

ESTTA Tracking number: **ESTTA441305**

Filing date: **11/16/2011**

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

Notice of Opposition

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

Opposer Information

Name	Boston Athletic Association
Granted to Date of previous extension	11/16/2011
Address	40 Trinity Place Boston, MA 02116 UNITED STATES

Attorney information	Michael J. Bevilacqua, Esquire Wilmer Cutler Pickering Hale and DorrLLP 60 State Street Boston, MA 02109 UNITED STATES michael.bevilacqua@wilmerhale.com
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Applicant Information

Application No	85224698	Publication date	07/19/2011
Opposition Filing Date	11/16/2011	Opposition Period Ends	11/16/2011
Applicant	Velocity, LLC 120 Tremont Street Everett, MA 02149 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2011/04/07 First Use In Commerce: 2011/04/11 All goods and services in the class are opposed, namely: Clothing, namely, tops, bottoms, headwear, sweatshirts, sweat pants, jackets, pullovers, caps, hats, socks

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1346832	Application Date	05/21/1984
Registration Date	07/02/1985	Foreign Priority Date	NONE
Word Mark	BOSTON MARATHON		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1897/00/00 First Use In Commerce: 1897/00/00 ENTERTAINMENT SERVICE, NAMELY STAGING MARATHON RACES.

U.S. Registration No.	1832708	Application Date	11/25/1992
Registration Date	04/26/1994	Foreign Priority Date	NONE

Word Mark	BOSTON MARATHON
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 014. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 rings, pendants, and pins</p> <p>Class 016. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 souvenir program books, maps, lithographic prints, posters and pens</p> <p>Class 018. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 fanny packs and tote bags</p> <p>Class 021. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 mugs</p> <p>Class 025. First use: First Use: 1980/00/00 First Use In Commerce: 1980/00/00 shirts, sweatshirts, T-shirts, jackets, gloves, shorts, hats, and pants</p> <p>Class 026. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 embroidered emblems</p> <p>Class 041. First use: First Use: 1897/00/00 First Use In Commerce: 1897/00/00 entertainment services; namely, staging marathon races and charitable fundraising walks</p>
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Attachments	marathon monday NOP.PDF (10 pages)(578398 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	/barbara a. barakat/
Name	Barbara A. Barakat, Esquire
Date	11/16/2011

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

In the matter of Application Serial No. 85/224698
Published in the Official Gazette at TM 719 on July 19, 2011

_____)	
Boston Athletic Association,)	
)	
Opposer)	
)	
v.)	Opposition No.
)	
Velocity, LLC,)	
)	
Applicant)	
_____)	

NOTICE OF OPPOSITION

Boston Athletic Association (hereinafter "Opposer"), a non-profit corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and located and doing business at 40 Trinity Place, 4th Floor, Boston, Massachusetts 02116, believes that it will be damaged by the registration of the mark "MARATHON MONDAY" as shown in Application Serial No. 85/224698 filed January 24, 2011 by Velocity, LLC (hereinafter "Applicant"), and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Applicant seeks registration on the Principal Register of the mark "MARATHON MONDAY" for use in connection with clothing, namely, tops, bottoms, headwear, sweatshirts, sweat pants, jackets, pullovers, caps, hats, socks in international class 25.

2. Application Serial No. 85/224698 for registration of the mark “MARATHON MONDAY” was filed on January 24, 2011 based upon intent to use the mark.

3. Opposer, established in 1887, is a non-profit organization with a mission of managing athletic events and promoting a healthy lifestyle through sports, especially running.

4. Since 1897, the Opposer has organized, promoted and managed the running of the Boston Marathon each year. The race is held on the third Monday in April. The Boston Marathon, considered one of the world’s most prestigious road races, attracts professional and amateur runners from around the world.

5. Opposer is the owner of United States Trademark Registration No. 1346832, issued April 23, 1985, and United States Trademark Registration No. 1832708, issued April 26, 1994, both for the mark BOSTON MARATHON.

6. The Boston Marathon is the only major marathon run on a Monday.

7. Since the Boston Marathon takes place on a Monday, the term “Marathon Monday” has long been associated with the Boston Marathon and with the Opposer.

8. Since long prior to the January 24, 2011 filing date of Applicant’s application, the phrase “Marathon Monday” has been associated with the Opposer and the Opposer’s services.

9. The attached Exhibit A shows the first few pages of results of an Internet search for the term “Marathon Monday.” The majority of these results

direct to the Opposer's website, or to those which discuss the Opposer or the Boston Marathon.

10. The goods identified in Application Serial No. 85/224698 include goods provided by the Opposer in association with mark BOSTON MARATHON and its trade name ("Opposer's Goods").

