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Filing date: **09/23/2013**

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

Proceeding	91202562
Party	Defendant Velocity, LLC
Correspondence Address	ANDREA J MEALEY HINCKLEY ALLEN & SNYDER LLP 28 STATE ST BOSTON, MA 02109-1775 UNITED STATES amealey@haslaw.com, tmdocket@haslaw.com
Submission	Defendant's Notice of Reliance
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Signature	/Andrea J Mealey/
Date	09/23/2013
Attachments	Applicant's Second Notice of Reliance.PDF(80185 bytes ) Fleming Deposition.pdf(1758220 bytes ) Fleming Exhibits_Part1.pdf(2091903 bytes ) Fleming Exhibits_Part2.pdf(2080438 bytes ) Fleming Exhibits_Part3.pdf(399333 bytes )

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

_____	)	
Boston Athletic Association,	)	
	)	
Opposer,	)	Opposition No.: 91202562
	)	Application No.: 85/224698
v.	)	Mark: MARATHON MONDAY
	)	Class: 25
Velocity, LLC	)	
	)	
Applicant.	)	
_____	)	

**APPLICANT'S SECOND NOTICE OF RELIANCE**

Notice is hereby given pursuant to 37 C.F.R. § 2.122(e), that Applicant, Velocity, LLC, introduces as evidence and relies upon Opposer's Deposition of John Fleming dated June 27, 2013 and the exhibits attached thereto, submitted with this Notice of Reliance and Trial Exhibit 30.

Dated: September 23, 2013

VELOCITY, LLC  
By its attorneys,  
/Andrea J. Mealey/  
Andrea J. Mealey  
Hinckley Allen & Snyder LLP  
28 State Street  
Boston, MA 02109  
Ph: 617-342-9000

**CERTIFICATE OF FILING**

The undersigns affirms that the foregoing APPLICANT'S SECOND NOTICE OF RELIANCE was filed with the Trademark Trial and Appeal Board via the ESTTA electronic filing system on the date shown below.

Dated: September 23, 2013

/Andrea J. Mealey/  
Andrea J. Mealey

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of August 2013, I served a true and accurate copy of the foregoing Applicant's Second Notice of Reliance via first class mail, postage prepaid upon Counsel for Opposer addressed as follows:

Barbara A. Barakat  
Wilmer Cutler Pickering Hale and Dorr, LLP  
60 State Street  
Boston, MA 02109

/Andrea J. Mealey/  
Andrea J. Mealey

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

_____	)	
Boston Athletic Association,	)	
	)	
Opposer,	)	Opposition No.: 91202562
	)	Application No.: 85/224698
v.	)	Mark: MARATHON MONDAY
	)	Class: 25
Velocity, LLC	)	
	)	
Applicant.	)	
_____	)	

**APPLICANT'S SECOND NOTICE OF RELIANCE**

**TRIAL EXHIBIT 30**

**In the Matter Of:**

**BOSTON ATHLETIC ASSOC vs. VELOCITY**

91202562

---

**JOHN FLEMING**

*June 27, 2013*

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
BOSTON ATHLETIC ASSOCIATION,  
Opposer, Opposition No.: 91202562  
vs. Application Ser. No.: 85/224698  
VELOCITY, LLC, Mark: MARATHON MONDAY  
Applicant. Class: 25

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DEPOSITION OF  
JOHN FLEMING  
June 27, 2013  
9:36 a.m.

Wilmer Cutler Pickering Hale and Dorr LLP  
60 State Street  
Boston, Massachusetts

Ayako Odanaka, CRR, RPR, CSR No. 147904

1 APPEARANCES OF COUNSEL

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EXAMINATION

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5 CafePress Web Page Printout

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6 Marathon Monday Google Search Results

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7 Web Page Printout entitled Marathon Monday -  
Restaurants on the Boston Marathon Route

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(Original exhibits attached to original transcript)

1 DEPOSITION OF

2 JOHN FLEMING

3 (Exhibit-1, Notice of Deposition; Exhibit-2,

4 Web Article entitled The Signs of Marathon Monday;

5 Exhibit-3, Marathon Sports Web Page Printout; Exhibit-4,

6 Medford Patch Web Page Printout; Exhibit-5, CafePress Web

7 Page Printout; Exhibit-6, Marathon Monday Google Search

8 Results; Exhibit-7, Web Page Printout entitled Marathon

9 Monday - Restaurants on the Boston Marathon Route;

10 Exhibit-8, Web Page Printout entitled Marathon Monday;

11 Exhibit-9, Web Page Printout entitled Marketing on

12 Marathon Monday; Exhibit-10, Museum of Science Web Page

13 Printout; Exhibit-11, Web Page Printout entitled Sneaker

14 Alert: Marathon Monday; Exhibit-12, Web Page Printout

15 entitled Carbo-load or Marathon Monday Brunch; Exhibit-13,

16 Blog Post entitled Marathon Monday; Exhibit-14, Urban

17 Dictionary Definitions; Exhibit-15, Poem; Exhibit-16,

18 Smithsonian Web Page Printout; Exhibit-17, Puma Web Page

19 Printout; Exhibit-18, Web Article entitled MGHers Gear Up

20 for Marathon Monday; Exhibit-19, Daytona Beach Morning

21 Journal Article dated 4/19/70; Exhibit-20, Honolulu

22 Star-Bulletin Article; Exhibit-21, Tufts University

23 President's Web Page Printout; Exhibit-22, Melrose Mirror

24 Article; Exhibit-23, Harvard University Gazette Article;

1 Exhibit-24, Web Page Printout entitled Marathon Monday  
2 Plans; Exhibit-25, Finagle a Bagel Menu, premarked for  
3 identification).

4

5 JOHN FLEMING, the deponent, having been  
6 satisfactorily identified and duly sworn by the Notary  
7 Public, was examined and testified as follows:

8

9 EXAMINATION

10 BY-MR.SEEVE:

11 Q. Hi. Just to identify myself, my name is Brian  
12 Seeve of WilmerHale, and with me here is Michael  
13 Bevilacqua, also of WilmerHale, representing the Boston  
14 Athletic Association.

