

ESTTA Tracking number: **ESTTA606086**

Filing date: **05/23/2014**

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

Proceeding	91199481
Party	Plaintiff Los Angeles Dodgers LLC
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Signature	/Maryann E. Licciardi/
Date	05/23/2014
Attachments	LA (Loyola) - Reply Brief.pdf(331606 bytes ) LA (Loyola) - Reply Declaration w Ex A.pdf(1556779 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

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LOS ANGELES DODGERS LLC,	:	Opposition No. 91199481
	:	
Opposer,	:	
	:	
v.	:	
LOYOLA ACADEMY,	:	
	:	
Applicant.	:	
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**REPLY MEMORANDUM OF LAW IN FURTHER  
SUPPORT OF OPPOSER’S MOTION TO COMPEL**

Opposer Los Angeles Dodgers LLC (“Opposer”) respectfully submits this reply memorandum of law in further support of Opposer’s motion to compel.

**I. Applicant’s Supplemental Responses Do Not Moot Opposer’s Motion**

Applicant claims that the motion to compel is mooted by the service by Loyola Academy (“Applicant” or “Loyola”) of supplemental responses to Opposer’s first set of discovery requests.

Applicant Opposition at 2. Significantly, Applicant did not include a copy of such supplemental responses with its opposition. A review of such supplemental responses, which are annexed to the reply declaration of Richard S. Mandel, Esq. submitted herewith, confirms that there remain several open issues concerning Applicant’s discovery responses.

With respect to document request no. 1, Applicant claims that it lacks the resources to provide physical samples of its products. However, there is no reason why it cannot at least produce images of such products. The fact that images of some of these products may be

publicly available does not excuse Applicant of its obligation to provide a complete production showing the various uses it has made. Applicant has not produced any documents showing use in connection with any of the goods in its use-based application.

In response to document request 6 (erroneously labeled as request 5 in the supplemental responses), Applicant states that “some of [the responsive] documents and things are photographs, archived records or yearbooks that are valuable memorabilia of Loyola,” and offers to make such materials available for inspection. However, there is no reason why it cannot produce copies of such materials, as is typically done in document productions, rather than requiring Opposer to incur the burden and expense of inspecting the originals at Loyola’s facilities.

Moreover, Loyola does not explain its failure to produce other responsive documentation, which does not involve valuable memorabilia. Presumably, Applicant must have some documentation in its possession that supported the claimed first use dates between 2003 and 2005 for various products covered by its application, such as “decorative magnets” in Class 9 (2005), “watches” in Class 14 (2004), “fabric car flags” in Class 24 (2005) and “Christmas tree ornaments” in Class 28 (2003). No such documentation has been produced.

In addition, to the extent Loyola may seek to claim an earlier first use date than the ones cited in its application, it bears the burden of proving such earlier dates by clear and convincing evidence. *Hydro-Dynamics Inc. v. George Putnam & Co. Inc.*, 1 USPQ2d 1772, 1773, 811 F.2d 1470, 1473 (Fed. Cir. 1987) (“Where an applicant seeks to prove a date earlier than the date alleged in its application, a heavier burden has been imposed on the applicant than the common law burden of preponderance of the evidence...); *Rockwood Chocolate v. Hoffman Candy*, 372 F.2d 552, 554, 152 USPQ 599, 600 (“proof of such earlier date must be clear and convincing”);

*Elder Mfg. Co. v. Int'l Shoe Co.*, 39 C.C.P.A. 817, 194 F.2d 114, 118, 92 U.S.P.Q. 330, 332 (CCPA 1952) ("proof must be clear and convincing"). Any such evidence that Loyola intends to rely on at trial to meet this burden should be produced in discovery or Loyola should be precluded from later using it in this proceeding.

Issues also remain with respect to Applicant's interrogatory responses. The fact that Applicant is a "non-profit educational institution" does not somehow explain a complete lack of any records sufficient to provide even the most basic information sought in interrogatory no. 6. The absence of "detailed records" does not excuse Applicant from providing what information is available from the records that do exist concerning sales, pricing, geographic areas of use, channels of trade, etc.

Finally, Applicant's refusal to answer interrogatory no. 17 is unjustified. Applicant claims that its responses to the requests for admission speak for themselves. However, Opposer is entitled to probe such responses and understand the basis on which Applicant has denied various requests, particularly in light of its blanket denials and claimed lack of records/knowledge on historic issues. Simply refusing to admit facts without providing the requested basis for such denials is not appropriate.

## **II. Opposer Did Make a Good Faith Effort to Resolve the Discovery Disputes**

Applicant claims that Opposer did not confer in good faith to resolve the dispute. However, the parties' counsel had a detailed email exchange that went through all the various disputed issues. In fact, as a result of such exchange, the parties were able to resolve a number of the issues initially raised by Opposer and thereby narrow the scope of the motion to compel – the very purpose of the rule in question cited by Applicant.