11. On information and belief the goods identified in Application Serial No. 85/224698 will be marketed through the same or similar channels of trade to the same class of consumers as Opposer's Goods.

12. Applicant's Mark is not unique and cannot be a source identifier to Applicant due to the phrase's longstanding association with the Opposer and with the Boston Marathon.

13. Applicant's registration of the mark "MARATHON MONDAY" on the Principal Register of the United States Patent and Trademark Office will prevent Opposer from fairly describing its services.

14. Applicant's registration of the mark "MARATHON MONDAY" on the Principal Register of the United States Patent and Trademark Office will prevent Opposer from communicating with participants, fans and the general public to a significant degree.

15. Based upon the foregoing, Applicant's registration of the mark "MARATHON MONDAY" on the Principal Register of the United States Patent and Trademark Office would clearly cause injury and damage to Opposer.

WHEREFORE, Opposer prays that this opposition be sustained and that registration of the mark "MARATHON MONDAY" as shown in Application Serial Number 85/224698 be refused.

Respectfully submitted,

BOSTON ATHLETIC ASSOCIATION



Michael J. Bevilacqua
Reg. No. 31,091
Barbara A. Barakat
Reg. No. 32,190
Attorneys for Opposer

Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
(617) 526-6000
Date: November 16, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served by first-class mail, postage-prepaid, this 16th day of November, 2011 upon:

Deborah L. Benson, Esq.
Hinckley, Allen & Snyder LLP
28 State Street
Boston, MA 02109-1775



Barbara A. Barakat

EXHIBIT A

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Boston Marathon
The world's oldest annual marathon. In 2007 more than 20000 runners completed the race. The Marathon has distinguished itself by virtue of its traditions, ...
www.bostonmarathon.org/ - Similar

Boston Marathon - Wikipedia, the free encyclopedia
The Boston Marathon is an annual marathon hosted by the U.S. city of Boston, Massachusetts, on Patriots' Day, the third Monday of April. Begun in 1897 and ...
en.wikipedia.org/wiki/Boston_Marathon - Cached - Similar

Urban Dictionary: Marathon Monday
Apr 20, 2009 ... Marathon Monday is often considered, among Bostonians, as the greatest day of ... Falling on the third Monday of April, the marathon provide...
www.urbandictionary.com/define.php?term=Marathon%20Monday - Similar

Marathon Monday Mania - The ING New York City Marathon
What a Marathon Monday it was! Thank you to everyone that participated. We will be picking 50 names and will be posting them at a variety of places tomorrow, ...
www.ingnycmarathon.org/mmm/index.shtm - Cached - Similar

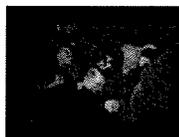
Boston Marathon
Hosts the Boston Marathon, Half Marthon, and Mayor's Cup. Includes past results and champions, photo gallery, qualifying times, application, information about ...
www.baa.org/ - Similar

Blog Network Monday Marathon | The Network Central, Scientific ...
Aug 2, 2011 ... I hope you had a great time over the weekend and are ready for the work week. Bloggers sure are! First, a bunch of updates on this ...
blogs.scientificamerican.com/.../blog-network-monday-marathon/ - Cached - Similar

Videos for marathon monday



Marathon Monday road closures
Apr 17, 2011
myfoxboston.com



Marathon Monday Boston ...
Apr 23, 2008
youtube.com



Marathon Monday! on Vimeo
Apr 21, 2010
vimeo.com

MBTA Prepared To Carry Thousands To The Boston Marathon
Apr 18, 2011 ... On Marathon Monday various bus routes on both the North and South sides will be diverted. Customers are urged to take public transportation ...
www.mbta.com/about_the_mbta/news_events/?id=21419... - Cached - Similar

Marathon Monday - Spike TV
During Marathon Monday, a BMS drinking tradition where the whole campus parties from 6 a.m. Monday to 6 a.m. Tuesday, Alex meets and hooks up with the ...
www.spike.com/.../blue-mountain-state-marathon-monday-season-1-ep-110 - Cached - Similar

Marathon Monday
Nov 7, 2011 ... Find a few fascinating facts, stats, and did-you-knows about the ING New York City Marathon, held Sunday, November 7.
familyfitness.about.com/b/2011/11/07/marathon-monday.htm - Cached - Similar

News for marathon monday



Final four compete in a 'DWTS' marathon - 1 hour ago
Just four couples remained at the start of Monday's "Dancing With the Stars," so what better way to fill two hours of air time than by having them perform ...
CNN (blog) - 499 related articles »
Presentation persuades Marathon High School students to stop ... - Wausau Daily Herald - 2 related articles »
Marathon Oil (MRO) Showing Resistance Near \$28.68 With 2.20 ... - Market Intelligence Center - 6 related articles »

