

ESTTA Tracking number: **ESTTA550758**

Filing date: **07/26/2013**

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	The National Collegiate Athletic Association
Granted to Date of previous extension	09/04/2013
Address	P.O. BOX 6222 INDIANAPOLIS, IN 46206 UNITED STATES
Attorney information	DOUGLAS N MASTERS LOEB & LOEB LLP 321 N CLARK ST, SUITE 2300 CHICAGO, IL 60654 UNITED STATES chdocket@loeb.com, dmasters@loeb.com, tsaunders@loeb.com, aprovencio@loeb.com Phone:312-464-3100

Applicant Information

Application No	76712967	Publication date	05/07/2013
Opposition Filing Date	07/26/2013	Opposition Period Ends	09/04/2013
Applicant	Vieira, Carlos 257 East Bellevue Road Atwater, CA 95301 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: MENS AND WOMENS CLOTHING, NAMELY, HATS, CAPS, JACKETS, COATS, SOCKS, SHIRTS, TOPS, PANTS, SHORTS, SKIRTS, T-SHIRTS

Applicant Information

Application No	76712966	Publication date	06/18/2013
Opposition Filing Date	07/26/2013	Opposition Period Ends	
Applicant	Vieira, Carlos 257 East Bellevue Road Atwater, CA 95301 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2011/06/22 First Use In Commerce: 2012/01/25
 All goods and services in the class are opposed, namely: Energy drinks

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.	1571340	Application Date	03/09/1989
Registration Date	12/12/1989	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1986/03/10 First Use In Commerce: 1986/03/10 ENTERTAINMENT SERVICES, NAMELY, PRESENTATION OF ATHLETIC AND ENTERTAINMENT PERSONALITIES IN A PANEL FORUM		

U.S. Registration No.	1866144	Application Date	11/12/1991
Registration Date	12/06/1994	Foreign Priority Date	NONE
Word Mark	AMERICA'S ORIGINAL MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1991/12/00 First Use In Commerce: 1991/12/00 programs, stationery folders, books and magazines concerning interscholastic activities Class 025. First use: First Use: 1992/03/00 First Use In Commerce: 1992/03/00 clothing; namely, shirts, sweatshirts, sweatpants and hats		

U.S. Registration No.	1873048	Application Date	11/12/1991
Registration Date	01/10/1995	Foreign Priority Date	NONE
Word Mark	AMERICA'S ORIGINAL MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 1993/08/00 First Use In Commerce: 1993/08/00 cups and mugs Class 024. First use: First Use: 1993/06/00 First Use In Commerce: 1993/06/00 towels and cloth banners		

U.S. Registration No.	1955140	Application Date	04/10/1995
Registration Date	02/06/1996	Foreign Priority	NONE

		Date	
Word Mark	MIDNIGHT MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1988/10/05 First Use In Commerce: 1988/10/05 [shoes and] clothing, namely sweatshirts, T-shirts, [sweatpants]		

U.S. Registration No.	2425958	Application Date	07/01/1993
Registration Date	02/06/2001	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1993/08/09 First Use In Commerce: 1993/08/09 basketballs, basketball backboards [and related accessories, namely, pumps, inflation needles and nets]		

U.S. Registration No.	2425962	Application Date	01/20/1995
Registration Date	02/06/2001	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1989/12/00 First Use In Commerce: 1989/12/00 pre-recorded video cassettes featuring sporting events</p> <p>Class 016. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 programs, folders, handbooks, magazines and trading cards related to interscholastic activities</p> <p>Class 021. First use: First Use: 1979/00/00 First Use In Commerce: 1979/00/00 [cups and mugs]</p> <p>Class 024. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 [towels and cloth banners]</p> <p>Class 025. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 clothing, namely shirts, sweatshirts, [shorts,] and hats</p>		

U.S. Registration No.	2447259	Application Date	03/04/1994
Registration Date	05/01/2001	Foreign Priority Date	NONE
Word Mark	AMERICA'S ORIGINAL MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1992/01/00 First Use In Commerce: 1992/01/00		

	sanctioning, supervising, regulating and conducting high school basketball games and tournaments		
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U.S. Registration No.	2478254	Application Date	03/08/1993
Registration Date	08/14/2001	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 wearing apparel associated with an annual basketball tournament between college teams; namely, tee shirts, sweatshirts, sweat pants, caps, sweaters and jackets		

U.S. Registration No.	2485443	Application Date	02/22/1993
Registration Date	09/04/2001	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1982/03/31 First Use In Commerce: 1982/03/31 entertainment in the nature of basketball tournaments between college teams		

