

ESTTA Tracking number: **ESTTA380157**

Filing date: **11/23/2010**

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	Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company
Granted to Date of previous extension	12/01/2010
Address	7000 Coliseum Way, Second Floor Oakland, CA 94621 UNITED STATES

Attorney information	Robert Riether Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES jkt@cll.com, trademark@cll.com, rar@cll.com Phone:212-790-9200
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### Applicant Information

Application No	77875559	Publication date	08/03/2010
Opposition Filing Date	11/23/2010	Opposition Period Ends	12/01/2010
Applicant	3P Learning Pty Limited Level 18, 124 Walker Street North Sydney, NSW2060 AUSTRALIA		

### Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Educational services, namely, providing online programs of instruction in the field of math for use as core math learning programs or supplemental math learning programs in schools and for home schooling; providing educational information and test questions in the academic field of mathematics via a world wide web website; educational services, namely, providing academic enrichment programs in the field of math; educational services, namely, conducting online math courses for educators and students, and distribution of training material and course material in connection therewith; arranging of contests in the field of math; education and entertainment for children in the nature of an online international math competitions; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of math; educational services, namely, providing online courses of instruction in the field of math for pre-kindergarten thru twelfth grade
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### Applicant Information

Application No	77875579	Publication date	08/03/2010
Opposition Filing Date	11/23/2010	Opposition Period Ends	

Applicant	3P Learning Pty Limited Level 18, 124 Walker Street North Sydney, NSW2060 AUSTRALIA
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## Goods/Services Affected by Opposition

<p>Class 041. All goods and services in the class are opposed, namely: Entertainment and educational services in the nature of on-line real-time international math competitions where pre-kindergarten thru twelfth grade students can race against each other and against other children around the world in completing math problems; providing educational information and practice problems in the academic field of mathematics via a world wide web website</p>
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## Grounds for Opposition

Other	Please see attached pleading.
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Attachments	1206914_1.pdf ( 1 page )(80885 bytes ) 1205421_1.pdf ( 6 pages )(18322 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	/Robert Riether/
Name	Robert Riether
Date	11/23/2010

# Cowan, Liebowitz & Latman, P.C.

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Direct (212) 790-9263  
rar@cl.com

November 23, 2010

## **By Electronic Filing**

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

Re: Athletics Investment Group LLC d/b/a  
The Oakland Athletics Baseball Company,  
Consolidated Notice of Opposition Against  
3p Learning Pty Limited,  
Applications to Register MATHLETICS  
Attorney Ref. No. 21307.034

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Dear Commissioner:

We enclose a Consolidated Notice of Opposition against Application Serial Numbers 77/875,559 and 77/875,579 published in the Official Gazette on August 3, 2010. Contemporaneously with the electronic filing of this Consolidated Notice of Opposition, we are arranging for an electronic payment in the amount of \$600 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin, Esq. of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Robert A. Riether/

Robert A. Riether

Enclosures

cc: Mary L. Kevlin, Esq. (w/encs.)

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

In re Application Serial Nos. 77/875,559 and 77/875,579  
Filed: November 18, 2009  
For Marks: MATHLETICS  
Published in the Official Gazette: August 3, 2010

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ATHLETICS INVESTMENT GROUP LLC D/B/A	:	
THE OAKLAND ATHLETICS BASEBALL	:	Opposition No.
COMPANY,	:	
	:	<b>CONSOLIDATED</b>
Opposer,	:	<b><u>NOTICE OF OPPOSITION</u></b>
	:	
v.	:	
	:	
3P LEARNING PTY LIMITED,	:	
Applicant.	:	
-----X	:	

Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer, Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company (“Opposer”), a California limited liability company with offices at 7000 Coliseum Way, Second Floor, Oakland, California 94621, believes that it will be damaged by registration of the standard character word mark MATHLETICS in International Class 41 for “Educational services, namely, providing online programs of instruction in the field of math for use as core math learning programs or supplemental math learning programs in schools and for home schooling; providing educational information and test questions in the academic field of mathematics via a world wide web website; educational services, namely, providing academic enrichment programs in the field of math; educational services, namely, conducting online math courses for educators and students, and distribution of training material and course material in

connection therewith; arranging of contests in the field of math; education and entertainment for children in the nature of an online international math competitions; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of math; educational services, namely, providing online courses of instruction in the field of math for pre-kindergarten thru twelfth grade” as shown in Application Serial No. 77/875,559 and in International Class 41 for “Entertainment and educational services in the nature of on-line real-time international math competitions where pre-kindergarten thru twelfth grade students can race against each other and against other children around the world in completing math problems; providing educational information and practice problems in the academic field of mathematics via a world wide web website” as shown in Application Serial No. 77/875,579 respectively (together, the “Applications”), and having been granted extensions of time to oppose the Applications up to and including December 1, 2010, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL club.
2. Since long prior to November 18, 2009, Applicant’s constructive first use dates, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names or marks ATHLETICS and MATHLETICS, alone or with other word, letter and/or design elements (the “Opposer’s ATHLETICS Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, educational services, namely, educational programs in the field of mathematics; printed workbooks for educational programs in the field of mathematics; and apparel; toys and sporting goods.

3. Opposer owns United States federal registrations for Opposer's ATHLETICS Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396; 2,630,348; 2,759,932; 3,349,789; 3,538,727; 3,633,242 and 3,633,243. Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851 and 1,560,962 are incontestable.

4. Since long prior to November 18, 2009, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, including, without limitation, MATHLETICS, in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, educational services, namely, educational programs in the field of mathematics; printed workbooks for educational programs in the field of mathematics; and apparel; toys and sporting goods and has offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, including, without limitation, MATHLETICS, Opposer has built up highly valuable goodwill in Opposer's ATHLETICS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On November 18, 2009, Applicant filed the Applications, both based on an intent-to-use, for the standard character word mark MATHLETICS, Serial No. 77/875,559, in International Class 41 for "Educational services, namely, providing online programs of instruction in the field of math for use as core math learning programs or supplemental math learning programs in schools and

for home schooling; providing educational information and test questions in the academic field of mathematics via a world wide web website; educational services, namely, providing academic enrichment programs in the field of math; educational services, namely, conducting online math courses for educators and students, and distribution of training material and course material in connection therewith; arranging of contests in the field of math; education and entertainment for children in the nature of an online international math competitions; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of math; educational services, namely, providing online courses of instruction in the field of math for pre-kindergarten thru twelfth grade” and in International Class 41 for “Entertainment and educational services in the nature of on-line real-time international math competitions where pre-kindergarten thru twelfth grade students can race against each other and against other children around the world in completing math problems; providing educational information and practice problems in the academic field of mathematics via a world wide web website”.

7. Upon information and belief, Applicant did not use the mark MATHLETICS for the services covered in the Applications in United States commerce prior to its constructive first use date of November 18, 2009.

8. The services covered by the Applications are identical and/or closely related to the goods offered and services rendered in connection with Opposer’s ATHLETICS Marks, and, in particular, Opposer’s MATHLETICS mark.

9. Applicant’s mark MATHLETICS so resembles Opposer’s ATHLETICS Marks, and is identical to Opposer’s MATHLETICS mark, as to be likely, when used in connection with Applicant’s services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s services have their origin with Opposer and/or that

such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of certificates of registration for Applicant's mark MATHLETICS.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's MATHLETICS mark and requests that the consolidated opposition be sustained and said registrations be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Jill K. Tomlinson (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
November 23, 2010

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

By: /Robert A. Riether /  
Mary L. Kevlin  
Richard S. Mandel  
Jill K. Tomlinson  
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