15 Would you state your name for the record, please?

16 A. John Fleming.

17 Q. Thank you.

18 Have you ever had your deposition taken,

19 Mr. Fleming?

20 A. No.

21 Q. I'm just going to go through a couple of ground  
22 rules. I'm going to ask you a series of questions. Try  
23 to answer as best you can, to the best of your ability.

24 The court reporter is going to take down

1 everything that I say and everything that you say and  
2 everything that Mr. Bross says. Please respond to  
3 questions verbally, if you would, no nodding or shaking  
4 your head, just so we can have a complete record.

5 And I just -- just realized as I said this that  
6 Mr. Bross hasn't introduced himself on the record.

7 MR. BROSS: Yes. My name is Mark Bross. I'm  
8 here for the applicant, Velocity, and I am from Hinckley,  
9 Allen & Snyder.

10 MR. SEEVE: Thanks.

11 BY MR. SEEVE:

12 Q. Before we go on, I just want to let you know that  
13 this isn't an endurance contest. Any time you feel like  
14 you want to take a break or get up or walk around or get a  
15 cup of coffee, just let me know and we can take a break.

16 A. (Deponent nodding).

17 Q. So, Mr. Fleming, are you aware that you're under  
18 oath?

19 A. I am.

20 Q. And that you have an obligation to answer these  
21 questions truthfully and to the best of your ability?

22 A. Yes.

23 Q. And right now, are you under the influence of any  
24 medication, or for any other reason would your ability to

1 testify truthfully be impaired?

2 A. No.

3 Q. I'd like to put in front of you what has been  
4 marked as Exhibit 1.

5 A. (Deponent viewing document).

6 MR. BROSS: Thank you.

7 MR. SEEVE: Mm-hmm.

8 BY MR. SEEVE:

9 Q. Do you recognize Exhibit 1?

10 A. (Deponent viewing document). Yes.

11 MR. SEEVE: I'll represent for the record  
12 that Exhibit 1 is a notice of deposition pursuant to Rule  
13 30 of the Federal Rules of Civil Procedure that was served  
14 upon Velocity, LLC.

15 BY MR. SEEVE:

16 Q. Are you appearing today pursuant to that  
17 deposition notice, Mr. Fleming?

18 A. I am.

19 Q. Thank you.

20 Who is your current employer?

21 A. The Boston Athletic Association.

22 Q. During this deposition, I may refer to the Boston  
23 Athletic Association as BAA or the BAA. Do you understand  
24 that when I say BAA or the BAA, that I'm referring to the

1 Boston Athletic Association?

2 A. Yes.

3 Q. What is your job title at the Boston Athletic  
4 Association?

5 A. Director of marketing and communications.

6 Q. I'm going to ask you a few questions about your  
7 educational history and your -- your personal history as  
8 well.

9 Where did you grow up?

10 A. New Orleans, Louisiana.

11 Q. And where did you attend high school?

12 A. Jesuit High School.

13 Q. Is Jesuit High School in New Orleans?

14 A. Yes, it is.

15 Q. And where did you attend college?

16 A. Boston College.

17 Q. For how many years did you attend Boston College?

18 A. Four.

19 Q. And did you receive a degree?

20 A. I did.

21 Q. And in what subject was your degree?

22 A. Both communications and economics.

23 Q. Did you work anywhere during college?

24 A. I worked during the summers for the

1 Times-Picayune Newspaper and Tulane University, among  
2 other things.

3 Q. Anywhere else?

4 A. Oh, Loyola University. I think that's it, yeah.

5 Q. And when did you graduate?

6 A. 1991.

7 Q. When you left college, what was your first job  
8 after that?

9 A. Worked for the sports department of the  
10 Times-Picayune Newspaper, worked in the athletic  
11 department at Tulane University, and I was also a coach at  
12 Isidore Newman High School.

13 Q. And when did you start working for the Boston  
14 Athletic Association?

15 A. December 29th, 1991.

16 Q. Are you aware that Velocity, LLC, has applied for  
17 a trademark on the phrase Marathon Monday?

18 A. Yes.

19 Q. During this deposition, I may refer to Velocity,  
20 LLC, as Velocity. Do you understand that when I say  
21 Velocity, I'm referring to Velocity, LLC?

22 A. Yes.

23 MR. SEEVE: I'd like to represent for the  
24 record that Velocity's application to trademark the phrase

1 Marathon Monday is U.S. Trademark Application Serial  
2 Number 95/224698 [sic].

3 BY MR. SEEVE:

4 Q. Have you heard the term Marathon Monday before?

5 A. Yes.

6 Q. What does the term Marathon Monday refer to?

7 MR. BROSS: Objection, vague.

8 A. It refers to the Boston Marathon.

9 Q. Why is the Boston Marathon called Marathon  
10 Monday?

11 A. Because the Boston Marathon is held annually on  
12 the third Monday in April each year. Has been the case  
13 since 1968.

14 Q. Do you know how long the term Marathon Monday has  
15 been used to refer to the Boston Marathon?

16 A. Since 1968.

17 Q. How many people come to watch the Boston Marathon?

18 A. On site annually, it's estimated 500,000 along  
19 the course.

20 Q. Is the Boston Marathon broadcast on television?

21 A. It is broadcast live locally, nationally and  
22 internationally to more than 125 countries annually.

23 Q. And do you have any sense of how many viewers  
24 watch the Boston Marathon on television nationally and

1 internationally?

2 A. More than tens of millions. Probably more  
3 than -- Closer to a hundred to 200 million  
4 internationally.

5 Q. What does the Boston Athletic Association or the  
6 BAA do?

7 A. We are a nonprofit organization that promotes  
8 fitness through events, especially running events, and our  
9 major event is the Boston Marathon -- or our premier event  
10 is the Boston Marathon.

