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Filing date: **05/01/2014**

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

Proceeding	91199481
Party	Plaintiff Los Angeles Dodgers LLC
Correspondence Address	MARY L KEVLIN COWAN LIEBOWITZ & LATMAN PC 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036-6799 UNITED STATES mel@cll.com, trademark@cll.com, jmn@cll.com
Submission	Motion to Compel Discovery
Filer's Name	Maryann E. Licciardi
Filer's e-mail	mel@cll.com, trademark@cll.com, jmn@cll.com
Signature	/Maryann E. Licciardi/
Date	05/01/2014
Attachments	LA (Loyola) - Opposer's Motion to Compel 050114.pdf(1331819 bytes) LA (Loyola) - Mandel Declaration in Support of Motion to Compel 050114 and Exhibit A.pdf(4866211 bytes) LA (Loyola) - Exhibit B to Mandel Declaration 050114.pdf(4470394 bytes)

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

In re Application Serial No. 77/855,157
Filed: October 22, 2009
For Mark: LA (Stylized)
Published in the *Official Gazette*: October 19, 2010

-----X	:	
LOS ANGELES DODGERS LLC,	:	Opposition No. 91199481
	:	
Opposer,	:	
	:	
v.	:	OPPOSER’S MOTION
	:	<u>TO COMPEL</u>
LOYOLA ACADEMY,	:	
	:	
Applicant.	:	
-----X	:	

Upon the annexed Declaration of Richard S. Mandel and the exhibits thereto, Opposer Los Angeles Dodgers LLC (“Opposer”) hereby moves pursuant to 37 C.F.R. § 2.120(e), T.B.M.P. § 523 and Fed. R. Civ. P. 37, for an order (1) compelling Applicant Loyola Academy (“Applicant”) to produce documents responsive to Opposer’s First Set of Requests for Production of Documents and Things; and (2) compelling Applicant to answer interrogatories 1-4, 6, 9 and 17 of Opposer’s First Set of Interrogatories. As grounds for the motion, Opposer states that Applicant has failed to provide adequate responses to Opposer’s discovery requests, despite Opposer’s good faith efforts to resolve the dispute without the need for a motion.

MEMORANDUM IN SUPPORT OF MOTIONS

STATEMENT OF FACTS

The facts on which this motion is based are set forth fully in the accompanying declaration of Richard S. Mandel (“Mandel Decl.”), and are summarized briefly here for the Board’s convenience.

On April 18, 2011, Opposer filed this opposition against Application Serial No. 77/855,157 for the mark LA (Stylized) (“Applicant’s LA Mark”) for “decorative car magnets” in International Class 9, “watches” in International Class 14, “fabric car flags” in International Class 24, “clothing, namely, sweat shirts, fleece jackets, fleece pullovers, and fleece vests” in International Class 25 and “Christmas tree ornaments” in International Class 28. The Notice of Opposition alleged that registration of Applicant’s LA Mark would result in a likelihood of confusion with various of Opposer’s marks comprising or containing the letters LA (“Opposer’s LA Marks”) and create a false association with Opposer. Mandel Decl. ¶ 2.

On September 12, 2013, Opposer served Applicant with Opposer’s First Set of Interrogatories and Requests for Production of Documents and Things to Applicant (“Opposer’s Discovery Requests”). Mandel Decl. ¶ 3 and Ex. A. While the parties were engaged in settlement negotiations, at Applicant’s request, Opposer granted Applicant repeated extensions of time to respond to Opposer’s Discovery Requests. *Id.* ¶ 4. The last extension provided Applicant until Friday, April 25, 2014 to respond. *Id.* During counsel’s communications, Opposer’s counsel emphasized that Opposer’s testimony period was scheduled to commence in early May 2014, which limited its flexibility in permitting any additional extensions. *Id.*

On April 25, 2014, Applicant served its written responses to Opposer’s Discovery Requests by mail. Mandel Decl. ¶ 5 and Ex. B. Opposer’s counsel received Applicant’s responses on April 29, 2014. However, despite having had more than seven months to respond, Applicant served only written responses and objections without including any responsive documents. *Id.* ¶ 6. (Opposer acknowledges that that Applicant did produce copies of three license agreements prior to serving its written responses.) In response to numerous requests (1-9, 13, 18 and 21-24), Applicant indicated that it “will produce relevant, non-privileged, responsive

documents.” Id. Moreover, Applicant has refused to produce documents responsive to request no. 17, which seeks documents concerning Opposer’s LA Marks or goods or services sold or rendered under such marks, claiming it does not have sufficient knowledge concerning Opposer’s goods and services to answer the request. Id. ¶ 7.

With respect to numerous interrogatories (1-4, 6, 9), Applicant indicated that its investigation was “on-going.” Mandel Decl. ¶ 8. Moreover, while Applicant sought to excuse its failure to respond by referencing the fact that its uses go back many years, it has failed to provide even current or more recent information where relevant. Id. Thus, for example, Applicant’s responses to interrogatory no. 6 provided no information at all concerning channels of trade, types of customers, prices, revenues or other requested relevant information concerning Applicant’s LA Mark. Id. Applicant also has refused to answer interrogatory no. 17 seeking the basis for any responses to requests for admission that were anything other than an unqualified admission. Id.

