

TTAB

25840.008

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

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IOWA STATE UNIVERSITY OF SCIENCE :
AND TECHNOLOGY,

Opposer, :

v. : Opposition No. 91160947

BROOKLYN BASEBALL COMPANY, LLC, :

Applicant. ;

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ANSWER TO NOTICE OF OPPOSITION

1. Applicant denies upon information and belief that Opposer has used the trademark CYCLONES widely, and is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Notice of Opposition.

2. Applicant admits that Registration No. 2,658,219 issued to Opposer on December 10, 2002, denies upon information and belief that said registration validly issued, and is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Notice of Opposition.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Notice of Opposition.

09-07-2006
U.S. Patent & TMO/TM Mail Rcpt Dt. #72

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LUZ M. ESTRELLA
Typed or printed name of person mailing paper or fee

Luz M. Estrella
Signature of person mailing paper or fee

4. Applicant denies upon information and belief that Opposer has used the mark CYCLONES continuously in commerce in connection with the goods in Class 24 and is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Notice of Opposition.

5. Applicant denies the allegations of paragraph 5 of the Notice of Opposition.

6. Applicant denies the allegations of paragraph 6 of the Notice of Opposition.

Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

7. On March 19, 2001, Opposer filed Application Serial No. 76/226209 to register CYCLONES as a trademark for flags, banners and pennants made of cloth and fabric, which was accepted and published for opposition on September 17, 2002 matured into Registration No. 2658219 on December 10, 2002.

8. On October 19, 2000, some five months prior to Opposer's filing of the application referred to in paragraph 7, Applicant filed in the United States Patent and Trademark Office Application an application to register BROOKLYN CYCLONES for goods in Classes 24 and 25 and services in Class 41.

9. The application referred to in paragraph 8 was thereafter divided, and the divided application covering goods in Class 24 was assigned Serial No. 75/982903, and was thereafter published for opposition and opposed in the instant proceeding.

10. If there were a likelihood of confusion between Applicant's mark referred to in paragraphs 8-9 and Opposer's mark referred to in paragraph 7, which Applicant denies, then since Applicant was the prior applicant, Opposer's application should not have been accepted and published for opposition but rather suspended pending the outcome of Applicant's application.

SECOND AFFIRMATIVE DEFENSE

11. Applicant is informed and believes and therefore avers that at the time Opposer filed the application which matured into Registration No. 2658219, Applicant was not using CYCLONES as a trademark for each of the items included in the application and in the registration which issued thereon.

WHEREFORE, Applicant prays that Opposition No. 91160947 be dismissed, and that registration issue on its Application Serial No. 75/982803.

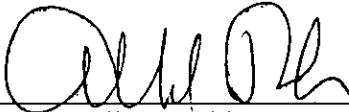
Dated: New York, New York
September 7, 2006



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Certificate of Service

A copy of the foregoing Answer to Notice of Opposition was served by first class mail, postage prepaid, upon Gregory J. Battersby and Edmund J. Ferdinand, attorneys for Opposer, at Grimes & Battersby, LLP, 488 Main Avenue, Third Floor, Norwalk, CT 06851, this 7th day of September, 2006.


Albert Robin