

ESTTA Tracking number: **ESTTA443059**

Filing date: **11/24/2011**

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	Pedro O Santa		
Entity	Individual	Citizenship	SPAIN
Address	Ctra. Jumilla, km 63 Yecla, Murcia, 30510 SPAIN		

Attorney information	Roberto Ledesma Law Office of Roberto Ledesma PO Box 230692 New York, NY 10023 UNITED STATES RL@EverythingTrademarks.com Phone:646-845-9414		
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**Applicant Information**

Application No	85338352	Publication date	10/25/2011
Opposition Filing Date	11/24/2011	Opposition Period Ends	11/24/2011
Applicant	Boys Night Out, LLC 2811 Wilshire Blvd., Suite 700 Santa Monica, CA 90403 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2011/05/00 First Use In Commerce: 2011/05/00 All goods and services in the class are opposed, namely: Clothing, namely, t-shirts and sweatshirts
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**Applicant Information**

Application No	85338355	Publication date	10/25/2011
Opposition Filing Date	11/24/2011	Opposition Period Ends	11/24/2011
Applicant	Boys Night Out, LLC 2811 Wilshire Blvd., Suite 700 Santa Monica, CA 90403 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2011/05/01 First Use In Commerce: 2011/05/01 All goods and services in the class are opposed, namely: Clothing, namely, t-shirts and sweatshirts
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**Grounds for Opposition**

Other	see attached
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Attachments	Notice of Opposition (New Normal Rock).pdf ( 4 pages )(135467 bytes ) New Rock Class 35 Registration.pdf ( 2 pages )(37064 bytes ) New Rock Class 25 Registration.pdf ( 3 pages )(38976 bytes ) New Rock Logo Registration.pdf ( 3 pages )(38944 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	/Roberto Ledesma/
Name	Roberto Ledesma
Date	11/24/2011

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

Pedro Ortuno Santa,  
Opposer,

v.

Boys Night Out, LLC,  
Applicant.

Opposition No.

Application Ser. Nos. 85338352 and  
85338355

Marks: NEW NORMAL ROCK and  
NEW ROCK NORMAL and Design

NOTICE OF OPPOSITION

Pedro Ortuno Santa (“Opposer”) believes he will be damaged by registration of the marks NEW NORMAL ROCK, Application Serial No. 85338352, and NEW ROCK NORMAL and Design, Application Ser. No. 85338355 (together, the “Applications”), filed by Boys Night Out, LLC (“Applicant”), a California limited liability company, and hereby opposes registration of the marks. The grounds for the opposition are as follows:

1. Applicant seeks to register the marks NEW NORMAL ROCK and NEW ROCK NORMAL and Design for “Clothing, namely, t-shirts and sweatshirts,” in Class 25 (together, “Applicant’s Marks”).
2. Applicant’s Marks published for opposition on October 25, 2011. This Notice of Opposition is timely filed. The opposed Applications were filed on June 5, 2011 based upon alleged use in commerce with a claimed first use date of May 1, 2011 for the NEW ROCK NORMAL and Design mark and May 2011 for the NEW NORMAL ROCK mark.
3. Since at least as early as 1996, Opposer has been using the trademark NEW ROCK in U.S. commerce to identify and promote footwear, clothing stores and retail stores for clothing, footwear and apparel.
4. Opposer is the owner of United States trademark Registration Nos. 2045558, 2532127 and 2603318 for the marks NEW ROCK and NEW ROCK and Design covering “shoes,” and “footwear, namely, boots, slippers, clogs and sandals,” in Class 25 and “Clothing stores; retail store services featuring men's, women's and children's apparel; advertising agency, namely placing and preparing advertisements for others; business management consultation, franchising, namely, offering technical assistance in the establishment and/or operation of shoe stores and employment counseling,” in Class 35 (collectively, “Opposer’s Marks”).

5. Opposer has advertised and promoted Opposer's Marks extensively. Opposer has also earned substantial revenue based on products sold and services rendered under Opposer's Marks. As a result of such use and promotion, Opposer's Marks have developed and represent valuable goodwill inuring to the benefit of Opposer.