In an effort to resolve any discovery disputes without the need for Board intervention, Opposer’s counsel sent an email to Applicant’s counsel on April 29, 2014 (the same day the responses were received) detailing the specific inadequacies in the responses and seeking to schedule a call. Mandel Decl. ¶ 9. Although Applicant’s counsel was not available for a call, he responded by email on April 30, 2014. Id. Applicant’s counsel provided some limited documents concerning use of Applicant’s LA Mark and addressed certain of the issues raised by Opposer in a manner sufficient to eliminate some disputes. Id. However, Applicant’s counsel took the position that Applicant had never agreed as part of the repeated extensions it sought to produce the actual responsive documents (as opposed to just written responses) by the deadline, and that Applicant’s investigation was ongoing and substantive responses had been provided “to

the extent possible.” Id. Because Opposer’s testimony period is about to commence, Opposer has filed this motion seeking to compel appropriate responses.

ARGUMENT

OPPOSER’S MOTION TO COMPEL SHOULD BE GRANTED

A motion to compel should be granted where, as here, after a movant has made a good faith effort to resolve the matter, a party refuses to provide timely discovery responses, including interrogatory responses and documents and things. 37 C.F.R. §2.120(e); TBMP 523; Envirotech Corp. v. Compagnie Des Lampes, 219 U.S.P.Q. 448 (T.T.A.B. 1979); General Sealer Corp. v. H.H. Robertson Co., 193 U.S.P.Q. 384 (T.T.A.B. 1976).

Applicant has had seven months in which to respond to Opposer’s Discovery Requests. Yet remarkably Applicant takes the position that it was not required within that period to make an actual production of responsive documents or to provide substantive responses to interrogatories because its investigation is still “ongoing.” See Mandel Decl. ¶¶ 6, 8. It is not clear when such investigation will be completed or when the actual responsive documents will be produced. However, it is clear that Opposer’s testimony period is scheduled to commence in a matter of days, as the parties repeatedly discussed when Opposer attempted in good faith to accommodate Applicant by providing numerous requested extensions.

Applicant cannot reasonably take the position at this point, after having been afforded those repeated courtesies, that it did not understand that it would be necessary to provide actual answers to interrogatories or to produce actual documents (as opposed merely to promising to do so at some unspecified future time after Opposer’s testimony period would likely have closed). Quite plainly, the purpose of requiring Applicant’s responses before the commencement of Opposer’s testimony period was to afford Opposer an opportunity to consider and use relevant

information and documents as may be necessary at trial. While Applicant seeks to excuse its failure by emphasizing that its uses go back many years, seven months should have afforded it adequate time to gather the necessary documents and information. Moreover, as noted above, Applicant has failed to provide even current or recent information with respect to many pertinent issues, including channels of trade, pricing, revenues, etc. See Mandel Decl. ¶ 8.

Applicant's objections are also unfounded with respect to certain discovery requests. Thus, Applicant has refused to produce documents responsive to request no. 17, which seeks documents concerning Opposer's LA Marks or goods or services sold or rendered under such marks, claiming it does not have sufficient knowledge concerning Opposer's goods and services to answer the request. However, it need only consult the goods or services listed under the cited registrations owned by Opposer to ascertain such information. Moreover, any reasonable search of Applicant's files for information relating to Opposer would be expected to uncover any responsive documents if they exist. Applicant does not need a list of the goods and services on which Opposer's LA Marks are used in order to search for such documentation.

Applicant also refuses to answer interrogatory no. 17, which seeks the basis for any responses to Opposer's requests for admission that are anything other than an unqualified admission. It is fair game for Opposer to understand the basis on which Applicant has refused to admit various requests, particularly in view of the fact that it has denied virtually all such requests.

Finally, pursuant to 37 C.F.R. § 2.120(e)(2), this case should be suspended pending disposition of the motion to compel, and the Board should set a new schedule that incorporates a timetable for Applicant's responses and resets the parties' testimony periods.

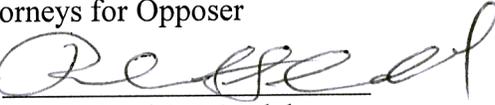
CONCLUSION

For the foregoing reasons, Opposer's motion to compel should be granted and the Board should reset the parties' testimony periods for a date following the time for Applicant's responses.

Dated: New York, New York
May 1, 2014

Respectfully submitted,

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

By: 

Richard S. Mandel
Maryann E. Licciardi
1133 Avenue of the Americas
New York, New York 10036
(212) 790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 1, 2014, I caused a true and accurate copy of the foregoing *Opposer's Motion to Compel* and supporting *Declaration of Richard S. Mandel* to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Angelo J Bufalino, Esq., Vedder Price PC, 222 North LaSalle Street, Suite 2600, Chicago, IL 60601-1104.



Maryann E. Licciardi

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

In re Application Serial No. 77/855,157
Filed: October 22, 2009
For Mark: LA (Stylized)
Published in the *Official Gazette*: October 19, 2010

-----X	:	
LOS ANGELES DODGERS LLC,	:	Opposition No. 91199481
	:	
Opposer,	:	
	:	DECLARATION OF
v.	:	RICHARD S. MANDEL
	:	IN SUPPORT OF OPPOSER’S
LOYOLA ACADEMY,	:	<u>MOTION TO COMPEL</u>
	:	
Applicant.	:	
-----X	:	

RICHARD S. MANDEL, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a shareholder in Cowan, Liebowitz & Latman, P.C., attorneys for Opposer Los Angeles Dodgers LLC (“Opposer”). I submit this declaration in support of Opposer’s motion to compel. I have personal knowledge of the facts set forth herein.

2. On April 18, 2011, Opposer filed this opposition against Application Serial No. 77/855,157 for the mark LA (Stylized) (“Applicant’s LA Mark”) for “decorative car magnets” in International Class 9, “watches” in International Class 14, “fabric car flags” in International Class 24, “clothing, namely, sweat shirts, fleece jackets, fleece pullovers, and fleece vests” in International Class 25 and “Christmas tree ornaments” in International Class 28. The Notice of Opposition alleged that registration of Applicant’s LA Mark would result in a likelihood of confusion with various of Opposer’s marks comprising or containing the letters LA (“Opposer’s LA Marks”) and create a false association with Opposer.