The fact that Opposer moved quickly following such email exchange does not somehow lessen the good faith effort that was made. Moreover, as a result of the repeated extensions sought by Applicant, Opposer was faced with a situation where its testimony period was about to commence. It thus had no choice but to make the motion without further delay. There is no reason to believe that further discussions would have averted the need for this motion, as even after Applicant's supplemental responses, there remain a number of disputed issues as outlined above.

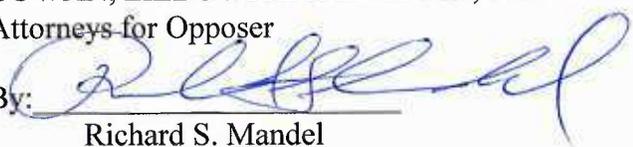
**CONCLUSION**

For the foregoing reasons, Opposer's motion to compel should be granted.

Dated: New York, New York  
May 23, 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 23, 2014, I caused a true and accurate copy of the foregoing *Reply Memorandum of Law in Further Support of Opposer's Motion to Compel* and supporting *Reply 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/

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

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LOS ANGELES DODGERS LLC,	:	Opposition No. 91199481
	:	
Opposer,	:	
	:	<b>REPLY DECLARATION</b>
v.	:	<b>OF RICHARD S. MANDEL</b>
	:	<b>IN SUPPORT OF OPPOSER'S</b>
LOYOLA ACADEMY,	:	<b><u>MOTION TO COMPEL</u></b>
	:	
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 reply declaration in further support of Opposer's motion to compel. I have personal knowledge of the facts set forth herein.

2. On May 20, 2014, following the filing of Opposer's motion to compel, Applicant served the document attached hereto as Exhibit A titled "Supplemental Answer to First Set of Interrogatories and Requests for Production of Documents and Things to Applicant."

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON MAY 23, 2014 AT NEW YORK, NEW YORK.



RICHARD S. MANDEL

**EXHIBIT A**

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.

Opposition No. 91199481

LOYOLA ACADEMY,  
Applicant.

**SUPPLEMENTAL 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 provides supplemental responses to Opposer LOS ANGELES DODGERS LLC's ("Dodgers") First Set of Interrogatories and Request for Production of Documents and Things to Applicant ("Interrogatories and Requests").

**PRELIMINARY STATEMENT**

The scope of Loyola's Supplemental 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.

#### **SUPPLEMENTAL ANSWER:**

Loyola selected and used an interlocking LA mark as early as 1915. The selection and adoption of Applicant's LA Mark occurred almost eighty (80) years ago. The individuals involved with the selection and adoption of Applicant's original LA Mark are no longer associated with Loyola and/or are alive. More detailed information is not available.

#### **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.

#### **SUPPLEMENTAL 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 and/or are alive. More detailed information is not available.

#### **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.

**SUPPLEMENTAL 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 and/or are alive. More detailed information is not available.

**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.

**SUPPLEMENTAL ANSWER:**

Loyola selected and used an interlocking LA mark as early as 1915. The selection and adoption of Applicant's LA Mark occurred almost eighty (80) years ago. Information regarding the searches included in Interrogatory No. 4, if any, is not available.

**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.

**SUPPLEMENTAL ANSWER:**

Loyola objects to this Interrogatory as being unduly broad and burdensome. Subject to this objection and the General Objections, Loyola states that it is a non-profit educational institution and that the information requested in Interrogatory No. 6 is unavailable. Detailed records of the timing of sales, the geographic areas, the volume of sales and other information requested in Interrogatory No. 6 is not kept in the normal course of business by Loyola. With regards to the channels of trade and retail prices or Loyola's products (as opposed to its educational services), Loyola states that it sells products primarily through its school store and through its website at <http://shop.goramblers.org/>. Information is available on this site regarding current sales prices for goods. Historical pricing and sales records are not kept by Loyola in the normal course of business and are not available. Loyola markets and distributes its products primarily to students, faculty, alumni and parents of students of Loyola Academy.

**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.

**SUPPLEMENTAL ANSWER:**

Loyola objects to this Interrogatory to the extent that it calls for a legal conclusion. The selection and adoption of Applicant's LA Mark occurred almost eighty (80) years ago.

Information regarding any conveyances or assignments described in Interrogatory No. 9, if any, is not available.

**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.

**SUPPLEMENTAL 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. Loyola's responses to Opposer's First Set of Requests for Admission speak for themselves.

## 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.

### SUPPLEMENTAL RESPONSE:

Loyola objects to this request as being unduly broad and burdensome as well as requesting information that is, at least in part, publicly available. Loyola is a non-profit educational institution and does not have the resources to provide physical samples of products. Specimens of current products that include Applicant's LA Mark are publicly available at <http://shop.goramblers.org/>.

### SUPPLEMENTAL RESPONSE:

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 as well as requesting information publicly available. Loyola is a non-profit educational institution and does not keep any samples of the requested materials in the normal course of business. Specimens of current products that include Applicant's LA Mark are publicly available at <http://shop.goramblers.org/>.