11 Q. So if there were one event for which you would  
12 say the BAA is best known, it would be the Boston Marathon?

13 A. That's correct.

14 Q. What do your job responsibilities at the BAA  
15 entail?

16 A. I'm responsible for licensing, sponsorship,  
17 marketing, internal and external communications. Those  
18 are the major responsibilities.

19 Q. Have your responsibilities evolved over the years  
20 since you joined in 1991?

21 A. Yes.

22 Q. In what way?

23 A. I began as an assistant -- Actually, I began as  
24 an intern. Then I was an assistant media communication --

1 media coordinator -- sorry, assistant media coordinator.  
2 Then I was the media coordinator. Then I was the  
3 promotions manager. Then I was the communications and  
4 promotions manager, and then I became the -- a  
5 communications director and then the marketing and  
6 communications director.

7 Q. And for how long have you had the title marketing  
8 and communications director at the BAA?

9 A. I believe after 2006, probably seven years.

10 Q. So ever since 2006, you've had that title?

11 A. Yes.

12 Q. Does the BAA sell any goods or merchandise?

13 A. We do.

14 Q. What goods?

15 A. I'm sorry. We license our name for the sale of  
16 goods.

17 Q. What -- What goods are sold for which you license  
18 your name?

19 A. Wide-ranging spectrum from T-shirts, apparel,  
20 accessories, lithographs, posters, fine jewelry, office  
21 gift items, replica signage. And under that first  
22 category, which is the largest, meaning the apparel, maybe  
23 50 items from shorts, jackets, eye wear, wrist watches,  
24 socks, soft goods.

1 Q. Approximately what percentage of the goods  
2 that -- to which you -- Sorry. Let me try that one again.

3 Approximately what percentage of the goods for  
4 which you license your name are associated with the Boston  
5 Marathon?

6 A. 99.5 percent.

7 Q. And as marketing and communications director, do  
8 you have a sense of who the typical purchaser of the BAA's  
9 licensed goods is?

10 A. Yes.

11 Q. Can you describe the typical purchaser?

12 A. A running enthusiast, current participant, past  
13 participant, family of someone who has participated in the  
14 Boston Marathon or previously participated in the Boston  
15 Marathon.

16 Also, there's an affinity within the local  
17 community so there's interest beyond strictly  
18 participants, so community members, especially in this  
19 geographical area.

20 Q. Would it be correct to say that in the local  
21 community especially, a large number of purchasers are not  
22 direct participants in the Boston Marathon, but spectators  
23 and generally fans?

24 A. Yes.

1 Q. And is that true nationally as well or --

2 A. We do sell nationally, yes.

3 Q. Approximately what percentage of your sales are  
4 in the local area, local to Boston?

5 A. There are -- The majority of the sales are --  
6 occur locally on the occasion of the Boston Marathon.  
7 There is also -- There are also online sales which are  
8 national throughout the year, and in the lead-up, I would  
9 say 90 percent of the sales are on the occasion of Boston  
10 Marathon weekend each year.

11 Q. So the BAA grants licenses to third parties to  
12 produce BAA-associated goods; is that correct?

13 A. That's correct. We license our name, logo and  
14 marks.

15 Q. To whom have you licensed your name, logo and  
16 marks for the production of goods?

17 A. Adidas, Marathon Photo, Fond Memories, AMI,  
18 Long's Jewelers. Was there anybody -- That's for the  
19 production of goods. We license our name in other areas  
20 for other reasons.

21 Q. Do any of those third parties that you just named  
22 have exclusive licenses to produce particular types of  
23 goods?

24 A. Yes.

1 Q. Which ones?

2 A. Adidas is exclusively licensed to produce  
3 apparel, accessories, footwear with the Boston Marathon  
4 name and logo and marks.

5 Q. You mentioned earlier that the BAA organizes the  
6 Boston Marathon; is that correct?

7 A. Yes.

8 Q. How long has the BAA organized the Boston  
9 Marathon?

10 A. Since the race's inception in 1897.

11 Q. 1890 -- So for 115 years --

12 A. 117 years.

13 Q. -- approximately?

14 117 years. That's a long time.

15 And for the -- for the past 40-plus years, the  
16 marathon's been held on the Monday -- the third Monday of  
17 April; is that correct?

18 A. That's correct.

19 Q. When did you first hear the term Marathon Monday?

20 MR. BROSS: Objection.

21 A. I, myself?

22 Q. Yeah.

23 A. When I was -- As a running -- As a person who  
24 followed running, but also living in New Orleans where I'm

1 originally from, I can recall in the spring of 1987 being  
2 very aware that the Boston Marathon on Monday was now on  
3 ESPN. That was a huge -- of huge significance because  
4 ESPN was carrying the Boston Marathon on Monday. So I was  
5 aware of it almost for -- for most of my life.

6 Q. So in 1987 was the first time you heard the term?

7 A. I think so.

8 Q. So is it safe to say that you heard the term long  
9 before you ever heard that Velocity, LLC, was attempting  
10 to trademark the term Marathon Monday?

11 A. Yes.

12 Q. And in 1987, were you in high school in New  
13 Orleans at that time?

14 A. Yes. I can -- Yeah. I can recall distinctly the  
15 promotions by ESPN that the Boston Marathon was going to  
16 be occurring on Marathon Monday and tune in to watch. And  
17 though it was not a holiday in New Orleans, I was either  
18 home from school because I was either sick or something of  
19 the -- of the sort, and recall -- distinctly remember  
20 watching the Boston Marathon on that Monday and  
21 anticipating it in advance.

22 Q. And did you hear the term Marathon Monday that  
23 day on television?

24 A. I believe that I did. It was -- That was the --

1 That was the big deal about it, that ESPN was now  
2 broadcasting the Boston Marathon and it was on a Monday.

3 Q. And after 1987, when you went to Boston College  
4 between 1987 and 1991, did you ever hear the term Marathon  
5 Monday during those years?

6 A. Yes.

7 Q. And what -- what was it used to refer to?

8 A. Going to school locally at Boston College, it  
9 is and -- it was and is a holiday and so it was eagerly  
10 anticipated. I believe it still is eagerly anticipated by  
11 Boston College and was a -- participated in some way in  
12 the Boston Marathon each of my four years there, whether  
13 it be as an intern, as a volunteer, as a spectator.

