

ESTTA Tracking number: **ESTTA158900**

Filing date: **08/24/2007**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Mr.HuntArchbold
Granted to Date of previous extension	08/25/2007
Address	912 W. Wesley Road Atlanta, GA 30305 UNITED STATES

Name	Sportopia Entertainment, LLC
Granted to Date of previous extension	08/25/2007
Address	686 Greenview Ave atlanta, GA 30305 UNITED STATES

Attorney information	Marguerite E. Patrick Morris, Manning & Martin, LLP 3343 Peachtree Road, N.E. 1600 Atlanta Financial Center Atlanta, GA 30326-1044 UNITED STATES mep@mmmlaw.com, trademark@mmmlaw.com, sshorter@mmmlaw.com Phone:404-233-7000
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Applicant Information

Application No	77058756	Publication date	06/26/2007
Opposition Filing Date	08/24/2007	Opposition Period Ends	08/25/2007
Applicant	Eatertainment, Inc. 4444 Corona Drive, Suite 208 Corpus Christi, TX 78411 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. All goods and services in the class are opposed, namely: Restaurant services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2530510	Application Date	11/15/1999
Registration Date	01/15/2002	Foreign Priority Date	NONE
Word Mark	SPORTOPIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1999/05/01 First Use In Commerce: 1999/05/01 Entertainment in the nature of on-going television programs and radio programs in the fields of sports and comedy		

Attachments	75849799#TMSN.gif (1 page)(bytes) SPORTOPIA NoticeOfOpposition.pdf (6 pages)(38989 bytes)
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Signature	/Marguerite E. Patrick/
Name	Marguerite E. Patrick
Date	08/24/2007

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

Sportopia Entertainment, LLC, and)	Trademark Application
William Hunt Archbold,)	Serial No. 77058756
Opposers,)	
)	Filed: 12-07-2006
v.)	
)	Mark: SPORTOPIA
Eatertainment, Inc.,)	
)	Published: 06-26-2007
Applicant.)	Class: 043
)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Sportopia Entertainment, LLC, a Limited Liability Company, formed under the laws of Georgia and having a place of business at 912 West Wesley Road, Atlanta, Georgia 30305, and William Hunt Archbold by and through their undersigned attorneys, believe that they will be damaged by the registration of U.S. Trademark Application Serial No 77058756 for the mark SPORTOPIA in International Class 043 and hereby oppose the same. The grounds for opposition are as follows.

THE PARTIES

1. Opposer Sportopia Entertainment, LLC (“Sportopia”) is a limited liability company formed under the laws of Georgia with a place of business at 912 West Wesley Road, Atlanta, Georgia 30305.
2. Opposer William Hunt Archbold (“Archbold”) is an individual who resides in Atlanta, Georgia. Collectively Sportopia and Archbold are referred to herein as the “Opposers.”
3. Upon information and belief, Applicant Eatertainment, Inc. (hereinafter “Applicant”) is a corporation incorporated under the laws of Texas, but its principal place of business is unknown.

OPPOSERS’ SPORTOPIA TRADEMARK

4. Opposer Archbold filed a U.S. trademark application for the mark SPORTOPIA on November 15, 1999, and received a federal registration for said mark in International Class 041 on January 5, 2002, (U.S. trademark Reg. No. 2530510) for entertainment in the nature of on-going television programs in the fields of sports and comedy. Opposer Archbold has used the SPORTOPIA mark in commerce since at least as early as 1993, and continues to use said mark in commerce.

5. Opposer Sportopia is the exclusive licensee of Opposer Archbold's SPORTOPIA mark.

APPLICANT'S PENDING TRADEMARK APPLICATION

6. On December 7, 2006, a date well after Opposer Archbold's first use and registration of its SPORTOPIA mark, Applicant filed its Intent to Use U.S. trademark application (Serial Number 77058756) for the mark SPORTOPIA for "restaurant services." Said Intent to Use application was published for opposition in the Official Gazette on June 26, 2007. Applicant alleges that it intends to use the SPORTOPIA mark in commerce for restaurant services.
7. On July 17, 2007, Opposer Archbold and Opposer Sportopia each filed a First 30 Day Request for Extension of Time To Oppose, requesting that the time period within which to file an opposition be extended until August 25, 2007.

THE GROUNDS FOR OPPOSITION

8. Opposers' SPORTOPIA trademark is of significant value to Opposers as an identification of source in connection with the promotion, marketing, advertisement, and offering of their services and the goods sold in conjunction with their services and business. Opposers use the registered trademark in conjunction with the

marketing and solicitation of support for the services Opposers offer. This includes using the registered trademark on various forms of printed materials and on the world wide web.

9. Opposers collectively have used the SPORTOPIA mark in interstate commerce since at least as early as 1993, and currently are using the trademark in interstate commerce.
10. Opposers' SPORTOPIA mark was used on printed materials and in commerce long before the filing date of Applicant's pending trademark application for the mark SPORTOPIA.
11. Opposers have expended much time, money and effort in advertising their services under the SPORTOPIA mark and building goodwill in the SPORTOPIA mark.
12. Applicant's proposed mark SPORTOPIA when used in connection with Applicant's proposed goods or services, is likely to cause confusion, or to cause mistake, or to deceive, and will damage Opposer's goodwill in its SPORTOPIA mark for on-going television programs in the fields of sports and comedy. Moreover, the restaurant services industry is a natural zone of expansion for the Opposers' use of their SPORTOPIA mark, and the Opposers have plans for expansion into the restaurant services industry.

Applicant's anticipated use of and registration of SPORTOPIA will cause the public to mistakenly believe that Applicant's goods or services originate with, or are approved or licensed by Opposers, or are otherwise connected to, affiliated, or associated with Opposers or Opposers' services in violation of Section 2(d) of the Lanham Act, 15 U.S.C. Sec 1052(d).

Wherefore, Opposers request that this opposition be sustained and that Applicant's application for the mark SPORTOPIA be denied.

The opposition fee in the amount of \$300.00 per opposer in one class is included herewith.

Date: Aug 24, 2007

Respectfully submitted,

MORRIS, MANNING & MARTIN, LLP

By: 
Marguerite E. Patrick

Attorneys for Opposers

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3343 Peachtree Road, N.E.
Atlanta, GA 30326
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on the date stated below.

Date: Aug 24, 2007

By: 
Marguerite E. Patrick

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this NOTICE OF OPPOSITION has been served by first-class mail to:

Mike Villarreal, Esq.
Gunn & Lee, P.C.
700 N. St. Mary's Street, Suite 1500
San Antonio, TX 78205

Date: Aug 24, 2007

By: 
Marguerite E. Patrick