U.S. Registration No.	2608347	Application Date	05/24/1996
Registration Date	08/20/2002	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS EXPERIENCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 [clocks and] [ornamental pins] Class 021. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 [cups] Class 025. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 wearing apparel, namely, caps, T-shirts, sweatshirts Class 041. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 entertainment services in the nature of amusement facilities		

U.S. Registration No.	2795200	Application Date	01/20/1995
Registration Date	12/16/2003	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 2003/02/00 First Use In Commerce: 2003/02/00 Metal key chains Class 014. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 Ornamental pins Class 028. First use: First Use: 1993/08/09 First Use In Commerce: 1993/08/09 Basketballs

U.S. Registration No.	2802583	Application Date	01/20/1995
Registration Date	01/06/2004	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2003/04/00 First Use In Commerce: 2003/04/00 Non-metal key chains		

U.S. Registration No.	3025527	Application Date	05/21/2004
Registration Date	12/13/2005	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/03/00 First Use In Commerce: 1996/03/00 Computer game software and related instructional manuals and guides sold as a unit Class 038. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 Telecommunications services; namely the transmission of voice, data, images, audio, video and information via local and long distance telephone, satellite and global computer networks; leasing telecommunications equipment, components, systems and supplies; electronic mail services; telephone voice messaging services; providing multiple-user access to global computer networks to transmit, receive and otherwise access and use information of general interest to consumers; web casting of athletic games, tournaments, exhibitions, and events via the Internet Class 041. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 providing sports information via the Internet		

U.S. Registration No.	3199346	Application Date	12/19/2003
Registration Date	01/16/2007	Foreign Priority Date	NONE
Word Mark	TASTE THE MADNESS		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 029. First use: First Use: 2004/03/00 First Use In Commerce: 2004/03/00 Cheese, sour cream, lunch meats and hot dogs; salty snacks, namely, processed nuts</p> <p>Class 030. First use: First Use: 2004/03/00 First Use In Commerce: 2004/03/00 Cookies; crackers; pretzels; wafers; salad dressings; mayonnaise-based sandwich spreads; coffee; packaged meals consisting primarily of pasta and cheese sauce; pizza; breakfast cereals; and prepared and packaged cereal-based, rice-based, or granola-based snack foods</p>
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U.S. Registration No.	3233129	Application Date	06/12/2006
Registration Date	04/24/2007	Foreign Priority Date	NONE
Word Mark	MEGA MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 Satellite direct television broadcasting services, featuring a package of sports programming		

U.S. Registration No.	3303263	Application Date	11/06/2003
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1995/03/00 First Use In Commerce: 1995/03/00 Carbonated soft drinks		

U.S. Registration No.	3560799	Application Date	06/03/2008
Registration Date	01/13/2009	Foreign Priority Date	NONE
Word Mark	MARCH MADNESS ON DEMAND		
Design Mark			
Description of Mark	The mark consists of the words "MARCH MADNESS ON DEMAND" superimposed over a basketball and basketball net with swirls.		
Goods/Services	Class 038. First use: First Use: 2006/03/00 First Use In Commerce: 2006/03/00 webcasting of athletic games, tournaments, exhibitions, and events via the internet		

U.S. Registration No.	3594871	Application Date	10/06/2008
Registration Date	03/24/2009	Foreign Priority Date	NONE
Word Mark	MIDDLE SCHOOL MADNESS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1999/03/00 First Use In Commerce: 1999/03/00 Educational services, namely, developing a curriculum program for students in the fields of academics, athletics and sportsmanship; entertainment services, namely, contests and incentive award programs relating to athletics and sportsmanship

U.S. Registration No.	3967586	Application Date	07/28/2006
Registration Date	05/24/2011	Foreign Priority Date	NONE
Word Mark	MIDNIGHT MADNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1987/10/14 First Use In Commerce: 1987/10/14 Promoting the goods and services of others by allowing others to affiliate their goods and services with intercollegiate athletic events; association services, namely, promoting the interests of intercollegiate athletics Class 041. First use: First Use: 1987/10/14 First Use In Commerce: 1987/10/14 Entertainment services in the nature of athletic contests, games, tournaments, exhibitions and events		

Attachments	Not of Oppos - LIVE THE MADNESS.pdf(15289 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	/DOUGLAS N MASTERS/
Name	DOUGLAS N MASTERS
Date	07/26/2013

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

In the matter of: Application Serial No. 76/712,967, published in the *Official Gazette* on May 7, 2013 for LIVE THE MADNESS in International Class 25; and Application Serial No. 76/712,966, published in the *Official Gazette* on June 18, 2013 for LIVE THE MADNESS in International Class 32.