14 Q. And during that time, did you ever hear the term  
15 Marathon Monday used in a way that was not associated with  
16 the Boston Marathon?

17 MR. BROSS: Objection, ambiguous, vague.

18 A. No.

19 Q. So every time during those four years when you  
20 were -- you were in college at Boston College, every time  
21 you heard Marathon Monday, you understood that to refer to  
22 the Boston Marathon?

23 A. Yes.

24 MR. BROSS: Objection, ambiguous.

1 BY MR. SEEVE:

2 Q. Is there currently any business relationship  
3 between Velocity and the BAA?

4 A. No.

5 Q. Has there ever been any business relationship  
6 between Velocity and the BAA?

7 A. Yes.

8 Q. What sort of business relationship?

9 MR. BROSS: Objection, ambiguous.

10 A. We have -- had previously used Velocity to screen  
11 and embroider certain apparel items which we would use  
12 promotionally as opposed to for retail. So these are --  
13 Promotional refers to items that are distributed free  
14 to -- whether it be participants in our race, our  
15 organization because they're a participant or to the  
16 volunteer corps or to the organizing committee or to the  
17 staff.

18 Q. And when did you first grant the license to  
19 produce these goods that you just mentioned to Velocity?

20 MR. BROSS: Objection, ambiguous.

21 A. We did not ever grant a license to Velocity, but  
22 we did utilize Velocity to screen items that we needed to  
23 be screened on occasion.

24 Q. Did you ever utilize Velocity to produce an item

1 that was screened with the trademark Boston Marathon?

2 A. Yes. They -- Yes. They would be items that  
3 Velocity produced for the BAA's promotional use with  
4 Boston Marathon, the logo, the unicorn.

5 Q. Did you ever utilize Velocity to screen or  
6 produce any items branded with the Marathon Monday phrase?

7 A. No.

8 Q. And when did your business relationship with  
9 Velocity end?

10 MR. BROSS: Objection, vague.

11 A. Approximately two years ago. I don't have an  
12 exact date.

13 Q. Has the BAA ever been approached by Velocity or a  
14 representative of Velocity regarding the possibility of --  
15 of getting a license to produce further merchandise?

16 A. Yes.

17 Q. When was that?

18 A. Approximately two -- two, three years ago.

19 Q. Did you personally speak with a representative of  
20 Velocity --

21 A. I did.

22 Q. -- at that time?

23 Do you remember who?

24 A. His name, I believe, is C. Tuite. I'm not

1 exactly sure of the pronunciation of his last name.

2 Q. And what was Mr. Tuite's proposal at that time?

3 A. He wanted to -- He was inquiring about the  
4 possibility of Velocity producing items, specifically  
5 apparel items, with the Boston Marathon name and/or logo.

6 Q. And just to clarify, you mean with the name  
7 and/or logo, quote, Boston Marathon, end quote?

8 A. Yes, but he was also -- It was a sales call and  
9 he was interested in knowing whether we would be receptive  
10 to him selling Boston Marathon-related items.

11 Q. What was your response to Mr. Tuite's proposal?

12 A. I explained to him that while we were  
13 appreciative of the work that we had been doing with  
14 Velocity, in other words, the screening, the embroidery of  
15 our promotional items which would come as -- on occasion  
16 as blanks and they would screen and then we would take  
17 them back and distribute, that we had an exclusive  
18 relationship with Adidas in that area for any retail items  
19 or items sold at retail, and so we could not entertain --  
20 entertain giving a license to use the Boston Marathon  
21 name, logo, marks to anyone else in that space.

22 Q. So you refused Mr. Tuite's request --

23 A. Yes.

24 Q. -- for a license?

1 A. That's correct.

2 Q. And did -- Did you -- Sorry. Let me start that  
3 one again.

4 Did you have a counterproposal for Mr. Tuite at  
5 the time?

6 A. I simply told him that while we couldn't  
7 entertain anything in that space, meaning apparel,  
8 accessories and items that were in conflict with what we  
9 were doing exclusively with Adidas, that if he had  
10 nonconflicting items, then we could entertain something.

11 What's a nonconflicting item? That might be --  
12 Well, that was -- I didn't give a whole lot of  
13 suggestions. I just told him that there are a lot of  
14 items that exist, and if he wanted to come back with a  
15 proposal on nonconflicting items, then we could take a  
16 look.

17 Q. Did Mr. Tuite or anyone else from Velocity, LLC,  
18 ever come back with a proposal to license these  
19 nonconflicting items?

20 A. No. He told me that he was only interested in  
21 the T-shirts and apparel items.

22 Q. Are you aware of any further business dealings  
23 with Velocity, LLC, after that time that the -- Sorry.  
24 Let me ask that question again.

1           Are you aware that the BAA had any future  
2 business dealings after that time with Velocity, LLC?

3           A.    I am not aware of any future business that the  
4 BAA did with Velocity after that.

5           Q.    And you testified earlier that currently there is  
6 no business relationship of any kind between Velocity,  
7 LLC, and the BAA.

8           A.    That's correct.

9           Q.    Does the BAA own any trademarks related to the  
10 Boston Marathon?

11          A.    Yes.

12          Q.    Can you describe these trademarks?

13          A.    These are -- There's a series of trademarks that  
14 relate to the Boston Marathon name, logo, Boston Marathon  
15 itself that -- Is this what you mean?

16          Q.    Yeah. Yeah.

17          A.    Okay.

18          Q.    This is the sort of descriptions I was going for.

19          A.    Yes. The course map is -- is ours. The Johnny  
20 Kelley statue image is ours. There's a -- There's a  
21 number of marks that the Boston Athletic Association has  
22 registered and owns.

23          Q.    And one of the marks owned by the BAA is the  
24 phrase, quote, Boston Marathon, end quote. I think you

1 just mentioned that, correct?

