

ESTTA Tracking number: **ESTTA421259**

Filing date: **07/22/2011**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Chicago Cubs Baseball Club, LLC
Granted to Date of previous extension	07/24/2011
Address	1060 West Addison Street Chicago, IL 60613 UNITED STATES

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

Application No	85037368	Publication date	01/25/2011
Opposition Filing Date	07/22/2011	Opposition Period Ends	07/24/2011
Applicant	United Services Automobile Association (USAA) Trademark Department 9800 Fredericksburg Rd. San Antonio, TX 78288 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 035. All goods and services in the class are opposed, namely: Marketing and advertising services for automobile dealerships; Providing information about automobiles for sale by means of the Internet; Locating pre-owned vehicles available for purchase or lease; Providing an online directory information service featuring information regarding vehicles in the nature of classified advertisements; Providing information on vehicles for sale via a global communications network, namely, vehicle valuations; and Classified advertising services for automobiles</p>
<p>Class 036. All goods and services in the class are opposed, namely: Financial services, namely, banking and loan services; Insurance services, namely, underwriting, issuing and administration of auto insurance; Insurance advice, namely, providing advice in the field of auto insurance; Insurance analysis, namely, auto insurance analysis services; Insurance consultation services; Insurance research services, namely, auto insurance research services; Providing insurance rate quotes for auto insurance; Insurance loss control planning and management services; Insurance agency and brokerage services; Insurance services, namely, underwriting extended warranty contracts in the field of automobiles; and Providing vehicle service agreements on vehicles manufactured by others for mechanical breakdown and servicing</p>

Class 037.

All goods and services in the class are opposed, namely: Vehicle maintenance assistance services, namely, repair services

Class 042.

All goods and services in the class are opposed, namely: Providing a members-only website featuring technology which provides members with the ability to access multiple databases and automobile industry services for the purpose of conducting automobile purchase and sale transactions; and Computer services, namely, hosting an interactive web site that allows users to upload, store and maintain automotive repair records, manage online records of services performed on their vehicles, and receive automated service reminders, safety alerts, recall alerts, and special discount offers

Grounds for Opposition

Other	Please see attached pleading.
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Attachments	1255742_1.pdf (1 page)(46596 bytes) 1242754_2.pdf (8 pages)(59429 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert Riether/
Name	Robert Riether
Date	07/22/2011

Cowan, Liebowitz & Latman, P.C.

LAW OFFICES

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July 22, 2011

By Electronic Filing

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

Re: Chicago Cubs Baseball Club, LLC
Notice of Opposition Against
United Services Automobile Association
Application to register C (and Design)
Ref. No. 21307.011

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/037,368 published in the Official Gazette on January 25, 2011. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$1,200 to cover the filing fee.

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

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

Respectfully submitted,

/Robert A. Riether/
Robert A. Riether

Enclosures

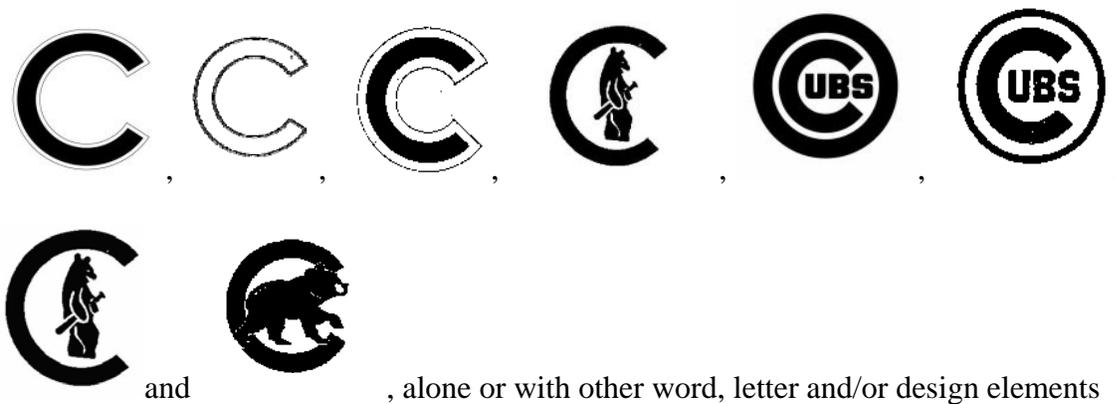
cc: Ms. Diane Kovach (w/encs. – by email)
Mary L. Kevlin, Esq. (w/encs.)
Richard S. Mandel, Esq. (w/encs.)