Searches related to: marathon monday

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Sponsored Links

Boston Marathon - Marathon Results, Photos, and History - Boston ...
 Boston Marathon coverage including results, interactive course map, marathon news, and history on Boston.com.
 www.boston.com/sports/marathon/ - Similar

Marathon Monday | MIT Admissions
 Apr 19, 2011 ... **Marathon Monday**. Posted in: Life & Culture. Yesterday was the third Monday in April, meaning it's Patriots' Day (a holiday celebrated almost ...
 mitadmissions.org/blogs/entry/marathon_monday - Cached - Similar

On Marathon Monday, Just Say Congratulations, Please - NYTimes ...
 Oct 19, 2010 ... I walked into my office last Nov. 2, the day after the New York City Marathon, feeling pretty good about myself. Actually, I limped in, to be precise ...
 marathons.blogs.nytimes.com/.../on-marathon-monday-just-say-congratulations-please/ - Cached - Similar

TV Land airs 'Roseanne' Halloween marathon Monday night ...
 Oct 31, 2011 ... Read 'TV Land airs 'Roseanne' Halloween marathon Monday night' on Yahoo! News. LOS ANGELES (TheWrap.com) - Few sitcoms have ever ...
 news.yahoo.com/tv-land-airs-roseanne-halloween-marathon-monday-night-231123531.html - Cached - Similar

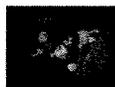
Monday Marathon! - EUREKA UNSCRIPTED
 Aug 25, 2011 ... Carter's excited, and you should be too! This Monday, August 29, there will be a Eureka marathon on Syfy! Tune in at noon for the Season 4.0 ...
 eurekaunscripted.typepad.com/blog/2011/.../monday-marathon.html - Cached - Similar

All You Need to Know About Marathon Monday - Natick, MA Patch
 Apr 17, 2011 ... Stay informed on what's going on in town Monday for the Boston Marathon.
 natick.patch.com/.../all-you-need-to-know-about-marathon-monday - Cached - Similar

"Blue Mountain State" Marathon Monday (TV episode 2010) - IMDb
 Rating: 7.8/10 - 47 votes
 Directed by Jay Chandrasekhar. With Darin Brooks, Gabrielle Dennis, Sam Jones III, Alan Ritchson.
 www.imdb.com/title/tt1600234/ - Cached - Similar

2012 Boston Marathon Registration Begins Monday « CBS Boston
 Sep 6, 2011 ... Mark your calendar. Registration for the Boston Marathon begins Monday, September 12.
 boston.cbslocal.com/.../2012-boston-marathon-registration-begins-monday/ - Cached - Similar

Marathon Monday at Boston College - YouTube



3 min - Apr 23, 2008
 Uploaded by ksquil686
Marathon Monday by alexdecas50 views · Thumbnail 3:29. Add to ...
Marathon Monday at noon time...by xgodsmkfnx18 views · Thumbnail 1 ...
 www.youtube.com/watch?v=H0z2-vzP0ek

Marathon Monday: Running the Chicago Marathon for Charity - WGN
 Aug 15, 2011 ... While 20000 people were hitting the Rock 'n' Roll Half Marathon downtown, I was setting out on my longest training run yet - 15 miles.
 www.wgntv.com/.../wgntv-marathon-monday-running-for-charity-20110815,0,2817914.story - Cached - Similar

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Marathon Monday ! | Facebook
Marathon Monday ! - A page to promote Marathon Mondays as they appear in Blue Mountain State ! You drink from sun rise to sun rise ! | Facebook.
www.facebook.com/pages/Marathon-Monday-/391383900210 - Cached - Similar

Mr. G's Sunny Post-Marathon Monday Forecast
Nov 7, 2011 ... Mr. G's back is hurting a bit this morning but he toughed it out and finished the ING New York City Marathon yesterday. Congratulations to all ...
wcbfm.radio.com/.../mr-gs-sunny-post-marathon-monday-forecast/ - Cached - Similar

Marathon Monday | Fitness NYC
5 days ago ... I never really knew about marathon Mondays until this year. After running a few errands, we went to Niketown to get our medals engraved. ...
fitnessnyc.wordpress.com/2011/11/09/marathon-monday/ - Cached - Similar

Marathon Race Week Schedule ... - The ING New York City Marathon
Due to production deadlines, the special marathon section can only include those who have completed the race in under 4.5 hours. **Marathon Monday ...**
www.nycmarathon.org/schedule.htm - Cached - Similar

tales of a running mom: Marathon Monday
Apr 26, 2011 ... **Marathon Monday.** I've spent the last two boston recaps talking about all the fun/crazy/silly things that happened over the course of the ...
sarahsrunningadventures.blogspot.com/.../marathon-monday.html - Cached - Similar

