

ESTTA Tracking number: **ESTTA341251**

Filing date: **04/07/2010**

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	04/07/2010
Address	1996 Marshall Avenue St. Paul, MN 55014 UNITED STATES

Attorney information	Karen A. Brennan Winthrop & Weinstine, P.A. 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402 UNITED STATES kbrennan@winthrop.com, sbaird@winthrop.com, trademark@winthrop.com, aeichrodt@winthrop.com Phone:(612) 604-6434
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Applicant Information

Application No	77405213	Publication date	12/08/2009
Opposition Filing Date	04/07/2010	Opposition Period Ends	04/07/2010
Applicant	Rock Holdings, Inc. 3525 Eastham Drive Culver City, CA 90232 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Entertainment services in the nature of live musical performances, and ongoing television programs in the fields of live musical performances, charitable fundraising, and festivals; entertainment services in the nature of providing a website featuring information regarding live musical performances and festivals; organizing community festivals featuring a variety of activities, namely, booths or exhibitions for displaying clothing

Applicant Information

Application No	77405264	Publication date	12/08/2009
Opposition Filing Date	04/07/2010	Opposition Period Ends	
Applicant	Rock Holdings, 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: Charitable fundraising services, namely, raising money for curing diseases and better health care, conducted at festivals; and 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	Charitable fundraising services and events, live musical events, promotional events, website services and providing information about the organization and events, as well as merchandise, including clothing, hats and calendars;		

Attachments	Notice of Opposition 77405213.pdf (6 pages)(209187 bytes) Notice of Opposition 77405264.pdf (5 pages)(201072 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	04/07/2010

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

In the matter of Application Ser. No.: 77/405,213
Filed: February 25, 2008
For the mark: RC ROCK THE CURE (and Design)
Published in the Trademark Official Gazette on December 8, 2009

Blue Jeanne Inc.,

Opposer,

v.

Opposition No. _____

Rock Holdings, 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. 77/405,213 (the “Application”) in International Class 41 and hereby opposes the same.

The grounds for opposition are as follows:

1. Rock Holdings, Inc. (“Applicant”) seeks to register the mark RC ROCK THE CURE (and Design) in connection with “Entertainment services in the nature of live musical performances, and ongoing television programs in the fields of live musical performances, charitable fundraising, and festivals; entertainment services in the nature of providing a website featuring information regarding live musical performances and festivals; organizing community festivals featuring a variety of activities, namely, booths or exhibitions for displaying clothing” in International Class 41 (“Applicant’s Rock the Cure Mark”).

2. Applicant's Rock the Cure Mark was published for opposition in the Trademark Official Gazette on December 8, 2009. On January 7, 2010, 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 February 8, 2010. On February 8, 2010, Opposer sought an additional Extension of Time to oppose the registration. The Trademark Trial and Appeal Board granted Opposer's extension with consent, extending the time to oppose the mark up to and including April 7, 2010.

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

4. Opposer is a non-profit organization which is dedicated to raising money for, and awareness about, cancer.

5. Prior to Applicant's filing date, Opposer adopted and has continuously used the mark ROCK THE CURE™ in commerce in connection with services, including 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.

6. Opposer used the ROCK THE CURE™ mark in connection with a wide variety of goods and services related to fund raising for cancer 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 entertainment services, fundraising services, and the sale of merchandise such as clothing, as well as 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 services 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 contains Opposer's ROCK THE CURE™ mark in its entirety and therefore will be likely, when used on or in connection with the services described in Paragraph 1, to cause confusion, mistake, or to deceive.

14. Because of the highly similar commercial impressions between Applicant's Rock the Cure Mark and Opposer's ROCK THE CURE™ mark and the 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: 4/7/10

WINTHROP & WEINSTINE, P.A.



Stephen R. Baird
Karen A. Brennan

225 South Sixth Street
Suite 3500
Minneapolis, MN 55402
(612) 604-6400 (Telephone)
(612) 604-6800 (Facsimile)

Attorneys for Blue Jeanne Inc.

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

In the matter of Application Ser. No.: 77/405,213
Filed: February 25, 2008
For the mark: RC ROCK THE CURE (and Design
Published in the Trademark Official Gazette on December 8, 2009

Blue Jeanne Inc.,

Opposer,

v.

Opposition No. _____

Rock Holdings, Inc.

Applicant.

CERTIFICATE OF SERVICE BY MAIL

This is to certify that on this 7th day of April, 2010, I served by First Class Mail a true and correct copy of the following document:

1. Notice of Opposition.

in the above-captioned action to the following at the last known address, to-wit:

Anna-Emily Gaupp
Rock & Republic Enterprises, Inc.
3525 Eastham Drive
Culver City, CA 90232



Andrea Eichrodt

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

In the matter of Application Ser. No.: 77/405,264
Filed: February 25, 2008
For the mark: RC ROCK THE CURE (and Design)
Published in the Trademark Official Gazette on December 8, 2009

Blue Jeanne Inc.,

Opposer,

v.

Opposition No. _____

Rock Holdings, 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. 77/405,264 (the “Application”) in International Class 36 and hereby opposes the same.

The grounds for opposition are as follows:

1. Rock Holdings, Inc. (“Applicant”) seeks to register the mark RC ROCK THE CURE (and Design) in connection with “Charitable fundraising services, namely, raising money for curing diseases and better health care, conducted at festivals; and 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 December 8, 2009. On January 7, 2010, 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 February 8, 2010. On February 8, 2010, Opposer sought an additional Extension of Time to oppose the registration. The Trademark Trial and Appeal Board granted Opposer's extension with consent, extending the time to oppose the mark up to and including April 7, 2010.

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

4. Opposer is a non-profit organization which is dedicated to raising money for, and awareness about, cancer.

5. Prior to Applicant's filing date, Opposer adopted and has continuously used the mark ROCK THE CURE™ in commerce in connection with services, including charitable fundraising services and events, promotional events, website services and providing information about the organization and events, as well as merchandise, including clothing, hats and calendars.

6. Opposer used the ROCK THE CURE™ mark in connection with a wide variety of goods and services related to fund raising for cancer 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 Applicant's services set forth in Paragraph 1.

7. Opposer adopted and has continuously used the ROCK THE CURE™ mark in connection with charitable fundraising services, entertainment services, and the sale of merchandise such as clothing, as well as 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 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 contains Opposer's ROCK THE CURE™ mark in its entirety and therefore will be likely, when used on or in connection with the services described in Paragraph 1, to cause confusion, mistake, or to deceive.

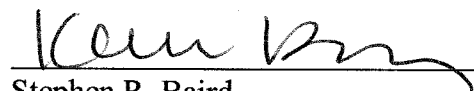
14. Because of the highly similar commercial impressions between Applicant's Rock the Cure Mark and Opposer's ROCK THE CURE™ mark and the overlap between the goods and services offered under the respective marks, purchasers and prospective purchasers are likely to mistakenly believe that the goods Applicant 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: 4/7/10

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