3. On September 12, 2013, Opposer served Applicant with Opposer’s First Set of

Interrogatories and Requests for Production of Documents and Things to Applicant (“Opposer’s Discovery Requests”). A true and accurate copy of the requests that are subject to this motion to compel are attached hereto as Exhibit A.

4. While the parties were in engaged in settlement negotiations, at Applicant’s request, Opposer granted Applicant repeated extensions of time to respond to Opposer’s Discovery Requests. The last extension provided Applicant until Friday, April 25, 2014 to respond. During counsel’s communications, Opposer’s counsel emphasized that Opposer’s testimony period was scheduled to commence in early May 2014, which limited its flexibility in permitting any additional extensions.

5. On April 25, 2014, Applicant served its responses to Opposer’s Discovery Requests by mail. Opposer’s counsel received Applicant’s responses on April 29, 2014. A true and accurate copy of the responses that are subject to this motion to compel are attached hereto as Exhibit B.

6. Although Opposer had given Applicant a total of more than seven months in which to respond to Opposer’s Discovery Requests, Applicant served only written responses and objections, without including any responsive documents. (Opposer acknowledges that Applicant did produce copies of three license agreements prior to serving its written responses.) In response to numerous document requests (1-9, 13, 18 and 21-24), Applicant indicated that it “will produce relevant, non-privileged, responsive documents.”

7. Applicant also refused to produce documents responsive to request no. 17, which seeks documents concerning Opposer’s LA Marks or goods or services sold or rendered under such marks. Applicant claimed it does not have sufficient knowledge concerning Opposer’s goods and services to answer the request.

8. With respect to numerous interrogatories (1-4, 6, 9), Applicant indicated that its investigation was “on-going.” Moreover, while Applicant sought to excuse its failure to respond by referencing the fact that its uses go back many years, it has failed to provide even current or recent information where relevant. Thus, for example, Applicant’s responses to interrogatory no. 6 provided no information at all concerning channels of trade, types of customers, prices, revenues or other requested relevant information concerning Applicant’s LA Mark. Applicant also has refused to answer interrogatory no. 17, which sought the basis for any responses to requests for admission that were anything other than an unqualified admission.

9. In an effort to resolve any discovery disputes without the need for Board intervention, I sent an email to Applicant’s counsel on April 29, 2014 (the same day the responses were received) detailing the specific inadequacies in the responses and seeking to schedule a call. Although Applicant’s counsel was not available for a call, he responded by email on April 30, 2014. Applicant’s counsel provided some limited documents concerning use of Applicant’s LA Mark and addressed certain of the issues I had raised in a manner sufficient to eliminate some disputes. However, Applicant’s counsel took the position that Applicant had never agreed as part of the repeated extensions it sought to produce the actual responsive documents (as opposed to just written responses) by the deadline. Applicant’s counsel provided no indication as to when Applicant would be able to complete its production. Applicant’s counsel also stated that Applicant’s investigation was ongoing and substantive responses had been provided “to the extent possible.”

10. Although Opposer attempted in good faith to work out the discovery disputes with Applicant, Applicant’s position that it was not required to complete its investigation or document production – despite having been given seven months – until some unspecified time after

Ref. No. 21307-016

Opposer's testimony period might be over, left Opposer with no alternative but to file this motion in advance of the imminent start of its testimony period.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT. EXECUTED ON MAY 1, 2014 AT NEW YORK, NEW YORK.

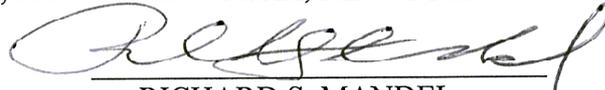

RICHARD S. MANDEL

Exhibit A

DEFINITIONS AND INSTRUCTIONS

A. The term “Applicant” means Applicant Loyola Academy, and all parent, subsidiary, affiliated and/or related entities, predecessor and/or successor entities, officers, directors, trustees, employees, partners, agents and/or representatives thereof.

B. The term “Opposer” means Opposer Los Angeles Dodgers LLC and its parent, subsidiary, affiliated or related entities, predecessor and/or successor entities, officers, directors, employees, partners, agents and/or representatives thereof, including, without limitation, its LOS ANGELES DODGERS MAJOR LEAGUE BASEBALL club.

C. The term “Major League Baseball” means Major League Baseball Properties, Inc., the Office of the Commissioner of Baseball, the thirty individual baseball clubs and their respective affiliated and related entities, and each of their respective parent, subsidiary, related predecessor and/or successor entities, officers, directors, employees, partners, agents and/or representatives thereof.

D. The term “Opposer’s LA Marks” shall refer to marks used, registered and/or applied to be registered by Opposer comprising or containing the letters LA including in the



following interlocking stylized form , alone or with other word, letter and/or design elements, including, but not limited to, the registered marks set forth in Paragraph 3 of the Notice of Opposition relating to this Opposition.