Boston Athletic Association - BAA.org - Boston Marathon
Apr 18, 2011 ... Watch the 2011 Boston Marathon Live on WBZ-TV in Boston or Worldwide on UniversalSports.com. running people. ATHLETE TRACKING ...
raceday.baa.org/ - Cached - Similar

Marathon Monday - Dashing Whippets Running Team (New York ...
Oct 20, 2011 ... Let's get together, nice and early, to celebrate! (and then go flaunt our medals to our coworkers, friends and family!) Info from the site: **Marathon ...**
www.dashingwhippets.org/events/38047822/ - Cached - Similar

Marathon Monday ranked one of best college traditions | The Daily ...
10 hours ago ... When April rolls around, many Boston University students look forward to two things: warmer weather and Boston's annual **Marathon Monday.** ...
dailyfreepress.com/.../marathon-monday-ranked-one-of-best-college-traditions/ - Cached - Similar

Videos for marathon monday



Lasell college marathon Monday 2011 - YouTube
1 min - Apr 20, 2011
Uploaded by weymouth4792x
www.youtube.com/watch?v=Jui9CikY2RM



Marathons Runner's Monday Morning at Work - YouTube
6 min - Feb 8, 2011
Uploaded by jamesrichardadams80
www.youtube.com/watch?v=HMN6umXom0s

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Blue Mountain State: Marathon Monday Episode Summary - TV.com
 Blue Mountain State season 1 episode 10 **Marathon Monday** recaps, reviews & episode guide.
www.tv.com/shows/blue-mountain.../marathon-monday-1332850/ - Cached - Similar

Marathon Monday Madness | Little Time Machine
Marathon Monday Madness. 5 September, 2011. On Sunday I met with the RNLI in New Brighton again. This time I Was photographing their lifeboat training and ...
www.littletimemachine.com/gallery!.../marathon-monday-madness/ - Cached - Similar

Marathon Monday: It's Patriots Day | Hubbub
 Apr 18, 2011 ... If you woke up to police barrier blocking you from your favorite Dunkin' Donuts, you're not the only one. Today marks the 115th Boston ...
hubbub.wbur.org/2011/04/18/marathon-monday - Cached - Similar

Marathon Monday - Wellesley Police
 The 113th running of the Boston **Marathon** will occur on **Monday**, April 20, 2009. A major portion of the route, including the half-way point, runs through Wellesley ...
www.wellesleypolice.com/index.cfm?cid=10723&pid=10310 - Cached - Similar

Marathon Monday - Amazon.com
 Amazon.com: Blue Mountain State: Season 1, Episode 10 "**Marathon Monday**": Amazon Instant Video.
www.amazon.com/Marathon-Monday/dp/B003BON892 - Cached - Similar

Historic Marathon Wraps Up With Monday Press Conference ...
 Historic **Marathon** Wraps Up With **Monday** Press Conference. **Monday**, 07 November 2011 15:07. Written by Barbara Huebner. It was day of superlatives Sunday ...
www.nyrrmedia.org/Marathon.../historic-marathon-wraps-up-with-monday-press-conference.html - Cached - Similar

Boston Marathon 2011/2012: The oldest annual city Marathon ...
 The 2011 Boston **Marathon** on April 18, 2011, attracted 26895 entrants and about 500000 spectators. The 2012 version is held on Patriot's Day, **Monday**, April ...
www.adventure-marathon.com/Boston-Marathon.aspx - Cached - Similar

Marathon Monday - 2011 Boston Marathon | News | Flotrack
 Apr 17, 2011 ... Watch more video of 2011 Boston **Marathon** on flotrack.org **BOSTON MARATHON LIVE TODAY BOSTON**, 2011 - It has been 26 years since the ...
www.flotrack.org.../5980-Marathon-Monday-2011-Boston-Marathon - Cached - Similar

Marathons and Temporary Heart Damage | Mark's Daily Apple
 Nov 1, 2011 ... And now... the inaugural **Monday** Musing... **Marathon** running is supposed to be good for you, which is why so many people (intend to) do it. ...
www.marksdailyapple.com/marathon-heart-damage/ - Cached - Similar

Nan Kennard a Big Fan of Marathon Monday | Boston Marathon
 Apr 16, 2011 ... by Scott Douglas Here's one thing Nan Kennard has going for her: She doesn't have to worry about feeling horrible on a pre-**marathon** run on ...
bostonmarathon.runnersworld.com.../nan-kennard-a-big-fan-of-marathon-monday.html - Cached - Similar

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