2 A. Yes. That's the Number 1 item.

3 Q. And would you say that the phrases, quote, Boston  
4 Marathon, end quote, and the phrase, quote, Marathon  
5 Monday, end quote, are similar to each other?

6 MR. BROSS: Objection, calls for lay opinion.

7 A. Yes. In my mind, Marathon Monday refers  
8 specifically to the Boston Marathon.

9 Q. As the marketing and communications director of  
10 the BAA, would you say that the participants in the BAA's  
11 events, including the Boston Marathon, identify the Boston  
12 Marathon with the BAA?

13 A. Yes.

14 Q. And, again, as director of -- of communications  
15 and marketing, would you say that the spectators of the  
16 BAA's events, including the Boston Marathon, identify the  
17 Boston Marathon with the BAA?

18 A. Yes.

19 MR. BROSS: Objection, calls for lay opinion.

20 BY MR. SEEVE:

21 Q. And, again, you know, as director of  
22 communications and marketing at the BAA, would you say  
23 that the spectators of the BAA's events, including the  
24 Boston Marathon, identify the term, quote, Marathon

1 Monday, end quote, with the BAA?

2 MR. BROSS: Objection, calls for lay opinion.

3 A. Yes.

4 Q. And would you say that the spectators of the  
5 BAA's events, including the Boston Marathon, identify the  
6 term, quote, Marathon Monday, end quote, with the BAA?

7 MR. BROSS: Objection, calls for lay opinion.

8 A. Yes.

9 Q. And would you say that the purchasers of the  
10 merchandise that BAA is associated with identify the term,  
11 quote, Marathon Monday, end quote, with the BAA?

12 MR. BROSS: Objection, calls for lay opinion.

13 A. Yes.

14 Q. I'm putting in front of you a document that's  
15 been marked as Exhibit 2.

16 MR. SEEVE: Here's some extra copies.

17 MR. BROSS: Thank you.

18 A. (Deponent viewing document).

19 Q. Do you recognize Exhibit 2?

20 A. Yes. I recognize our course map and I -- Yes.

21 Q. I represent --

22 MR. BROSS: Just for a second, has this  
23 document been produced to us before?

24 MR. SEEVE: It has not.

1 MR. BROSS: Thank you.

2 BY MR. SEEVE:

3 Q. I represent that Exhibit 2 is an article printed  
4 from the website bostinno.streetwise.co at the URL printed  
5 at the top of Page 1 of Exhibit 2.

6 What is the title of the article in Exhibit 2?

7 A. (Deponent viewing document). The Signs of  
8 Marathon Monday.

9 Q. In this title, what does the phrase Marathon  
10 Monday refer to?

11 A. The Boston Marathon.

12 MR. BROSS: Objection, lacks foundation.

13 A. The -- Marathon Monday refers to the Boston  
14 Marathon.

15 Q. And why -- why do you believe that Marathon  
16 Monday in the title of the article in Exhibit 2 refers to  
17 the Boston Marathon?

18 A. Because it's specifically describing the Boston  
19 Marathon.

20 Q. And when you say, "it's specifically describing  
21 the Boston Marathon," are you -- are you referring to the  
22 article in Exhibit 2?

23 A. Both the headline and the article.

24 Q. Thank you.

1           And do you see under the title, The Signs of  
2 Marathon Monday, there's a date?

3           A.    (Deponent viewing document).  Yes.

4           Q.    What is that date?

5           A.    April 16th, 2011.

6           Q.    So I'm going to ask you to put Exhibit 2 aside  
7 for the moment.

8           A.    (Deponent complying).

9           Q.    I'm going to put in front of you a document  
10 that's been marked as Exhibit 3.

11          A.    (Deponent viewing document).

12          Q.    Do you recognize Exhibit 3?

13          A.    Yes.

14          Q.    What is Exhibit 3?

15          A.    This is the Marathon Sports website, Marathon  
16 Sports being a local retailer.

17                MR. SEEVE:  And I just like to represent for  
18 the record that this Exhibit 3 has been printed from the  
19 website [www.marathonsports.com](http://www.marathonsports.com) at the URL that you can see  
20 at the upper left of the first page of Exhibit 3.

21                BY MR. SEEVE:

22           Q.    Can you take just a moment to scan through  
23 this -- this [marathonsports.com](http://marathonsports.com) website that's in Exhibit  
24 3 and let me know when you're --

1 A. I have.

2 Q. And if you -- if you look at the paragraph that's  
3 second to last on Page 1 of Exhibit 3, do you see that  
4 that paragraph includes the phrase Marathon Monday?

5 A. (Deponent viewing document). Yes.

6 Q. And what does that phrase in the context of  
7 Exhibit 3 refer to?

8 MR. BROSS: Objection, lay opinion testimony,  
9 lacks foundation.

10 A. It refers unquestionably to the Boston Marathon.

11 Q. And why do you believe that it unquestionably  
12 refers to the Boston Marathon?

13 A. Because Marathon Monday is synonymous with the  
14 Boston Marathon.

15 Q. So if you could just put Exhibit 3 aside for the  
16 moment, I'm going to put in front of you a document that's  
17 been marked as Exhibit 4.