E. The term “Applicant’s LA Mark ” shall refer to the stylized, interlocking LA mark



only as represented in Application Serial No. 77/855,157 and shown here:

F. The term “commerce” means commerce subject to regulation by Congress, as defined in 15 U.S.C. §1127.

G. As used herein, the terms “entity” and “person” include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.

H. The term “document” shall be given the broadest possible scope under Fed. R. Civ. P. 34 and includes, but is not limited to, all writings, correspondence, memoranda, handwritten notes, drafts, invoices, contracts, purchase orders, letters, checks, receipts, books, pamphlets, flyers, advertisements, web pages, publications, stickers, posters, catalogs, labels, displays, photographs, CDs, DVDs, cover art for CDs and DVDs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, layouts, tear sheets, magnetic recording tapes, microfilms, computer printouts, e-mail, work sheets, and files from any personal computer, notebook or laptop computer, file server, minicomputer, mainframe computer or any other storage means by which information is retained in retrievable form, including files that are still on any storage media, but that are identified as “erased but recoverable,” and all other materials, whether printed, typewritten, handwritten, recorded or reproduced by a mechanical or electronic process.

I. The term “identify” when used in connection with a natural person or persons

Ref. No. 21307.016

requires Applicant to state the person's full name and last known business and residential addresses, telephone number and e-mail address.

J. The term "identify" when used in connection with a document requires Applicant to:

(i) Furnish the name or title, date and general description (e.g., letter, memorandum, etc.) of the document, the name and address of the person from whom the document originated, the name and address of the persons to whom the document was addressed or delivered, and the names and addresses of all persons to whom copies of the document were sent; and

(ii) State whether Applicant is in possession of the original of the document or a copy thereof and, if Applicant is not in possession of the original or a copy, furnish the name and address of the custodian of the original or a copy; and

(iii) Furnish a general description of the subject matter to which the document(s) pertains.

K. The term "identify" when used in connection with a company, organization or other business entity requires Applicant to state the name, address, and phone number of the company, organization or other business entity.

L. The term "concerning" means referring to, relating to, embodying, connected with, commenting on, responding to, showing, describing, analyzing or constituting.

M. The singular and plural forms are used herein interchangeably, as are the masculine and feminine forms and the present and past tenses, and such terms should be construed as necessary to bring within the scope of the interrogatory/document request all documents and information which might otherwise be construed to be outside its scope.

N. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the interrogatory/document request all documents and information which might otherwise be construed to be outside its scope.

O. If any information or document called for in any interrogatory or request is withheld in whole or in part by reason of a claim of attorney-client privilege or any other claim of immunity from discovery, then, at the time the information or document is to be produced, a list is to be furnished identifying any such information or document withheld together with the following information: date and title of the document; name and job title of each author, writer or sender of the document; name and job title of each recipient, addressee or other person to whom the original or any copy of the document was sent or furnished; if Applicant contends that an author or recipient of the document is an attorney for purposes of claiming privilege or immunity from discovery, identify the State Bar of which he or she was a member at the time of the communication in question; the general subject matter of the information or document withheld; the basis for the claim of privilege or immunity from discovery; and the interrogatory or request to which the information or document is responsive.

P. In the event that any document called for by this request has been destroyed, lost, discarded or otherwise disposed of, identify any such document as completely as possible, including, without limitation, the date of disposal, manner of disposal, reason for disposal, person authorizing the disposal and person disposing of the document.

Q. Documents shall be produced as they are kept in the ordinary course of business or shall be organized and labeled to correspond to the document request to which they are responsive.

INTERROGATORIES

Interrogatory No. 1

State the date when Applicant first selected Applicant's LA Mark for use or intended use in connection with any goods or services.

Interrogatory No. 2

Identify all persons who or entities which participated in or were consulted in the design, selection and/or adoption of Applicant's LA Mark, including a description of the nature of their participation or consultation.

Interrogatory No. 3

Describe in detail the reason(s) for the design, selection and/or adoption of Applicant's LA Mark, including, without limitation, the reason for selecting the particular font and interlocking stylization of the letters LA.

Interrogatory No. 4

Identify any trademark searches or other searches, opinions, investigations, analyses or studies related to the design, selection and/or adoption of Applicant's LA Mark, including, without limitation, the persons involved, the date(s), and the data or results of those searches, opinions, investigations, analyses or studies.

REDACTED

Interrogatory No. 6

For each of Applicant's Products/Services (as defined in Interrogatory No. 5 above) identified in response to Interrogatory No. 5 above, identify:

- (a) The date of first use for each of Applicant's Products/Services;
- (b) The period of time during which each of Applicant's Products/Services was or is being distributed, offered for sale, sold or rendered;
- (c) The geographic area(s) in which each of Applicant's Products/Services was or is being distributed, offered for sale, sold or rendered;
- (d) The annual volume of sales for each year to the present, both by dollar amount and unit amount, for each of Applicant's Products/Services;
- (e) Any other revenues, including, but not limited to, any licensing or sponsorship revenues that Applicant has received in connection with each of Applicant's Products/Services;
- (f) The retail and wholesale price for each of Applicant's Products/Services for each year to the present;
- (g) The channels of trade (e.g., types of retail stores, catalogs, mail order, on-line, promotional sales, private sales, school store, etc.) through which each of Applicant's Products/Services was or is being distributed or sold to the ultimate purchaser, consumer or user; and
- (h) The type of customers to whom each of Applicant's Products/Services is or was marketed, distributed, offered for sale, sold or rendered.

REDACTED

REDACTED

REDACTED

Interrogatory No. 9

Identify any persons or entities that have ever, either orally or in writing, authorized, licensed, assigned, granted, conveyed or otherwise transferred to Applicant the right to use Applicant's LA Mark, and for each such person or entity, identify the date of and material terms under which such authorization, license, assignment, grant or conveyance or other transfer was made, including, but not limited to, the details of the grant of rights to use Applicant's LA Mark and financial terms governing such transaction.

