denim jackets; Down jackets; Fur jackets; Heavy jackets; Jackets; Leather jackets; Rain jackets; Ski jackets; Waterproof jackets and pants; Wind resistant jackets</p>
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2915276	Application Date	07/01/2003
Registration Date	12/28/2004	Foreign Priority Date	NONE
Word Mark	FALLEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/02/06 First Use In Commerce: 2003/11/15 clothing, headwear and footwear, namely, shirts, sweatshirts, pants, sweat bands, shorts, jackets, sweaters, hats, caps, socks, belts, shoes		

U.S. Registration No.	2968468	Application Date	07/01/2003
Registration Date	07/12/2005	Foreign Priority Date	NONE
Word Mark	FALLEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2003/11/07 First Use In Commerce: 2003/11/07 backpacks, and all purpose sports and athletic bags		

U.S. Registration No.	3001572	Application Date	07/30/2004
Registration Date	09/27/2005	Foreign Priority Date	NONE
Word Mark	RISE WITH THE FALLEN		
Design Mark	 <p>The design mark consists of the words "RISE WITH THE FALLEN" in a bold, serif font, arranged in two lines: "RISE WITH THE" on the top line and "FALLEN" on the bottom line, centered.</p>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/09/15 First Use In Commerce: 2003/11/15 clothing, headwear and footwear, namely, shirts, sweatshirts, pants, sweat bands, shorts, jackets, sweaters, hats, caps, socks, belts, gloves, shoes		

Attachments	78459477#TMSN.jpeg (1 page)(bytes) 6070.4.1.Notice.Opp.CRESTFALLEN.pdf (5 pages)(16840 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	/Victoria Newland/
Name	Victoria Newland, Esq.
Date	11/24/2008

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

CROSSROADS PRODUCTIONS LLC)	Application No. 77/418,364
)	
Opposer,)	
)	
v.)	
)	
BLAKE A. DIMEFF)	
)	
Applicant.)	
<hr/>)

NOTICE OF OPPOSITION

BOX TTAB FEE
Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Crossroads Productions LLC (“Opposer”), a California limited liability company with a business address of 2777 Loker Avenue West, Carlsbad, California 92010, believes that it will be damaged by registration of the mark CRESTFALLEN that is the subject of Application Serial No. 77/418,364, published in the *Official Gazette* on July 29, 2008, and requests that registration to Blake A. Dimeff (“Applicant”) be refused. A description of Applicant’s trademark application is as follows:

MARK: CRESTFALLEN

SERIAL NO.: 77/418,364

FILED: March 11, 2008

TYPE: Intent to Use

PUBLISHED: July 29, 2008

CLASS OPPOSED: 25

GOODS OPPOSED: Winter boots; Snow boarding suits; Snow boots; Snow pants; Snow suits; Jogging pants; Pants; Ski pants; Snowboard pants; Sweat pants; Dress shirts; Golf shirts; Knit shirts; Long-sleeved shirts; Night shirts; Polo shirts; Rugby shirts; Shirts; Short-sleeved or long-sleeved t-shirts; Sleep shirts; Sports shirts; T-shirts; Yoga shirts; Blouses; Dress suits; Dresses; Skirts and dresses; Ankle socks; Socks; Thermal socks; Woollen socks; Headgear, namely, baseball caps, snow hats, knitted hats, ski hats and caps; Swimsuits; Bikinis; Sleepwear; Pajama bottoms; Pajamas; Lingerie; Thermal underwear; Sandals; After ski boots; Boots; Hiking boots; Ski boot bags; Ski boots; Head scarves; Scarves; Shoulder scarves; Coats; Heavy coats; Leather coats; Over coats; Sport coats; Wind coats; Denim jackets; Down jackets; Fur jackets; Heavy jackets; Jackets; Leather jackets; Rain jackets; Ski jackets; Waterproof jackets and pants; Wind resistant jackets.

As grounds for opposition, Opposer alleges as follows:

1. Long prior to the filing date of Applicant's application for CRESTFALLEN, Opposer has been engaged in the manufacture and sale of clothing, headwear, footwear, and accessories under its marks FALLEN and RISE WITH THE FALLEN. Opposer has used the marks FALLEN and RISE WITH THE FALLEN in connection with its goods in interstate commerce since at least as early as November 2003, well prior to the acts of Applicant.

2. Opposer is the owner of Registration No. 2,915,276 for the mark FALLEN, issued on December 28, 2004, for clothing, headwear and footwear, namely, shirts, sweatshirts, pants, sweat bands, shorts, jackets, sweaters, hats, caps, socks, belts, and shoes. Such registration is valid, subsisting, un-revoked, and un-canceled.

3. Opposer is also the owner of Registration No. 2,968,468 for the mark FALLEN, issued on July 12, 2005, for backpacks, and all purpose sports and athletic bags. Such registration is valid, subsisting, un-revoked, and un-canceled.

4. Opposer is additionally the owner of Registration No. 3,001,572 for the mark RISE WITH THE FALLEN, issued on September 27, 2005, for clothing, headwear and footwear, namely, shirts, sweatshirts, pants, sweat bands, shorts, jackets, sweaters, hats, caps, socks, belts, gloves, and shoes. Such registration is valid, subsisting, un-revoked, and un-canceled.

5. There is no issue as to priority. The Applicant's intent to use application was filed subsequently to Opposer's applications being filed and subsequent to Opposer's date of first use of its marks FALLEN and RISE WITH THE FALLEN.

6. Opposer has sold its goods listed in the aforesaid registrations under the aforesaid marks throughout the United States and extensively internationally, and has developed valuable goodwill in such marks. Due to Opposer's efforts, the expenditure of considerable sums for promotional activities, and due to the high quality of its goods, Opposer has gained a valuable reputation in its marks.

7. The mark proposed for registration by the Applicant, namely CRESTFALLEN, substantially incorporates all of Opposer's mark FALLEN and a significant portion of Opposer's mark RISE WITH THE FALLEN. Furthermore, the opposed class of Applicant's mark (International Class 25) is applied to goods that are either identical or very closely related to those goods listed in Opposer's registrations.

8. As such, Applicant's mark so nearly resembles Opposer's marks as to be likely to create confusion, deception and mistake as to the source or sponsorship of those goods.

Any such confusion in trade could result in loss of sales to Opposer, and any defect or fault found with Applicant's goods marketed under its mark could detrimentally reflect upon Opposer and injure the goodwill established in its marks.

WHEREFORE, Opposer prays that the opposition be sustained and that registration for the mark CRESTFALLEN, Serial No. 77/418,364 be refused.

Respectfully submitted,

CROSSROADS PRODUCTIONS LLC

/Victoria Newland/

Dated: November 24, 2008

By: _____
Attorney for Crossroads Productions LLC
Victoria Newland
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Oceanside, CA 92056
Tel: (760) 216-6440
Fax: (760) 859-3208

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through its website located at <http://estta.uspto.gov> on November 24, 2008.

Date: November 24, 2008

/Victoria Newland/
By: _____
Victoria Newland
Law Offices of Victoria Newland, APC
Attorney for Crossroads Productions LLC

CERTIFICATE OF SERVICE

This is to certify that on this 24th day of November, 2008, a copy of the foregoing "Notice of Opposition" was mailed by First Class mail, postage prepaid to:

Richard L. Morris Jr. Esq.
PO Box 398538
Miami Beach, FL 33239-8538

/Victoria Newland/

Victoria Newland