NATIONAL COLLEGIATE ATHLETIC)		
ASSOCIATION,)		
Opposer,)		
v.)	Opposition No. _____	
CARLOS VIEIRA,)		
Applicant.)		

NOTICE OF OPPOSITION

The National Collegiate Athletic Association (“NCAA” or “Opposer”) believes it will be damaged by the registration of the mark LIVE THE MADNESS in International Class 32 for “energy drinks” (Ser. No. 76/712,966), and International Class 25 for “mens and womens clothing, namely, hats, caps, jackets, coats, socks, shirts, tops, pants, shorts, skirts, t-shirts” (Ser. No. 76/712,967), and opposes the same.

As grounds for opposition, Opposer alleges that:

1. NCAA, itself and through its licensees, offers a variety of goods and services in connection with the MARCH MADNESS mark and other marks containing the term MADNESS (collectively, “MADNESS Marks”).

2. Since long prior to December 3, 2012, Applicant’s constructive first use date, the NCAA and its predecessor in interest, March Madness Athletic Association (“MMAA”), have continuously used the MADNESS Marks in commerce and in connection with, among other things, food and beverage products and apparel.

3. NCAA has registered some of its MADNESS marks in the United States Patent and Trademark Office, including but not limited to, the following federal registrations:

<u>MARK</u>	<u>REG. NO.</u>
MARCH MADNESS	1571340
AMERICA'S ORIGINAL MARCH MADNESS	1866144
AMERICA'S ORIGINAL MARCH MADNESS	1873048
MIDNIGHT MADNESS	1955140
MARCH MADNESS	2425958
MARCH MADNESS	2425962
AMERICA'S ORIGINAL MARCH MADNESS	2447259
MARCH MADNESS	2478254
MARCH MADNESS	2485443
MARCH MADNESS EXPERIENCE	2608347
MARCH MADNESS	2795200
MARCH MADNESS	2802583
MARCH MADNESS	3025527
TASTE THE MADNESS	3199346
MEGA MARCH MADNESS	3233129
MARCH MADNESS	3303263
MARCH MADNESS ON DEMAND	3560799
MIDDLE SCHOOL MADNESS	3594871
MIDNIGHT MADNESS	3967586

4. These registrations are valid, subsisting and owned by NCAA. Registration Nos. 1,571,340; 1,866,144; 1,955,140; 2,425,958; 2,425,962; 2,447,259; 2,478,254; 2,485,443; 2,608,347; 2,795,200; 2,802,583; and 3,025,527 are incontestable in accordance with 15 U.S.C. §§ 1065, 1115.

5. Opposer has offered/sold millions of dollars' worth of goods and services in connection with its MADNESS Marks.

6. Opposer has spent significant sums advertising and promoting its MADNESS Marks throughout the United States.

7. By virtue of the popularity of Opposer's goods and services offered in connection with the MADNESS Marks, and its advertising and promotion of the MADNESS Marks,

Opposer has built up and now owns an extremely valuable goodwill which is symbolized by its MADNESS Marks.

8. On December 3, 2012, Carlos Vieira (“Applicant”) filed Application Serial Nos. 76/712,966 and 76/712,967 (“Applicant’s Applications”) with the United States Patent and Trademark Office seeking registration of the mark LIVE THE MADNESS for use with “energy drinks” in International Class 32 (Ser. No. 76/712,966), and “mens and womens clothing, namely, hats, caps, jackets, coats, socks, shirts, tops, pants, shorts, skirts, t-shirts” in International Class 25 (Ser. No. 76/712,967).

9. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has made use of the LIVE THE MADNESS mark in commerce prior to the December 3, 2012 application date.

10. Use by Applicant of the applied for marks is without Opposer’s consent or permission.

11. Applicant is in no way sponsored, authorized or licensed by, or in any other way legitimately connected with, Opposer.

12. Use by Applicant of LIVE THE MADNESS for the goods set forth in Applicant’s Applications is likely to result in confusion with Opposer, or in the belief that Applicant or its goods are in some way sponsored, authorized, associated, licensed by or in any other way legitimately connected with, Opposer.

WHEREFORE, registration of Applicant’s Applications would be damaging to Opposer.

Please debit our Deposit Account No. 502876 for the filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb, LLP, 321 North Clark Street, Suite 2300, Chicago, IL 60654.

Date: July 26, 2013

LOEB & LOEB LLP

By: /s/ Douglas N. Masters
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Angela O. Provencio, hereby certify that a copy of the **NOTICE OF OPPOSITION**
has been served upon:

PETER H SMITH
LAW OFFICE OF PETER H SMITH
3436 BECKWITH ROAD
MODESTO, CA 95358

via first class mail, postage prepaid, this 26, July 2013.

/s/ Angela O. Provencio