REDACTED

REDACTED

REDACTED

REDACTED

Ref. No. 21307.016

REDACTED

REDACTED

REDACTED

REDACTED

Interrogatory No. 17

With respect to each response to Opposer's First Set of Requests for Admission that is anything other than an unqualified admission, state the basis for the response, including, without limitation, all facts and documents upon which the response is based.

DOCUMENT REQUESTS

Request No. 1

Specimens of each of Applicant's Products/Services (as defined in Interrogatory No. 5) bearing or displaying Applicant's LA Mark (as defined above), including, without limitation, each different color or color combination in which Applicant's LA Mark has been used or is intended to be used by Applicant and/or its licensees and each different product design or stylization of products on which Applicant's LA Mark has been used or is intended to be used by Applicant and/or its licensees.

Request No. 2

Specimens of each label, hangtag, tag, product package, package insert, sticker, hologram, package material or other device that bear Applicant's LA Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Request No. 3

Specimens of each point-of-sale material, circular, flyer, poster, sticker, sales sheet,

Ref. No. 21307.016

leaflet, brochure, catalog, sign, price list, on-line or email advertisement, print advertisement, radio or television advertisement, or other advertising material or promotional item that bear Applicant's LA Mark, and which has been used or is intended to be used by Applicant and/or its licensees.

Request No. 4

All documents concerning Applicant's design, selection and/or adoption of Applicant's LA Mark.

Request No. 5

All documents concerning any trademark searches or other searches, opinions, investigations, analyses or studies conducted or reviewed by or on behalf of Applicant concerning adoption and use of Applicant's LA Mark.

Request No. 6

Documents sufficient to identify: (a) the date of first use of Applicant's LA Mark for each of the goods identified in Application Serial No. 77/855,157; (b) the date of first use of Applicant's LA Mark in commerce for each of the goods identified in Application Serial No. 77/855,157; (c) the geographic area(s) of use of Applicant's LA Mark; (d) Applicant's Products/Services bearing, offered for sale, sold or otherwise distributed under Applicant's LA Mark; (e) any and all customers, distributors or other persons or entities to which Applicant's Products/Services have been sold or distributed; (f) all retail, wholesale, commercial, or charitable entities through which Applicant's Products/Services have been offered for sale, sold or otherwise distributed in the United States or in commerce; (g) the channels of trade through which Applicant's Products/Services were or are being distributed or sold to the ultimate purchaser, consumer or user; (h) the annual volume of sales (in dollars and units) made for

Ref. No. 21307.016

Applicant's Products/Services for each year from the date of first use to the present; and (i) the annual amount of revenue, including, without limitation, any licensing or sponsorship revenues, that Applicant has received in connection with Applicant's Products/Services for each year from the date of first use to the present.

Request No. 7

All documents concerning the advertising, marketing or promotion of Applicant's Products/Services offered for sale or otherwise distributed or intended to be offered for sale or otherwise distributed under Applicant's LA Mark, including, without limitation, any media plans, public relations materials, press kits and correspondence with advertising agencies, public relations firms, media planners, graphic designers, website designers or any other such entities in the advertising and promotional field.

Request No. 8

Documents sufficient to identify the amount of money expended by Applicant in advertising and promoting Applicant's LA Mark and/or Applicant's Products/Services.

Request No. 9

All documents concerning any authorization, license, assignment, grant, conveyance or other transfer (or proposed authorization, license, assignment, grant, conveyance or other transfer) relating to Applicant's LA Mark from any third party to Applicant.

REDACTED

REDACTED

REDACTED

Request No. 13

Documents sufficient to identify each website, web auction, web hosting, web listing, web posting, web page or social media page (whether owned or controlled by Applicant or third parties), including its Internet address, on or through which Applicant's LA Mark has been, is currently being or is intended to be displayed and/or Applicant's Products/Services have been, are currently being or are intended to be promoted, advertised, displayed, offered for sale, sold or otherwise distributed.

REDACTED

REDACTED

REDACTED

REDACTED

Request No. 17

All documents concerning Opposer, Opposer's LA Marks, or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer under Opposer's LA Marks that are within Applicant's possession, custody or control.

Request No. 18

All documents concerning Applicant's awareness of Opposer's LA Marks and/or goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer or under license from Opposer in connection with Opposer's LA Marks prior to:

- (a) October 22, 2009, when Applicant filed Application Serial No. 77/855,157.
- (b) 2005, Applicant's claimed first use date in connection with the Class 9 and Class 24 goods identified in Application Serial No. 77/855,157.

Ref. No. 21307.016

- (c) 2004, Applicant's claimed first use date in connection with the Class 14 goods identified in Application Serial No. 77/855,157.
- (d) 2003, Applicant's claimed first use date in connection with the Class 28 goods identified in Application Serial No. 77/855,157.
- (e) 1965, Applicant's claimed first use date in connection with the Class 25 goods identified in Application Serial No. 77/855,157.
- (f) any use in United States commerce by Applicant of Applicant's LA Mark.

REDACTED

REDACTED

Ref. No. 21307.016

Request No. 21

All documents concerning the actual or intended channels of trade for Applicant's Products/Services sold or rendered or intended to be sold or rendered.

Request No. 22

All documents concerning any designs, logos, renditions, stylizations (including, without limitation, font styles) or formats of or for Applicant's LA Mark, including, without limitation, any drafts or proposed versions of same.

Request No. 23

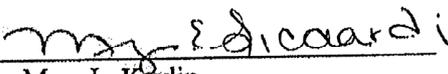
All documents concerning the actual or intended marketing of any of Applicant's Products/Services to sports fans, fans of Opposer, its LOS ANGELES DODGERS baseball team, any other Major League Baseball teams or affiliated Minor League Baseball teams, or consumers located in or around Los Angeles, California.

