

ESTTA Tracking number: **ESTTA400233**

Filing date: **03/28/2011**

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	Boston Red Sox Baseball Club Limited Partnership
Granted to Date of previous extension	03/27/2011
Address	Fenway Park, 4 Yawkey Way Boston, MA 02215 UNITED STATES

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

Application No	85048384	Publication date	09/28/2010
Opposition Filing Date	03/28/2011	Opposition Period Ends	03/27/2011
Applicant	Rensselaer Polytechnic Institute 110 8th Street 3031 Troy Building Troy, NY 12180 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2009/08/24 First Use In Commerce: 2009/09/11 All goods and services in the class are opposed, namely: arranging and conducting intercollegiate and intramural athletic events; arranging and conducting intercollegiate athletic programs in the nature of sports training services
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Grounds for Opposition

Other	Please see attached pleading.
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Attachments	1230859_1.pdf (1 page)(68939 bytes) 1230035_3.pdf (6 pages)(97054 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	/Jill K. Tomlinson/
Name	Jill K. Tomlinson
Date	03/28/2011



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March 28, 2011

By Electronic Filing

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

Re: Boston Red Sox Baseball Club Limited Partnership
Notice of Opposition Against
Rensselaer Polytechnic Institute
Application to Register RPI (Stylized)
in International Class 41
Ref. No. 21307.026

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/048,384 published in the Official Gazette on September 28, 2010. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 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 of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Jill K. Tomlinson
Jill K. Tomlinson

Enclosure

cc: Ms. Diane Kovach (w/encl.)
Mary L. Kevlin, Esq. (w/encl.)
Richard S. Mandel, Esq. (w/encl.)

85/048,384 (the “Application”), and having been

Red Sox Nation

granted extensions of time to oppose up to and

including March 27, 2011, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned BOSTON RED SOX MAJOR LEAGUE BASEBALL club (the “Club”).
2. Since long prior to August 24, 2009, Applicant’s claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks depicted in a particular, distinctive, stylization associated with the Club for over seventy years, some examples of which are shown here:



(“Opposer’s Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, providing and disseminating

information in the field of sports, entertainment and related topics, education services in the nature of baseball skills instruction, youth sports services, apparel, headwear, sporting goods, printed matter, toys and novelty items.

3. Since long prior to August 24, 2009, Applicant's claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used Opposer's Marks depicted in the unique distinctive stylization shown above and in the Club's distinctive combined colors of red and blue, red and white, or red, white and blue (collectively, the "Club's Trade Dress"), which Club's Trade Dress has become closely associated by consumers, fans, the trade, press, media and public with the Club and has developed considerable goodwill associated with the Club.

4. Opposer owns United States federal registrations and an application for Opposer's Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 26, 28, 29, 34 and 41; namely, Registration Nos. 1,040,684; 1,060,117; 1,232,820; 1,522,389; 1,529,324; 1,568,406; 1,596,321; 1,602,303; 1,633,120; 1,736,679; 2,504,257; 2,634,700; 2,692,105; 3,231,139; 3,234,850; 3,238,173; 3,370,310; 3,373,898; 3,797,632; 3,801,204; 3,870,976; and Application Serial No. 85/063,856. Registration Nos. 1,040,684; 1,060,117; 1,232,820; 1,522,389; 1,529,324; 1,568,406; 1,596,321; 1,602,303; 1,633,120; 1,736,679; 2,504,257 and 2,692,105 are incontestable.

5. Since long prior to August 24, 2009, Applicant's claimed 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 Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, providing and disseminating

information in the field of sports, entertainment and related topics, education services in the nature of baseball skills instruction, youth sports services, apparel, headwear, sporting goods, printed matter, toys and novelty items and have sold or distributed such goods or rendered such services in commerce.

6. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Opposer's Marks (including, without limitation, Opposer's Mark in the Club's Trade Dress), Opposer has built up highly valuable goodwill in Opposer's Marks and Club's Trade Dress, and said goodwill has become closely and uniquely identified and associated with Opposer.

7. On May 26, 2010, Applicant filed the Application to register Applicant's RPI (Stylized) Mark for "arranging and conducting intercollegiate and intramural athletic events; arranging and conducting intercollegiate athletic programs in the nature of sports training services" in International Class 41 claiming a first use date of August 24, 2009.

8. The services covered by the Application are closely related to the goods offered and services rendered in connection with Opposer's Marks.

9. Applicant's RPI (Stylized) Mark, which is virtually identical to Opposer's distinctive stylization of Opposer's Marks and the color which is used, the same as the dominant color of Club's Trade Dress, so resembles Opposer's Marks and the Club's Trade Dress 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 a certificate of registration for Applicant's RPI (Stylized) Mark.

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2011, I caused a true copy of the foregoing Notice of Opposition to be sent via first class mail, postage prepaid, to applicant's attorney of record and correspondent, Martin J. Ricciardi, Esq., Whiteman Osterman & Hanna LLP, 1 Commerce Plaza, Albany, NY 12260-1000.

/Jill K. Tomlinson/

Jill K. Tomlinson