featuring information regarding vehicles in the nature of classified advertisements; Providing information on vehicles for sale via a global communications network, namely, vehicle valuations; and Classified advertising services for automobiles” in International Class 35, “Financial services, namely, banking and loan services; Insurance services, namely, underwriting, issuing and administration of auto insurance; Insurance advice, namely, providing advice in the field of auto insurance; Insurance analysis, namely, auto insurance analysis services; Insurance consultation services; Insurance research services, namely, auto insurance research services; Providing insurance rate quotes for auto insurance; Insurance loss control planning and management services; Insurance agency and brokerage services; Insurance services, namely, underwriting extended warranty contracts in the field of automobiles; and Providing vehicle service agreements on vehicles manufactured by others for mechanical breakdown and servicing” in International Class 36, “Vehicle maintenance assistance services, namely, repair services” in International Class 37, and “Providing a members-only website featuring technology which provides members with the ability to access multiple databases and automobile industry services for the purpose of conducting automobile purchase and sale transactions; and Computer services, namely, hosting an interactive web site that allows users to upload, store and maintain automotive repair records, manage online records of services performed on their vehicles, and receive automated service reminders, safety alerts, recall alerts, and special discount offers” in International Class 42; all as shown in Application Serial No. 85/037,368 (the “Application”), and having been granted extensions of time to oppose up to and including July 24, 2011, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CHICAGO CUBS MAJOR LEAGUE BASEBALL club.

2. Since long prior to May 13, 2010, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used various stylized "C" marks, including, without limitation, in the following distinctive stylizations:



("Opposer's Stylized C Marks"), in connection with baseball game and exhibition services, and a wide variety of goods and services, including, but not limited to, automobile dealership and manufacturing services, financial services, namely credit and debit cards, membership cards, prepaid calling cards, insurance services and organizing, conducting and promoting charitable events, clothing, accessories, toys, sporting goods, paper goods, printed matter and novelty items.

3. Opposer owns U.S. federal registrations for Opposer's Stylized C Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 30, 34 and 41, namely, Registration Nos. 869,838; 1,042,652; 1,183,876; 1,297,664; 1,536,262; 1,538,033; 1,538,193; 1,612,016; 1,916,572; 2,506,407; 2,667,880; 3,231,135; 3,320,037; 3,320,038; 3,320,039; 3,320,040; 3,326,192; 3,395,907; 3,403,043; 3,403,046; 3,545,454 and 3,854,382. Registration

Nos. 869,838; 1,042,652; 1,183,876; 1,297,664; 1,536,262; 1,538,033; 1,538,193; 1,612,016; 2,506,407 and 2,667,880 are incontestable. Registration No. 1,916,572 is partially incontestable.

4. Since long prior to May 13, 2010, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's Stylized C Marks, including, but not limited to, baseball game and exhibition services, and a wide variety of goods and services, including, but not limited to, automobile dealership and manufacturing services, financial services, namely credit and debit cards, membership cards, prepaid calling cards, insurance services and organizing, conducting and promoting charitable events, clothing, accessories, toys, sporting goods, paper goods, printed matter and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's Stylized C Marks, Opposer has built up highly valuable goodwill in Opposer's Stylized C Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On May 13, 2010, Applicant filed the Application for Applicant's Mark for "Marketing and advertising services for automobile dealerships; Providing information about automobiles for sale by means of the Internet; Locating pre-owned vehicles available for purchase or lease; Providing an online directory information service featuring information regarding vehicles in the nature of classified advertisements; Providing information on vehicles for sale via a global communications network, namely, vehicle valuations; and Classified advertising services for automobiles" in International Class 35, "Financial services, namely, banking and loan services; Insurance services, namely, underwriting, issuing and administration

of auto insurance; Insurance advice, namely, providing advice in the field of auto insurance; Insurance analysis, namely, auto insurance analysis services; Insurance consultation services; Insurance research services, namely, auto insurance research services; Providing insurance rate quotes for auto insurance; Insurance loss control planning and management services; Insurance agency and brokerage services; Insurance services, namely, underwriting extended warranty contracts in the field of automobiles; and Providing vehicle service agreements on vehicles manufactured by others for mechanical breakdown and servicing” in International Class 36, “Vehicle maintenance assistance services, namely, repair services” in International Class 37, and “Providing a members-only website featuring technology which provides members with the ability to access multiple databases and automobile industry services for the purpose of conducting automobile purchase and sale transactions; and Computer services, namely, hosting an interactive web site that allows users to upload, store and maintain automotive repair records, manage online records of services performed on their vehicles, and receive automated service reminders, safety alerts, recall alerts, and special discount offers” in International Class 42, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant’s Mark in United States commerce for the services covered in the Application prior to its constructive first use date of May 13, 2010.

8. The services covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer’s Stylized C Marks.

9. Applicant’s Mark so resembles Opposer’s Stylized C Marks as to be likely, when used in connection with Applicant’s services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s services have their origin

with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

10. Opposer's Stylized C Marks are distinctive and famous and were so prior to May 13, 2010, Applicant's constructive first use date of Applicant's Mark. Registration of Applicant's Mark will also injure Opposer by causing a likelihood of dilution by blurring of the distinctive quality of Opposer's Stylized C Marks.

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

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

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

Dated: New York, New York
July 22, 2011

Respectfully submitted,

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

By: /Robert A. Riether/

Mary L. Kevlin
Richard S. Mandel
Robert A. Riether

1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on July 22, 2011, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant and Correspondent of Record, United Services Automobile Association, 9800 Fredericksburg Rd, San Antonio, TX 78288-0001, Attn: Manuel Rivera.

/Robert A. Riether/
Robert A. Riether