Request No. 24

All documents identified or otherwise referred to by Applicant in answering Opposer's First Set of Interrogatories above.

Dated: New York, New York
September 12, 2013

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

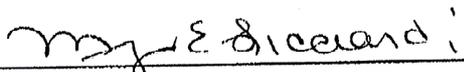
By: 
Mary L. Kevlin
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 12, 2013, I caused a true and correct copy of the foregoing *Opposer's First Set of Interrogatories and Requests for Production of Documents and Things to Applicant* to be sent by hand to Applicant's Attorney and Correspondent of Record, Angelo J. Bufalino, Vedder Price P.C., 222 N LaSalle St. Ste. 2600, Chicago, IL 60601-1104.

Dated: New York, New York
September 12, 2013



Maryann E. Licciardi

Exhibit B

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

In re Application Serial No. 77/855,157
Filed: October 22, 2009
For Mark: LA (Stylized)
Published in the *Official Gazette*: October 19, 2010

LOS ANGELES DODGERS LLC,
Opposer,

v.

LOYOLA ACADEMY,
Applicant.

Opposition No. 91199481

**ANSWER TO FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT**

LOYOLA ACADEMY ("Loyola"), by its undersigned counsel, Vedder Price P.C., pursuant to Federal Rules of Civil Procedure 33 and 34, hereby responds to Opposer LOS ANGELES DODGERS LLC's ("Dodgers") Answer to First Set of Interrogatories and Request for Production of Documents and Things to Applicant ("Interrogatories and Requests").

PRELIMINARY STATEMENT

The scope of Loyola's Answer to First Set of Interrogatories and Request for Production of Documents and Things to Applicant is based on information reasonably available at this time. Loyola reserves the right to amend and/or supplement any answer as information is uncovered in the course of this proceeding through discovery and factual investigation.

Each response is made subject to all objections as to competence, materiality, relevance, or other objections as to admissibility that may apply in the event that any such response, or the information contained therein, is sought to be used in court. Loyola expressly reserves all such objections.

GENERAL OBJECTIONS

1. Loyola objects to the Interrogatories and Requests to the extent they seek discovery regarding matters beyond the scope of the Opposition proceeding.

2. Loyola objects to the Interrogatories and Requests to the extent they seek to impose obligations greater than or different than those imposed by the Federal Rules of Civil Procedure, T.T.A.B. Rules or other applicable rules, laws or orders.

3. Loyola objects to the Interrogatories and Requests to the extent they seek any information more readily available from other persons or entities.

4. Loyola objects to the Interrogatories and Requests to the extent that they assert and/or assume unproven conclusions as established facts.

5. Loyola objects to the Interrogatories and Requests to the extent they assume the truth of allegations which are in dispute and/or make incorrect and/or untrue assertions, assume unproved conclusions as established facts, and/or call for legal conclusions.

6. Loyola objects to the Interrogatories and Requests to the extent they seek any information that is confidential or proprietary, including confidential financial information and personally identifying information. Any information that may be disclosed in the future in response to the Interrogatories and Requests shall be disclosed without waiving any claim of confidentiality.

7. Loyola objects to the Interrogatories and Requests to the extent they call for any information that is subject to and protected by the attorney-client privilege, the attorney work-product doctrine, or any other statutory or common-law privilege or immunity. Inadvertent disclosure of any information or document subject to any privilege or immunity does not waive the privilege or immunity as to other information or documents regarding the same subject or content and does not waive Loyola's right to object to the introduction of such privileged or immunized information or documents into evidence.

8. Neither the fact that Loyola has responded to the Interrogatories and Requests nor the responses themselves shall constitute an admission, concession, or acknowledgment that such Interrogatories and Requests are proper, that the information sought is relevant, material, or otherwise within the proper bounds of discovery, or that other discovery requests will be treated in a similar fashion in this or any other proceeding.

9. Loyola objects to the Interrogatories and Requests to the extent that they, either separately or in combination with the Definitions, purport to impose upon Loyola a duty to search for and/or provide information that is not within its possession, custody, or control.

10. Loyola objects to the Interrogatories and Requests to the extent they use vague and ambiguous terms.

11. Loyola objects to the Interrogatories and Requests to the extent that they are unlimited in scope with respect to the relevant time period. Loyola's responses shall be limited to that information available after a reasonable search or investigation.

12. Loyola expressly incorporates these General Objections by reference into each of the following responses. Repetition of one of the General Objections in the answer to any

specific Interrogatory and/or Request does not constitute a waiver or limitation of any of the other General Objections.

13. Loyola will make relevant, non-privileged, responsive documents, to the extent that they exist, available to Opposer for inspection at Loyola's facilities at a date and time to be mutually agreed by the parties.

INTERROGATORIES

INTERROGATORY NO. 1:

State the date when Applicant first selected Applicant's LA Mark for use or intended use in connection with any goods or services.

ANSWER:

Loyola selected and used an interlocking LA mark as early as 1915. The individuals involved with the selection and adoption of Applicant's LA Mark are no longer associated with Loyola. Loyola's investigation with respect to the use of Applicant's LA Mark and any mark using an interlocking LA design is on-going. Loyola reserves the right to update this Answer should the investigation uncover new or additional information.

INTERROGATORY NO. 2:

Identify all persons who or entities which participated in or were consulted in the design, selection and/or adoption of Applicant's LA Mark, including a description of the nature of their participation or consultation.

