

ESTTA Tracking number: **ESTTA1373339**Filing date: **07/25/2024**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91288715
Party	Defendant Granny The Label LLC
Correspondence address	MARK DEMPSEY GRANNY THE LABEL LLC 10701 NOTTINGHAM DETROIT, MI 48224 UNITED STATES Primary email: lilrapthename@gmail.com Secondary email(s): markhickspromo@gmail.com 313-999-5179
Submission	Other Motions/Submissions
Filer's name	Mark dempsey
Filer's email	markhickspromo@gmail.com
Signature	/Mark Dempsey/
Date	07/25/2024
Attachments	Amended Service.pdf(608066 bytes) Signed July 24 2004 Applicants Answer to Opposers Notice of Opposition.pdf(791432 bytes)


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

NATIONAL ACADEMY OF RECORDING)
ARTS & SCIENCES, INC.,)
)
Opposer,)
)
v.)
)
GRANNY THE LABEL LLC,)
)
Applicant.)
_____)

Proceeding No. 91288715

AMENDED CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of Applicant's Answer to Opposer's Notice of Opposition (signed version) was served on Joel R. Feldman and Alexandra A. Holt by forwarding a copy on July 25, 2024, via email to: Joel R. Feldman and Alexandra A. Holt, Attorneys for Opposer, 3333 Piedmont Road, NE, Suite 2500, email addresses: joel.feldman@gtlaw.com and holta@gtlaw.com.

Signature: BY: 
MARK DEMPSEY
Member, Granny the Label, Inc.
10701 Nottingham
Detroit, MI 48224
(313) 999-5179
markhickspromo@gmail.com

Date: July 25, 2024

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

NATIONAL ACADEMY OF RECORDING)
ARTS & SCIENCES, INC.,)
)
 Opposer,)
)
v.)
)
GRANNY THE LABEL LLC,)
)
 Applicant.)
_____)

Proceeding No. 91288715

**APPLICANT’S ANSWER TO THE NATIONAL ACADEMY OF
RECORDING ARTS & SCIENCES, INC.’S NOTICE OF OPPOSITION**

Applicant, Granny the Label LLC hereby submits its answer to the National Academy of Recording Arts & Sciences, Inc’s (the “Recording Academy”) notice of opposition to registration of its application “GRANNY THE LABEL” Application Serial No. 97549138 (the “Application”), and states as follows:

1. Admitted.
2. Applicant admits that it filed int Application on August 15, 2022 with the intent to use the mark, GRANNY THE LABEL in commerce for the Class 9 Goods.
3. Applicant neither admits nor denies the allegations contained in Paragraph 3 of Opposer’s Notice of Opposition leaving Opposer to its strict proofs.
4. Applicant neither admits nor denies the allegations contained in Paragraph 4 of Opposer’s Notice of Opposition leaving Opposer to its strict proofs.
5. Admitted.
6. Admitted.

7. Admitted.
8. Applicant neither admits nor denies the allegations contained in Paragraph 8 of Opposer's Notice of Opposition leaving Opposer to its strict proofs.
9. Admitted.
10. Admitted.
11. Denied. Applicant denies that its mark "closely resembles" Opposer's GRAMMY mark in sight or sound.
12. Denied. Applicant denies that its mark, GRANNY THE LABEL is confusingly similar to the mark GRAMMY.
13. Applicant denies that its Class 9 Goods are legally identical to the goods identified in the Rerecording Academy's U.S. Registration No. 1865177. Opposer's Class 9 Goods and Services does not incorporate any intangible musical elements (i.e. digital broadcasting, digital downloading music for distribution via global computer network and wireless devices, etc., which are primary components of Applicant's goods and services.
14. Denied. Applicant denies that its Class 9 Goods are closely related to the services identified in the Recording Academy's U.S. Registrations Nos. 2332258 and 3202214 which are International Class 41 registrations for: (a) educational services which purportedly provide incentives to people to demonstrate excellence in the field of music and video arts and sciences through the issuance of awards, and (2) for entertainment services consisting of live performances by musical artists associated with televised musical awards programs, respectively. Applicant's mark has no association with any musical awards or performances by artists associated with musical awards programs.

15. Denied. Applicant's mark is dissimilar in sound or phonetic equivalents to Opposer's mark. When compared in their entireties for similarities in appearance, sound, connotation and commercial impression there is unlikelihood that Applicant's mark will cause confusion, mistake, and deception nor that its mark will cause injury and/or damage to Opposer's goodwill and reputation in its mark(s) within the meaning of 15 U.S.C. Sec. 1063(a).

CONCLUSION.

