

ORIGINAL

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

In the Matter of Application Serial No. 75/982,803
Published in the *Official Gazette* on May 11, 2004



06-09-2004

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #22

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 Iowa State University of Science and Technology, :
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 Opposer, :
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 v. :
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 Brooklyn Baseball Company, LLC, :
 :
 Applicant. :
 -----X

Opposition No.:

NOTICE OF OPPOSITION

The Iowa State University of Science and Technology (“Opposer”), a statutory institution of the State of Iowa having its principal place of business at Beardshear Hall, Ames, Iowa 50011, believes that it will be damaged by the registration by Brooklyn Baseball Company, LLC (“Applicant”), a company having its principal place of business at Surf Avenue, Coney Island, New York 11224, of the mark “BROOKLYN CYCLONES” for “cloth pennants supporting a minor league professional baseball team” in International Class 24, and hereby opposes same. In support thereof, Opposer alleges:

1. Opposer has used the trademark CYCLONES widely and continuously in connection with sports and sporting events for more than 100 years and on sports-related merchandise since at least as early as 1980. Opposer has a current enrollment of 26,000 students and more than one million of its alumni reside in the U.S. Opposer’s CYCLONES intercollegiate athletic teams compete in the Big Twelve Conference, which includes such prominent athletic institutions as the University of Texas, the University of Nebraska, the

University of Oklahoma, the University of Kansas and the University of Colorado. Opposer's men's basketball team has been nationally-ranked in recent years, made consecutive appearances in the NCAA Tournament and is regularly seen on national television broadcasts. Moreover, Opposer's men's football team has appeared in nationally-televised bowl games and regular season games that are featured on national television broadcasts.

2. Opposer owns all right, title and interest in and to United States Trademark Registration No. 2,658,219 for the mark CYCLONES for use in connection with "flags banners and pennants made of cloth and fabric" in International Class 24. Said registration issued on December 10, 2002 and alleges a date of first use of the CYCLONES mark in 1984.

3. Opposer also owns all right, title and interest in and to the following valid and subsisting incontestable United States Trademark Registrations:

(a) No. 1,759,951 for the mark CYCLONES for use in connection with "men's, women's, boys and girls pants, tops, shorts and hats" in International Class 25; and,

(b) No. 1,282,820 for the mark CYCLONES for use in connection with "providing college sport exhibition events and recreational programs, providing dramatic and musical events and providing college level educational courses" in International Class 41.

4. Opposer has used the mark CYCLONES continuously in commerce in connection with the goods in Class 24 since at least as early as 1984 and in connection with the goods in Class 25 since at least as early as 1980.

5. As a result of Opposer's widespread and longstanding use of the mark in connection with sports and sporting events, and licensed merchandise in Classes 24 and 25,

Opposer's CYLCONES trademark has acquired great distinctiveness and extensive goodwill, and is well known and recognized by consumers and the trade as identifying sports and sporting events and licensed merchandise in Classes 24 and 25 that are affiliated with or have been authorized by Opposer.

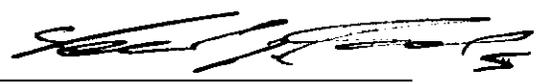
6. Applicant's mark "BROOKLYN CYCLONES" is confusingly similar to Opposer's mark in appearance and sound. Indeed, the parties' marks share the identical word CYCLONES, and Applicant has disclaimed the "BROOKLYN" portion of its mark. Moreover, the goods in Class 24 are legally related (*i.e.* they will be marketed to the same class of consumers, namely sports enthusiasts). Applicant's use of the mark "BROOKLYN CYCLONES" in connection with "cloth pennants supporting a minor league professional baseball team" is therefore likely to cause confusion, mistake or deception as to the source of origin of Applicant's goods in that the public, the trade and others are likely to believe that Applicant's goods are: (a) the same as Opposer's goods; or (b) provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Opposer and/or its goods.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 75/982,803 to register the mark "BROOKLYN CYCLONES" be denied.

Dated: June 9, 2004

Respectfully submitted,

IOWA STATE UNIVERSITY OF
SCIENCE AND TECHNOLOGY

By 

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Atty. Docket No. ISU012USL02

CERTIFICATE OF MAILING

The undersigned hereby certifies that this Notice of Opposition is being deposited with the United States Postal Service as “Express Mail Post Office to Addressee” service, bearing Express Mail Label EL 964295090, under 37 CFR 1.10 on the date indicated below, addressed to:

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514



Edmund J. Ferdinand, III

Dated: June 9, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD
TRANSMITTAL FORM

Opposer: Iowa State University

Mark: BROOKLYN CYCLONES

Applicant: Brooklyn Baseball Club

Opposition No.: TBD

Serial No.: 75/982,803

Firm Billing Code: ISU012USL02

Enclosed herewith for filing in respect of the above-noted matter are:

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TTAB

- ___ 1. Notice of Opposition (in triplicate);
- ___ 2. Firm Check No. 16351 in the amount of \$300;
- ___ 3. Transmittal; and
- ___ 4. Postcard.



06-09-2004

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The Commissioner is authorized to charge any amounts due or to credit any overpayments to our firm's Deposit Account No. 07-2162.

Respectfully submitted,

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Date: June 9, 2004

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS "EXPRESS MAIL POST OFFICE TO ADDRESSEE", POSTAGE PREPAID, BEARING EXPRESS MAIL LABEL NO. EL 964295090 IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3514, on June 9, 2004.

Edmund J. Ferdinand, III
NAME OF REGISTERED
REPRESENTATIVE

SIGNATURE

June 9, 2004
DATE

EL964295090US