### REQUEST NO. 2:

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.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 3:**

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

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control..

**REQUEST NO. 4:**

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.

**SUPPLEMENTAL 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 states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 5:**

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.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola will produce for inspection 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. 6:**

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.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 7:**

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.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 8:**

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.

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 9:**

All documents concerning each trade show, convention, exposition or conference at which Applicant's Products/Services bearing Applicant's LA Mark have been displayed, advertised, promoted, offered for sale or sold.

**SUPPLEMENTAL RESPONSE:**

Subject to and without waiver of its objections, Loyola states that no such documents are in its possession, custody or control.

**REQUEST NO. 10:**

All documents concerning Applicant's 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 or on behalf of Applicant to any third party, including, without limitation, all license agreements.

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 11:**

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

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 12:**

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.

**SUPPLEMENTAL 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 information regarding its products and services are publicly available at <http://www.goramblers.org/>.

**REQUEST NO. 13:**

All documents concerning the use or intended use of Applicant's LA Mark in connection with any indicia, designs, stylizations (including, without limitation, font styles), terms, imagery, marks, logos, themes, or references similar to, related to, or associated or affiliated with: (a) sports or sports teams (including, without limitation, baseball stadiums, baseball teams, players, managers or coaches, baseball uniforms or apparel or equipment used to play baseball); (b) Los Angeles, California or other geographical references; and/or (c) Opposer, its LOS ANGELES DODGERS baseball team, any other Major League Baseball teams or affiliated Minor League Baseball teams, or their respective trademarks, logos, designs or stylizations, including without limitation, any of Opposer's LA Marks, or trademarks, logos, designs, stylizations, or components thereof or similar thereto.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to the request as being unduly broad and burdensome. Loyola is a non-profit educational institution. In connection with its educational services, Loyola offers its students experience in sporting events in connection with its sports teams like many college preparatory and other high schools. As early as 1915, Loyola used an interlocking LA mark in

connection with its sports teams. 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. To extent that that they are not publicly available at [www.goramblor.org](http://www.goramblor.org), Loyola will produce representative samples of relevant, non-privileged, responsive documents to the extent that they exist.

**REQUEST NO. 14:**

All documents concerning the use or intended use of Applicant's LA Mark in the color blue or the combined colors blue and white.

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 15:**

Apart from the current opposition, all documents concerning any objections, claims, demands or actions lodged or filed against the use or proposed use or registration of Applicant's LA Mark, including, without limitation, cease and desist letters, complaints and/or Notices of Opposition.

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 16:**

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.

**SUPPLEMENTAL 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. To the best of Loyola's

understanding of Request No. 16, Loyola states that no such documents are in its possession, custody or control.

**REQUEST NO. 17:**

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.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola states that no such documents are in its possession, custody or control.

**REQUEST NO. 18:**

All documents concerning any market research, focus groups, surveys or other investigation made or commissioned by or on behalf of Applicant concerning Applicant's LA Mark, Applicant's Products/Services, Opposer's LA Marks or any goods or services advertised, promoted, offered for sale, sold, licensed or rendered by Opposer in connection with Opposer's LA Marks.

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 19:**

All documents reflecting or indicating any confusion on the part of any member of the public between Opposer and Applicant and/or their respective marks and/or goods or services, including, without limitation, documents referring to or evidencing misdirected mail, e-mails, telephone calls, orders or inquiries suggesting or reflecting a belief by any person that Applicant is licensed, endorsed or sponsored by, or is a sponsor of, or is associated or related in any way with or to Opposer and/or its LOS ANGELES DODGERS baseball team, or that the products or services sold, offered for sale or otherwise distributed, or intended to be sold, offered for sale or otherwise distributed, by Applicant in connection with Applicant's LA Mark are licensed, endorsed or sponsored by or associated or related in any way with or to Opposer and/or its LOS ANGELES DODGERS baseball team.

**SUPPLEMENTAL RESPONSE:**

No supplemental response.

**REQUEST NO. 20:**

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.

**SUPPLEMENTAL 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 states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 21:**

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.

**SUPPLEMENTAL RESPONSE:**

Loyola objects to this request as being unduly broad and burdensome. Subject to and without waiver of its objections, Loyola states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 22:**

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.

**SUPPLEMENTAL 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 states that after conducting a reasonable search no relevant responsive documents are in Loyola's possession, custody or control.

**REQUEST NO. 23:**

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

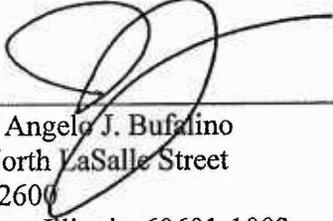
**SUPPLEMENTAL RESPONSE:**

No supplemental response.

Dated: May 20, 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 SUPPLEMENTAL 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: May 20, 2014

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Signed by: Angelo J. Bufalino