6. Opposer has priority with respect to the mark at issue in this opposition. Opposer adopted and commenced use of Opposer's Marks as a trademark long before Applicant adopted its marks, which includes the identical wording NEW ROCK. Opposer's usage of Opposer's Marks in U.S. commerce commenced at least as early as 1996, fifteen (15) years prior to Applicant's alleged date of first use.

7. On information and belief, Applicant has not used Applicant's Marks in commerce prior to May 1, 2011, Applicant's earliest alleged date of first use.

8. On information and belief, Applicant had knowledge of the fact that Opposer used the wording NEW ROCK as a trademark before it adopted its mark.

9. Applicant's mark is confusingly and deceptively similar to Opposer's previously used and duly registered NEW ROCK marks.

10. The goods sold and services offered and marketed by Opposer under Opposer's Marks are closely related to the goods listed in the Applications.

11. On information and belief, Opposer's and Applicant's goods are promoted and sold in similar channels of trade to the same consumers or class of consumers.

12. Applicant's Marks are similar in appearance, sound, connotation and commercial impression to Opposer's Marks.

13. Due to the similarity between Applicant's Marks and Opposer's previously used and duly registered NEW ROCK marks, and the similarities of the respective parties goods and services, customers and potential customers are likely to believe that Applicant's goods originate from Opposer, resulting in a likelihood of confusion in the marketplace, and damage to Opposer.

14. The use and registration by Applicant of the marks NEW ROCK NORMAL and NEW NORMAL ROCK for Applicant's goods is likely to cause confusion or to cause mistake or deception in the trade, and among purchasers and potential purchasers, with Opposer's previously used and duly registered NEW ROCK marks, again resulting in damage to Opposer.

15. Because of the closely related nature of the goods, and the similarity of the marks, use and registration of the NEW ROCK NORMAL and NEW NORMAL ROCK marks by Applicant is likely to cause confusion, mistake or deception that Applicant's goods are those of Opposer, or are otherwise endorsed, sponsored or approved by

Opposer for use with Opposer's products and services causing further damage to Opposer.

16. If Applicant is granted registration of the marks herein opposed it would thereby obtain at least a prima facie exclusive right to the use of its alleged marks. Such registration would be a source of further damage and injury to Opposer.

17. Registration of the marks shown in Application Serial Nos. 85338352 and 85338355 will result in damage to Opposer under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer request that the registrations sought by Applicant in the Applications be refused and that this Notice of Opposition be sustained.

Pedro Ortuno Santa

/Roberto Ledesma/

Roberto Ledesma  
Law Office of Roberto Ledesma  
PO Box 230692  
New York, NY 10023  
646-845-9414

Date: November 24, 2011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon Applicant this 24th day of November 2011, by mailing a copy thereof via first-class mail, postage pre-paid, to Jill M. Pietrini, Manatt, Phelps & Phillips, LLP, 11355 W. Olympic Blvd., Los Angeles, CA 90064.

/Roberto Ledesma/  
Roberto Ledesma

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-11-24 16:18:00 ET

Serial Number: [76275101 Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number: [2532127](#)

Mark



(words only): [NEW ROCK](#)

Standard Character claim: [No](#)

Current Status: [A Sections 8 and 15 combined declaration has been accepted and acknowledged.](#)

Date of Status: [2008-01-18](#)

Filing Date: [2001-06-22](#)

Transformed into a National Application: [No](#)

Registration Date: [2002-01-22](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 106](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [830 -Post Registration](#)

Date In Location: [2008-01-18](#)

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [Ortuno Santa, Pedro](#)

Address:

[Ortuno Santa, Pedro](#)  
[Ctra. Jumilla, km 63](#)  
[Yecla \(Murcia\) 30510](#)  
[Spain](#)

Legal Entity Type: [Individual](#)

Country of Citizenship: [Spain](#)

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#### GOODS AND/OR SERVICES

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International Class: [035](#)

Class Status: [Active](#)

[Clothing stores; retail store services featuring men's, women's and children's apparel; advertising agency, namely placing and preparing advertisements for others; business management consultation, franchising, namely, offering technical assistance in the establishment and/or operation of shoe stores and employment counseling](#)

Basis: [1\(a\)](#)

First Use Date: [1996-10-31](#)

First Use in Commerce Date: [1996-12-03](#)

## ADDITIONAL INFORMATION

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**Description of Mark:** The mark consists of the mark "NEW ROCK" imposed inside of a circle above a globe.