18 A. (Deponent viewing document).

19 Q. Do you recognize Exhibit 4?

20 A. I recognize the Medford Patch's website.

21 MR. SEEVE: I'd just like to represent for  
22 the record that Exhibit 4 is a web page that was printed  
23 from the website medford.patch.com from the URL that is  
24 located at the upper left-hand corner of the first page of

1 Exhibit 4.

2 BY MR. SEEVE:

3 Q. What is the title of the post in the website of  
4 Exhibit 4?

5 A. (Deponent viewing document). Marathon Monday  
6 MBTA Schedule Includes Medford Bus Line Reroutes.

7 Q. And in that title, you can see the phrase  
8 Marathon Monday, correct?

9 A. Correct.

10 Q. And what does that phrase in the title of the  
11 article in Exhibit 4 refer to?

12 MR. BROSS: Objection, lacks -- lay opinion  
13 testimony, lacks foundation.

14 A. Refers to the Boston Marathon.

15 Q. And why do you believe that the title of the post  
16 in Exhibit 4 refers to the Boston Marathon?

17 A. Because it's -- Because the article is describing  
18 the reroutes for the Boston Marathon.

19 Q. The title refers to the MBTA, correct?

20 A. Yes.

21 Q. And the MBTA is -- Do you know what the MBTA is?

22 A. Yes, I do.

23 Q. What is it?

24 A. The Massachusetts Bay Transportation Authority.

1 Q. It's the transportation authority that's  
2 responsible for transportation in the Boston area,  
3 correct?

4 A. Correct.

5 Q. Thank you.

6 I'm just going to put in front of you now a  
7 document that's been marked as Exhibit 5.

8 A. (Deponent viewing document).

9 MR. BROSS: Thank you.

10 BY MR. SEEVE:

11 Q. Actually, see that the pages of Exhibit 5 are  
12 actually out of order. Page 2 of 2, as you can see in the  
13 upper right, was -- which is marked as the first page and  
14 Page 1 of 2 is actually after that.

15 A. Okay. All right.

16 Q. So I'll refer to Page 1 of 2 here.

17 Do you recognize Page 1 of 2 of Exhibit 5?

18 A. (Deponent viewing document). I am familiar with  
19 the cafepress.com website.

20 Q. And this is a website that's selling merchandise;  
21 is that correct?

22 A. That's correct.

23 Q. And what merchandise is the website in Exhibit 5  
24 selling?

1 A. In this case, they are selling a T-shirt with a  
2 graphic which includes the text Marathon Monday.

3 Q. And it might be kind of difficult to see, but  
4 behind the text Marathon Monday, there's a graphic showing  
5 a skyline; is that correct?

6 A. (Deponent viewing document). Yes.

7 Q. And do you recognize the skyline that's shown  
8 there?

9 A. That's the Boston skyline with the Hancock and  
10 the Prudential Buildings, so -- from the Cambridge side.

11 Q. In your opinion, this phrase Marathon Monday as  
12 it appears on the front of this T-shirt, what does that  
13 refer to?

14 MR. BROSS: Objection.

15 A. It's referring --

16 MR. BROSS: Lacks foundation and lay opinion  
17 testimony.

18 A. It is referring to the Boston Marathon.

19 Q. And I'd like to direct your attention now to Page  
20 2 of 2 of Exhibit 5. Do you see, in the upper left,  
21 there's a little box with the phrase designed by?

22 A. (Deponent viewing document). Yes.

23 Q. Do you see that there's a date underneath the  
24 phrase designed by?

1 A. Yes.

2 Q. What is that date?

3 A. February 11, 2009.

4 Q. Thank you.

5 I'm putting in front of you now a document that's  
6 been marked as Exhibit 6.

7 A. (Deponent viewing document).

8 MR. BROSS: Thank you.

9 BY MR. SEEVE:

10 Q. Do you recognize Exhibit 6?

11 A. I recognize it as a Google page.

12 Q. I represent that Exhibit 6 is a website that  
13 represents a Google search of the phrase Marathon Monday.

14 Do you see the first search result --

15 A. (Deponent viewing document). Yes.

16 Q. -- that's shown in the website of Exhibit 6?

17 A. Yes.

18 Q. And what is that search result?

19 A. It's a search result from Urban Dictionary  
20 searching Marathon Monday and it refers to the Boston  
21 Marathon.

22 Q. Why -- Why do you think it refers to the Boston  
23 Marathon?

24 A. It describes the -- The Marathon Monday

1 description is the Boston Marathon.

2 Q. And is the description you're referring to the  
3 description immediately under the link to Urban  
4 Dictionary?

5 A. Yes.

6 Q. Can you read that description, please?

7 A. (Deponent viewing document). "Marathon Monday is  
8 often considered among Bostonians as the greatest day of  
9 each year. Falling on the third Monday of April, the  
10 marathon provide," and it continues.

11 Q. Thank you.

12 And the second search result, do you see that?

13 A. (Deponent viewing document). Yes.

14 Q. And what is that second search result?

15 A. From the BAA's own website.

16 Q. And it's a page entitled, Marathon Monday,  
17 correct?

18 A. Yes.

19 Q. And that phrase, Marathon Monday, on the BAA's  
20 own website is referring to the Boston Marathon; is that  
21 correct?

22 A. That's correct.

23 Q. On the third search result, do you see where it  
24 says, Boston Marathon, dash, Wikipedia, the free

1 encyclopedia?

2 A. (Deponent viewing document). Yes.

3 Q. And do you know what this link is referring to?

4 A. The Boston Marathon description on Wikipedia  
5 references the term Marathon Monday and how -- how we  
6 refer to it.

7 Q. So in the -- Just so I can understand your answer  
8 better, in the Wikipedia link titled Boston Marathon, it  
9 mentions the phrase Marathon Monday, correct?

10 A. Correct.

11 MR. BROSS: Objection, leading.

12 BY MR. SEEVE:

13 Q. And it's your understanding that this phrase,  
14 Marathon Monday, refers to the Boston Marathon?

15 MR. BROSS: Objection, leading.

16 A. It absolutely refers to the Boston -- Marathon  
17 Monday in the Wikipedia absolutely refers to the Boston  
18 Marathon.

19 Q. Okay. Then down a little further on Page 1 of  
20 Exhibit 6, do you see a link titled Videos for Marathon  
21 Monday?

22 A. (Deponent viewing document). I do.

23 Q. And the first video that's linked there, you see  
24 it's entitled, Marathon Monday Road Closures?

1 A. Yes, I see that.

2 Q. And do you see that the URL corresponding to that  
3 link has a website of www.myfoxboston.com?

4 A. (Deponent viewing document). Yes.

5 Q. In this link, what does the title -- Let me start  
6 that question again.

7 In the title of this link, what does the phrase  
8 Marathon Monday refer to, in your opinion?

9 MR. BROSS: Objection, lacks foundation.

10 A. It -- It refers to the Boston Marathon.

11 Q. Why do you think that's the case?

12 A. Because the URL -- the extended URL with Marathon  
13 Monday is giving the road closures for the Boston  
14 Marathon.