ANSWER:

Loyola objects to this Interrogatory as being unduly broad and burdensome. In addition, the individuals involved in the original selection of Applicant's LA Mark are no longer associated with Loyola. Loyola's investigation with respect to use of Applicant's LA Mark and any mark using an interlocking LA design is on-going. Loyola reserves the right to update this Answer should the investigation uncover new or additional information.

INTERROGATORY NO. 3:

Describe in detail the reason(s) for the design, selection and/or adoption of Applicant's LA Mark, including, without limitation, the reason for selecting the particular font and interlocking stylization of the letters LA.

ANSWER:

Loyola objects to this Interrogatory as being unduly broad and burdensome. In addition, the individuals involved in the original selection of Applicant's LA Mark are no longer associated with Loyola. Loyola's investigation with respect to use of Applicant's LA Mark and any mark using an interlocking LA design is on-going. Loyola reserves the right to update this Answer should the investigation uncover new or additional information.

INTERROGATORY NO. 4:

Identify any trademark searches or other searches, opinions, investigations, analyses or studies related to the design, selection and/or adoption of Applicant's LA Mark, including, without limitation, the persons involved, the date(s), and the data or results of those searches, opinions, investigations, analyses or studies.

ANSWER:

Loyola objects to this Interrogatory as being unduly broad and burdensome and for requesting information subject to Attorney-Client privilege. Subject to this objection and the General Objections, Loyola does not have requested information to identify at this time. Any records that may exist are the subject of further investigation by Loyola. Loyola reserves the right to update this Answer should the investigation uncover new or additional information.

REDACTED

REDACTED

INTERROGATORY NO. 6:

For each of Applicant's Products/Services (as defined in Interrogatory No. 5 above) identified in response to Interrogatory No. 5 above, identify:

- (a) The date of first use for each of Applicant's Products/Services;
- (b) The period of time during which each of Applicant's Products/Services was or is being distributed, offered for sale, sold or rendered;
- (c) The geographic area(s) in which each of Applicant's Products/Services was or is being distributed, offered for sale, sold or rendered;
- (d) The annual volume of sales for each year to the present, both by dollar amount and unit amount, for each of Applicant's Products/Services;
- (e) Any other revenues, including, but not limited to, any licensing or sponsorship revenues that Applicant has received in connection with each of Applicant's Products/Services;

- (f) The retail and wholesale price for each of Applicant's Products/Services for each year to the present;
- (g) The channels of trade (e.g., types of retail stores, catalogs, mail order, on-line, promotional sales, private sales, school store, etc.) through which each of Applicant's Products/Services was or is being distributed or sold to the ultimate purchaser, consumer or user; and
- (h) The type of customers to whom each of Applicant's Products/Services is or was marketed, distributed, offered for sale, sold or rendered.

ANSWER:

Loyola objects to this Interrogatory as being unduly broad and burdensome. Subject to this objection and the General Objections, Loyola states that Loyola's investigation is on-going as much of the records associated with this Interrogatory may be almost 50 years old. Loyola reserves the right to update this in the course of its investigation.

REDACTED

REDACTED

REDACTED

INTERROGATORY NO. 9:

Identify any persons or entities that have ever, either orally or in writing, authorized, licensed, assigned, granted, conveyed or otherwise transferred to Applicant the right to use Applicant's LA Mark, and for each such person or entity, identify the date of and material terms under which such authorization, license, assignment, grant or conveyance or other transfer was made, including, but not limited to, the details of the grant of rights to use Applicant's LA Mark and financial terms governing such transaction.

ANSWER:

Loyola objects to this Interrogatory to the extent that it calls for a legal conclusion. Loyola's investigation into the creation of its interlocking LA mark in or around 1915 continues. Subject to this objection and the General Objections, Loyola reserves the right to update this answer with information learned in the course of its investigation.

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

INTERROGATORY NO. 17:

With respect to each response to Opposer's First Set of Requests for Admission that is anything other than an unqualified admission, state the basis for the response, including, without limitation, all facts and documents upon which the response is based.

ANSWER:

Loyola objects to this request as unduly broad and burdensome as well as duplicative of Loyola's responses to Opposer's First Set of Requests for Admission.

DOCUMENT REQUESTS

REQUEST NO. 1:

Specimens of each of Applicant's Products/Services (as defined in Interrogatory No. 5) bearing or displaying Applicant's LA Mark (as defined above), including, without limitation, each different color or color combination in which Applicant's LA Mark has been used or is intended to be used by Applicant and/or its licensees and each different product design or stylization of products on which Applicant's LA Mark has been used or is intended to be used by Applicant and/or its licensees.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome as well as requesting information publicly available. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 2:

Specimens of each label, hangtag, tag, product package, package insert, sticker, hologram, package material or other device that bear Applicant's LA Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 3:

Specimens of each point-of-sale material, circular, flyer, poster, sticker, sales sheet, leaflet, brochure, catalog, sign, price list, on-line or email advertisement, print advertisement, radio or television advertisement, or other advertising material or promotional item that bear Applicant's LA Mark, and which has been used or is intended to be used by Applicant and/or its licensees.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 4:

All documents concerning Applicant's design, selection and/or adoption of Applicant's LA Mark.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 5:

All documents concerning any trademark searches or other searches, opinions, investigations, analyses or studies conducted or reviewed by or on behalf of Applicant concerning adoption and use of Applicant's LA Mark.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome and for requesting information subject to Attorney-Client or Work Product privilege. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 6:

Documents sufficient to identify: (a) the date of first use of Applicant's LA Mark for each of the goods identified in Application Serial No. 77/855,157; (b) the date of first use of Applicant's LA Mark in commerce for each of the goods identified in Application Serial No. 77/855,157; (c) the geographic area(s) of use of Applicant's LA Mark; (d) Applicant's Products/Services bearing, offered for sale, sold or otherwise distributed under Applicant's LA Mark; (e) any and all customers, distributors or other persons or entities to which Applicant's Products/Services have been sold or distributed; (f) all retail, wholesale, commercial, or charitable entities through which Applicant's Products/Services have been offered for sale, sold

or otherwise distributed in the United States or in commerce; (g) the channels of trade through which Applicant's Products/Services were or are being distributed or sold to the ultimate purchaser, consumer or user; (h) the annual volume of sales (in dollars and units) made for Applicant's Products/Services for each year from the date of first use to the present; and (i) the annual amount of revenue, including, without limitation, any licensing or sponsorship revenues, that Applicant has received in connection with Applicant's Products/Services for each year from the date of first use to the present.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist. Loyola states that some of these documents and things are photographs, archived records or yearbooks that are valuable memorabilia of Loyola. Loyola will make such materials available for inspection by Opposer at Loyola's facilities at a date and time to be mutually agreed by the parties.

REQUEST NO. 7:

All documents concerning the advertising, marketing or promotion of Applicant's Products/Services offered for sale or otherwise distributed or intended to be offered for sale or otherwise distributed under Applicant's LA Mark, including, without limitation, any media plans, public relations materials, press kits and correspondence with advertising agencies, public relations firms, media planners, graphic designers, website designers or any other such entities in the advertising and promotional field.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 8:

Documents sufficient to identify the amount of money expended by Applicant in advertising and promoting Applicant's LA Mark and/or Applicant's Products/Services.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 9:

All documents concerning any authorization, license, assignment, grant, conveyance or other transfer (or proposed authorization, license, assignment, grant, conveyance or other transfer) relating to Applicant's LA Mark from any third party to Applicant.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist and have not already been provided to Opposer.

REDACTED

REDACTED

REDACTED

REQUEST NO. 13:

Documents sufficient to identify each website, web auction, web hosting, web listing, web posting, web page or social media page (whether owned or controlled by Applicant or third parties), including its Internet address, on or through which Applicant's LA Mark has been, is currently being or is intended to be displayed and/or Applicant's Products/Services have been, are currently being or are intended to be promoted, advertised, displayed, offered for sale, sold or otherwise distributed.

RESPONSE:

Loyola objects to the request as being unduly broad and burdensome, for requesting information outside of Loyola's custody, possession, or control, for requesting information publicly available and for requesting information outside the scope of discovery. Subject to and without waiver of its objections, Loyola states that it will produce relevant, non-privileged, responsive documents to the extent that they exist.

REDACTED

REDACTED

REDACTED

REDACTED

REQUEST NO. 17:

All documents concerning Opposer, Opposer's LA Marks, or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer under Opposer's LA Marks that are within Applicant's possession, custody or control.

RESPONSE:

Loyola objects to the request as being unduly broad and burdensome and for requesting documents subject to Attorney-Client or Work Product privilege. The request references "any goods or services marketed . . . rendered by Opposer." Loyola does not have sufficient information about Opposer's goods/services to respond to this request.

REQUEST NO. 18:

All documents concerning Applicant's awareness of Opposer's LA Marks and/or goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer or under license from Opposer in connection with Opposer's LA Marks prior to:

- (a) October 22, 2009, when Applicant filed Application Serial No. 77/855,157.
- (b) 2005, Applicant's claimed first use date in connection with the Class 9 and Class 24 goods identified in Application Serial No. 77/855,157.
- (c) 2004, Applicant's claimed first use date in connection with the Class 14 goods identified in Application Serial No. 77/855,157.
- (d) 2003, Applicant's claimed first use date in connection with the Class 28 goods identified in Application Serial No. 77/855,157.
- (e) 1965, Applicant's claimed first use date in connection with the Class 25 goods identified in Application Serial No. 77/855,157.
- (f) any use in United States commerce by Applicant of Applicant's LA Mark.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REDACTED

REDACTED

REQUEST NO. 21:

All documents concerning the actual or intended channels of trade for Applicant's Products/Services sold or rendered or intended to be sold or rendered.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome and for seeking documents outside the scope of discovery. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 22:

All documents concerning any designs, logos, renditions, stylizations (including, without limitation, font styles) or formats of or for Applicant's LA Mark, including, without limitation, any drafts or proposed versions of same.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 23:

All documents concerning the actual or intended marketing of any of Applicant's Products/Services to sports fans, fans of Opposer, its LOS ANGELES DODGERS baseball team, any other Major League Baseball teams or affiliated Minor League Baseball teams, or consumers located in or around Los Angeles, California.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome for relevant reasons discussed the response to Interrogatory No. 14. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

REQUEST NO. 24:

All documents identified or otherwise referred to by Applicant in answering Opposer's First Set of Interrogatories above.

RESPONSE:

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce relevant, non-privileged, responsive documents to the extent that they exist.

Dated: April 25, 2014

Respectfully submitted,

VEDDER PRICE P.C.

By: _____

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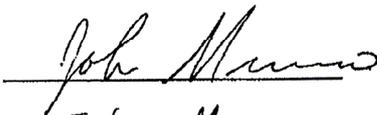
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that, on the date below, I caused a true and correct copy of the foregoing ANSWER TO FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT to be sent via First Class mail, postage paid, to Opposer's Attorneys of Record at the address listed below.

MARY L KEVLIN
COWAN LIEBOWITZ & LATMAN PC
1133 AVENUE OF THE AMERICAS
NEW YORK NY , 10036-6799
UNITED STATES

Dated: 25 Apr 2014


Signed by: John Munro