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

Proceeding	91202562
Party	Plaintiff Boston Athletic Association
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Date	11/05/2012
Attachments	marathon monday pretrial discl.PDF ( 3 pages )(104641 bytes )

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

Boston Athletic Association,	)	
	)	
Opposer	)	
	)	
v.	)	Opposition No. 91/202562
	)	
Velocity, LLC,	)	
	)	
Applicant	)	

**OPPOSER BOSTON ATHLETIC ASSOCIATION’S PRETRIAL DISCLOSURES**

Opposer Boston Athletic Association (“Opposer”) hereby provides its pretrial disclosures to Applicant Velocity, LLC pursuant to 37 C.F.R. §2.121 (e) and TMBP § 702.1 as follows:

**I. OPPOSER’S TRIAL WITNESSES WHO MAY BE CALLED TO TESTIFY**

Opposer identifies the following individuals from whom it intends to take testimony or may take testimony if the need arises during its testimony period of this opposition proceeding and provides herein a general summary of the subjects on which such witnesses are expected to testify:

1. Jack Fleming  
Director of Marketing and Communications  
Boston Athletic Association  
40 Trinity Place, 4<sup>th</sup> Floor  
Boston, MA 02116

Mr. Fleming may testify regarding the organizing and promotion of the Boston Marathon by Opposer on Marathon Monday, the goods and services provided by Opposer and its licensees in association with its marks, including BOSTON MARATHON, Opposer's marketing and communications regarding the Boston Marathon on Marathon Monday, the recognition of the term MARATHON MONDAY by the Opposer and the parties with which it works regarding the Boston Marathon, the recognition of the term MARATHON MONDAY by the public and by vendors as the name of the day on which the Boston Marathon is held, and Opposer's prior relationship with Applicant.

## **II. TYPES OF DOCUMENTS AND THINGS THAT OPPOSER MAY INTRODUCE DURING THE TESTIMONY OF ITS TRIAL WITNESSES**

Opposer identifies the following general summary of the types of documents and things which may be introduced as exhibits during the testimony of Opposer's witness during its testimony period of this opposition proceeding:

- A. Documents evidencing the dates of first use of the term MARATHON MONDAY by Applicant.
- B. Documents relating to opposer's website, [www.baa.org](http://www.baa.org).
- C. Documents relating to correspondence between Opposer and its representatives and Applicant and its representatives.
- D. Documents evidencing the descriptive nature of the phrase "Marathon Monday."
- E. Documents evidencing the use by others of the term MARATHON MONDAY to describe the Monday in April on which the Boston Marathon is run.

- F. Documents evidencing the term MARATHON MONDAY's association with Opposer.
- G. Documents showing use by others of the term MARATHON MONDAY to promote their goods and services.
- H. Documents produced by the parties during this opposition proceeding.

BOSTON ATHLETIC ASSOCIATION  
By its attorneys,



Michael J. Bevilacqua  
Barbara A. Barakat  
Wilmer Cutler Pickering Hale and Dorr LLP  
60 State Street  
Boston, Massachusetts 02109  
(617) 526-6000

Date: November 5, 2012

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposer's Pretrial Disclosures were served by first-class mail, postage-prepaid, this 5<sup>th</sup> day of November, 2012 upon:

Andrea J. Mealey  
Hinckley Allen & Snyder LLP  
28 State Street  
Boston, MA 02109-1775



Barbara A. Barakat