For the foregoing reasons, Applicant respectfully requests that the Board deny Opposer's challenge to registration of Applicant's mark and grant registration of the trademark GRANNY THE LABEL (U.S. Application Serial No. 97549138).

15.

I. BACKGROUND

Applicant filed U.S. Application Serial No. 97549138 with the USPTO on August 15, 2022 (the "Application") seeking to register the mark, GRANNY THE LABEL as an International Class 9. Applicant is a Detroit, Michigan based independent music label that seeks to distribute and market its artists' musical products globally primarily through electronic means. A recitation of Applicant's Goods and Services is attached hereto as Exhibit 1. The Recording Academy is a well-established globally recognized brand, known primarily for its system of membership's nomination of musical performers and songs for its annual competitive music awards televised program in which artists and songs are selected for presentation of its golden award statuette, the GRAMMY. The Recording Academy owns several registrations in other Registration classifications, most notably International Class 41.

It also has registration for International Class 9 for a limited category of goods and services, to wit: audio compact discs and video tapes featuring musical entertainment. Exhibit 2.

Following its application, Applicant disclaimed the word LABEL such that its usage could not be protected separate from the entire mark. On August 15, 2023, the USPTO officially published GRANNY THE LABEL on its official Trademark Gazette

After several extensions granted to it by the USPTO, Opposer filed its notice of opposition on December 12, 2023.

II. ARGUMENT

COUNT I

DISIMILARITY IN GOODS AND SERVICES AND UNLIKELIHOOD OF CONFUSION

The USPTO's publishing of GRANNY THE LABEL in its official gazette preliminarily attests to the uniqueness of Applicant's mark. One factor in determining likelihood of confusion is based on the description of the goods and/or services state in the application and registration at issue. *In re Detroit Athletic Co.*, 903 F. 3d 1297, `307, 128 USPQ2d 1047, `052 (Fed Cir. 2018). Focusing on Opposer's Class 9 goods and services, it is clear that Opposer has a weak case for claiming likelihood of confusion. In contrast to Applicant's Goods and Services, Oppressor's Class 9 Goods and Services trademark use does not incorporate any intangible musical elements (i.e. digital broadcasting, digital downloading music for distribution via global computer network and wireless devices, etc., which are primary components of Applicant's goods and services).

More compelling is the fact that not a single word in Applicant's mark GRANNY THE

LABEL is identical to the Opposer’s trademark name GRAMMY. The two (2) marks are also dissimilar in sound or phonetic equivalents. Marks are compared in their entirety for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014). Applicant’s disclaimer of the word LABEL in its application to register its mark has “no legal effect on the issue of likelihood of confusion” because the public is unaware what words have been disclaimed. *In re Nat’l Data Corp.*, 753 F.2d 1056, 1059 (Fed. Cir. 1985), *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1243 (Fed. Cir. 2004). **The Board must consider the Applicant’s mark in its entirety. In doing so there is an obvious dissimilarity in the marks.**

The dissimilarity of the marks in this case is the primary *DuPont* factor in concluding that Applicant’s mark does not so resemble Opposer’s registered mark as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion, mistake, or to deceive.” 15 U.S.C. Sec. 1052(d). *In re E.I. du Pont de Nemours & Co.*, 476 F.3d 1357, 1361 (DDPA 1973). Even in a situation where there may be some overlap in the nature of the goods and services, where the marks themselves are distinctively different, it would be unjust to deny registration.

III. CONCLUSION

For the forgoing reasons, Applicant respectfully requests that the Board deny Opposer’s challenge to registration of Applicant’s mark, and grant registration of the trademark GRANNY THE LABEL¹ to Applicant.

¹ The mark GRANNY THE LABEL was created by Raphael Robinson to honor his grandmother and not to seek to pander from ubiquitous appeal of the title GRAMMY.

Respectfully submitted,

GRANNY THE LABEL LLC

BY: 

MARK DEMPSEY

Member

10701 Nottingham

Detroit, MI 48224

(313) 999-5179

markhickspromo@gmail.com

Dated: July 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's Answer to Opposer's Notice of Opposition on Joel R. Feldman and Alexandra A. Holt by forwarding a copy on July 24, 2024, via email to: Joel R. Feldman and Alexandra A. Holt, Attorneys for Opposer, 3333 Piedmont Road, NE, Suite 2500, email addresses: joel.feldman@gtlaw.com and holta@gtlaw.com.

Signature: BY: 

MARK DEMPSEY

Member, Granny the Label, Inc.

10701 Nottingham

Detroit, MI 48224

(313) 999-5179

markhickspromo@gmail.com

Date: July 24, 2024