15 Q. And right under the search box, again at the top  
16 of this exhibit, you see in the search field the phrase,  
17 quote, Marathon Monday, end quote?

18 A. (Deponent viewing document). At the very top?

19 Q. I'm sorry. To the -- To the right of the Google  
20 logo.

21 A. Yes, in the search box.

22 Q. And do you see right under the search box --

23 A. Yes.

24 Q. -- the text, "About 288,000 results"?

1 A. Yes.

2 Q. In your opinion -- Actually, I'm just going to  
3 put aside Exhibit 6.

4 Moving on, I'm putting a document in front of you  
5 that's been marked as Exhibit 7.

6 A. (Deponent viewing document).

7 MR. BROSS: Thank you.

8 BY MR. SEEVE:

9 Q. Do you recognize the document that's been marked  
10 as Exhibit 7?

11 A. I do not recognize this document.

12 MR. SEEVE: I would represent for the record  
13 that this is a web page that has been printed out from the  
14 website [www.nosincererlove.com](http://www.nosincererlove.com) --

15 MR. BROSS: Objection to the document, lacks  
16 foundation.

17 MR. SEEVE: -- at the URL that you can see at  
18 the bottom of the page, of every page of Exhibit 7.

19 BY MR. SEEVE:

20 Q. What is the title of -- of this web page?

21 A. Marathon Monday Restaurants on the Boston  
22 Marathon Route.

23 Q. Would you just take a second to skim the contents  
24 of Exhibit 7 and let me know when you're done?

1 A. (Deponent viewing document). Okay.

2 Q. What is the article in Exhibit 7 about?

3 MR. BROSS: Objection. The document speaks  
4 for itself.

5 A. It's about restaurants on the Boston Marathon  
6 route and making suggestions where people might want to  
7 eat on race day, which is Marathon Monday.

8 Q. And the phrase Marathon Monday, as it appears in  
9 the title, refers to race day?

10 MR. BROSS: Objection, lay opinion testimony,  
11 lacks foundation.

12 A. Yes, it refers to race day, the Boston Marathon.

13 Q. Thank you.

14 Now, I'm putting in front of you a document  
15 that's been marked as Exhibit 8.

16 A. (Deponent viewing document).

17 Q. Do you recognize this document?

18 A. I do not recognize this document.

19 MR. SEEVE: I represent that this document is  
20 a web page that has been printed out from the website  
21 [www.ameribev.org](http://www.ameribev.org) at the URL that is shown at the bottom of  
22 every page.

23 MR. BROSS: Objection, lack -- to document,  
24 lack of foundation.

1 BY MR. SEEVE:

2 Q. What is the title of this post that you can see  
3 in Exhibit 8?

4 A. (Deponent viewing document). Marathon Monday.

5 Q. And if you can -- could, take just a step to skim  
6 the contents of Exhibit 8 and let me know when you're  
7 done.

8 A. (Deponent viewing document). Okay.

9 Q. What does Exhibit 8 -- Let me start that question  
10 again.

11 What is the subject of the article in Exhibit 8?

12 MR. BROSS: Objection, hearsay, lack of  
13 foundation and calling for lay opinion testimony.

14 A. (Deponent viewing document). It's referencing  
15 the fact that Marathon Monday is the day of the Boston  
16 Marathon.

17 Q. Do you believe that the term Marathon Monday, as  
18 appears in the title, is referring to the Boston Marathon?

19 MR. BROSS: Objection, hearsay, lay opinion  
20 testimony, lack of foundation.

21 A. It does refer to the Boston Marathon.

22 Q. I'm putting a document in front of you that's  
23 marked Exhibit 9.

24 A. (Deponent viewing document).

1 Q. Do you recognize this document?

2 A. I do not recognize this document.

3 MR. SEEVE: I represent that this document is  
4 a web page printed out from the website www.360prblog.com  
5 at the URL printed at the bottom of every page of Exhibit  
6 9.

7 MR. BROSS: Objection to document, lack of  
8 foundation.

9 BY MR. SEEVE:

10 Q. Could you just take a moment to skim the contents  
11 of Exhibit 9 and let me know when you're done?

12 A. (Deponent viewing document). Okay.

13 Q. What is the subject of the document that is  
14 marked Exhibit 9?

15 MR. BROSS: Objection, hearsay, lack of  
16 foundation and lay opinion testimony.

17 A. Marketing on Marathon Monday.

18 Q. And the term Marathon Monday, as you just used it  
19 there, does that refer to the Boston Marathon?

20 MR. BROSS: Objection, hearsay, lay opinion  
21 testimony, lack of foundation.

22 A. Yes. The article refers to how sponsors and  
23 companies are receiving exposure at the Boston Marathon.

24 Q. And at the bottom of the first page of Exhibit 9,

1 do you see a date?

2 A. (Deponent viewing document). Yes.

3 Q. What is that date?

4 MR. BROSS: Objection, hearsay, lay opinion  
5 testimony, lack of foundation.

6 A. July 26th, 2012.

7 Q. And just above that, do you see the phrase,  
8 "Posted on April 21st, 2008"?

9 A. (Deponent viewing document). I do.

10 MR. BROSS: Objection, hearsay.

11 BY MR. SEEVE:

12 Q. I'm now putting in front of you a document that's  
13 been marked Exhibit 10.

14 A. (Deponent viewing document).

15 MR. BROSS: Thank you.

16 BY MR. SEEVE:

17 Q. Do you recognize Exhibit 10?

18 A. I do.

19 Q. What is Exhibit 10?

20 MR. BROSS: Objection, lay opinion testimony,  
21 lack of foundation.

22 A. It is the Museum of Science's website.

23 Q. And what is the subject of the particular web  
24 page from the Museum of Science's website that's shown in

1 Exhibit 10?

2 MR. BROSS: Objection, hearsay.

3 A. (Deponent viewing document). The title on that  
4 web page is Boston Marathon Week.

5 Q. Do you see, in the second paragraph of the text  
6 on Page 1 of Exhibit 10, the phrase Marathon Monday?

7 A. (Deponent viewing document). Yes.

8 MR. BROSS: Objection, hearsay.

9 A. I do see that.

10 Q. Based on your understanding of what this document  
11 is about, what does that phrase Marathon Monday refer to  
12 in the context of Exhibit 10?