**Design Search Code(s):**

**01.07.01** - Globes with outlines of continents

**26.01.02** - Circles, plain single line; Plain single line circles

**26.01.07** - Circles with a decorative border, including scalloped, ruffled and zig-zag edges

**Prior Registration Number(s):**

2045558

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## MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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## PROSECUTION HISTORY

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-11-15 - Notice Of Design Search Code Mailed

2008-01-18 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-12-27 - Assigned To Paralegal

2007-12-20 - TEAS Section 8 & 15 Received

2007-04-09 - Case File In TICRS

2003-02-06 - TEAS Change Of Correspondence Received

2002-01-22 - Registered - Principal Register

2001-10-30 - Published for opposition

2001-10-10 - Notice of publication

2001-09-10 - Approved for Pub - Principal Register (Initial exam)

2001-09-03 - Assigned To Examiner

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## ATTORNEY/CORRESPONDENT INFORMATION

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**Attorney of Record**

Aylin Demirci and Otto O. Lee

**Correspondent**

Aylin Demirci and Otto O. Lee  
Intellectual Property Law Group LLP  
12 South First Street, 12th Floor  
San Jose CA 95113  
Phone Number: 408-286-8933  
Fax Number: 408-286-8932

**Domestic Representative**

Aylin Demirci and Otto O. Lee  
Phone Number: 408-286-8933  
Fax Number: 408-286-8932

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Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-11-24 16:25:10 ET

Serial Number: [75002909 Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number: [2045558](#)

Mark



(words only): [NEW ROCK](#)

Standard Character claim: [No](#)

Current Status: [The registration has been renewed.](#)

Date of Status: [2007-04-25](#)

Filing Date: [1995-10-10](#)

Transformed into a National Application: [No](#)

Registration Date: [1997-03-18](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 109](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [830 -Post Registration](#)

Date In Location: [2007-04-25](#)

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LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [Santa, Pedro Ortuno](#)

**Address:**

[Santa, Pedro Ortuno](#)  
[Yecla \(Murcia\) Carretera de Jumilla, Km. 63](#)  
[28010 Madrid](#)  
[Spain](#)

**Legal Entity Type:** [Individual](#)

**Country of Citizenship:** [Spain](#)

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GOODS AND/OR SERVICES

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**International Class:** [025](#)

**Class Status:** [Active](#)

[shoes](#)

**Basis:** [44\(e\)](#)

**First Use Date:** [\(DATE NOT AVAILABLE\)](#)

**First Use in Commerce Date:** [\(DATE NOT AVAILABLE\)](#)

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ADDITIONAL INFORMATION

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**Design Search Code(s):**

**26.07.12** - Diamonds with bars, bands and lines

**26.07.13** - Diamonds, exactly two diamonds; Two diamonds

**26.07.21** - Diamonds that are completely or partially shaded

**Foreign Registration Number:** 1759481(2)

**Foreign Registration Date:** 1993-10-22

**Country:** Spain

**Foreign Expiration Date:** 2003-05-04

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2008-12-04 - Notice Of Design Search Code And Pseudo Mark Mailed

2008-11-18 - Notice Of Design Search Code And Pseudo Mark Mailed

2007-04-25 - First renewal 10 year

2007-04-25 - Section 8 (10-year) accepted/ Section 9 granted

2007-04-16 - Assigned To Paralegal

2007-03-15 - Combined Section 8 (10-year)/Section 9 filed

2007-03-15 - TEAS Section 8 & 9 Received

2006-12-18 - Case File In TICRS

2003-01-15 - Section 8 (6-year) accepted & Section 15 acknowledged

2002-10-31 - Section 8 (6-year) and Section 15 Filed

2002-10-31 - PAPER RECEIVED

1997-03-18 - Registered - Principal Register

1996-12-24 - Published for opposition

1996-11-22 - Notice of publication

1995-10-10 - Sec. 1(B) Claim Deleted

1996-08-07 - Approved For Pub - Principal Register

1996-06-25 - Communication received from applicant

1996-04-11 - Non-final action mailed

1996-03-03 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Mark I. Peroff and Keith E. Danish

**Correspondent**

Mark I. Peroff and Keith E. Danish

Kirkpatrick & Lockhart Preston Gates Ell

599 Lexington Avenue

32nd Floor

New York, NY 10022-6030



Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-11-24 16:24:10 ET

Serial Number: [75713282 Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number: [2603318](#)

Mark



(words only): [NEW ROCK](#)

Standard Character claim: [No](#)

Current Status: [A Sections 8 and 15 combined declaration has been accepted and acknowledged.](#)

Date of Status: [2007-12-27](#)

Filing Date: [1999-05-24](#)

Transformed into a National Application: [No](#)

Registration Date: [2002-08-06](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 109](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [40S -Scanning On Demand](#)

Date In Location: [2007-12-27](#)

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [SANTA, Pedro ORTUNO](#)

Address:

[SANTA, Pedro ORTUNO](#)

[Ctra. Jumilla, km 63](#)

[30510 YECLA, MURCIA](#)

[Spain](#)

Legal Entity Type: [Individual](#)

Country of Citizenship: [Spain](#)

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#### GOODS AND/OR SERVICES

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International Class: [025](#)

Class Status: [Active](#)

[FOOTWEAR, NAMELY, BOOTS, SHOES, SLIPPERS, CLOGS, AND SANDALS](#)

Basis: [1\(a\)](#)

First Use Date: [1996-10-00](#)

First Use in Commerce Date: [1996-12-03](#)

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#### ADDITIONAL INFORMATION

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**Description of Mark:** The mark consists, in part, of a drawing of a globe.

**Design Search Code(s):**

**01.07.01** - Globes with outlines of continents  
**26.01.07** - Circles with a decorative border, including scalloped, ruffled and zig-zag edges  
**26.01.17** - Circles, two concentric; Concentric circles, two; Two concentric circles  
**26.05.03** - Incomplete triangles (must have two angles); Triangle, incomplete (two angles)  
**26.05.12** - Triangles with bars, bands and lines  
**26.05.13** - Triangles, exactly two triangles; Two triangles  
**26.05.21** - Triangles that are completely or partially shaded

**Prior Registration Number(s):**

2045558

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2007-12-27 - Case File In TICRS

2007-12-27 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-12-27 - Assigned To Paralegal

2007-12-20 - TEAS Section 8 & 15 Received

2002-08-06 - Registered - Principal Register

2002-05-14 - Published for opposition

2002-04-24 - Notice of publication

2002-01-26 - Approved for Pub - Principal Register (Initial exam)

2001-07-13 - Communication received from applicant

2001-06-19 - Previous Allowance Count Withdrawn

2001-04-05 - Approved for Pub - Principal Register (Initial exam)

2001-02-16 - Non-final action mailed

2000-11-16 - Communication received from applicant

2000-05-16 - Non-final action mailed

2000-04-12 - Communication received from applicant

1999-10-12 - Non-final action mailed

1999-09-27 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Aylin Demirci and Otto O. Lee

**Correspondent**

Aylin Demirci and Otto O. Lee  
Intellectual Property Law Group LLP  
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San Jose CA 95113  
Phone Number: 408-286-8933

Fax Number: 408-286-8932

**Domestic Representative**

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Phone Number: 408-286-8933

Fax Number: 408-286-8932

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