13 MR. BROSS: Objection, hearsay, lay opinion  
14 testimony, lack of foundation.

15 A. It refers to the Boston Marathon.

16 Q. And why do you think -- Why do you think it  
17 refers to the Boston Marathon?

18 MR. BROSS: Objection, hearsay, lay opinion  
19 testimony.

20 A. Because it's specifically referring to the Boston  
21 Marathon and encouraging people to look for the museum's  
22 team of marathon runners.

23 Q. And this website is about Boston Marathon week;  
24 is that correct?

1 A. That's correct.

2 MR. BROSS: Objection, leading, hearsay.

3 A. That's correct.

4 Q. And when, based on this document, did Boston  
5 Marathon week take place?

6 MR. BROSS: Objection, hearsay.

7 A. In the week leading up to and concluding with the  
8 Boston Marathon.

9 Q. And do you see a section entitled Schedules near  
10 the bottom of the page?

11 A. (Deponent viewing document). Yes, I do.

12 Q. And is the week leading to the -- Let me start  
13 this again.

14 Do the dates shown beneath the word schedules  
15 correspond to the week leading up to the Boston Marathon?

16 MR. BROSS: Objection, hearsay, lack of  
17 foundation.

18 A. Yes. That schedule is Boston Marathon week.

19 Q. And this Boston Marathon week is Boston Marathon  
20 week 2012; is that correct?

21 MR. BROSS: Objection, hearsay.

22 A. Yes, that's correct.

23 Q. I'm putting in front of you a document that's  
24 marked Exhibit 11.

1 A. (Deponent viewing document).

2 Q. Do you recognize Exhibit 11?

3 A. I do not recognize the website or the document.  
4 I recognize the store in the image.

5 MR. SEEVE: I represent that this document is  
6 a website that was printed out from the website  
7 stylecarrot.com at the URL shown at the bottom of every  
8 page --

9 MR. BROSS: Objection, lack of --

10 MR. SEEVE: -- of Exhibit 11.

11 MR. BROSS: Sorry. Didn't mean to  
12 interrupt. Lack of foundation.

13 BY MR. SEEVE:

14 Q. Could you take a moment to skim through the  
15 contents of Exhibit 11 and then let me know when you're  
16 done?

17 A. (Deponent viewing document). Okay. I'm done.

18 Q. What is the subject of Exhibit 11?

19 MR. BROSS: Objection, hearsay, lay opinion  
20 testimony, lack of foundation.

21 A. The title is called Sneaker Alert, Marathon  
22 Monday, and it is encouraging visitors to the website to  
23 stop into the Puma store on Boston Marathon race day,  
24 Marathon Monday.

1 Q. In the first paragraph of Exhibit 11, do you see  
2 that it refers to the Boston Marathon?

3 A. (Deponent viewing document). Yes.

4 Q. Does the phrase Marathon Monday in the title  
5 correspond to the Boston Marathon here?

6 MR. BROSS: Objection, hearsay, lack of  
7 foundation, lay opinion testimony.

8 A. Yes, the title refers to the Boston Marathon.

9 Q. I'm putting in front of you a document now that's  
10 been marked Exhibit 12.

11 A. (Deponent viewing document).

12 Q. Do you recognize Exhibit 12?

13 A. I do not recognize Exhibit 12.

14 MR. SEEVE: I represent for the record that  
15 Exhibit 12 is a web page that has been printed from the  
16 website [www.bostoncentral.com](http://www.bostoncentral.com) at the URL shown at the  
17 bottom of every page of Exhibit 12.

18 MR. BROSS: Objection, lack of foundation.

19 BY MR. SEEVE:

20 Q. Can you take a moment to skim through Exhibit 12  
21 and let me know when you're done?

22 A. (Deponent viewing document). Okay.

23 Q. What is the subject of Exhibit 12, in your  
24 opinion?

1 MR. BROSS: Objection, hearsay.

2 A. It is a pre-Boston Marathon -- It's a pre-Boston  
3 Marathon dinner, and they are using Marathon Monday  
4 referring to the Boston Marathon.

5 Q. And you see how the title says, Carbo-load or --

6 MR. BROSS: Objection.

7 BY MR. SEEVE:

8 Q. -- Marathon Monday Brunch, correct?

9 MR. BROSS: Objection, hearsay, lack of  
10 foundation.

11 A. (Deponent viewing document). Yes.

12 Q. In your opinion, why would they call the Marathon  
13 Monday brunch carbo-load?

14 MR. BROSS: Objection, hearsay, lay opinion,  
15 lack of foundation.

16 A. Because Boston Marathoners traditionally and  
17 customarily rely upon carbo-loading as a form of prerace  
18 preparation to run in the Boston Marathon.

19 Q. When does the Marathon Monday brunch, according  
20 to Exhibit 12, take place?

21 MR. BROSS: Objection, hearsay, lay opinion  
22 testimony, lack of foundation.

23 A. (Deponent viewing document). It looks like  
24 they're talking about a premarathon carbo-loading dinner

1 on April 18th, 2010.

2 Q. And April 18th is a Sunday; is that correct?

3 A. That's correct.

4 Q. And when was the Boston Marathon run in 2010?

5 A. Monday, April 19th, 2010.

6 Q. So the day after the carbo-load or Marathon  
7 Monday brunch, correct?

8 MR. BROSS: Objection, hearsay, lack of  
9 foundation.

10 A. Yes. They had a preevent carbo-load and then  
11 they had a Marathon Monday brunch on that same day, Boston  
12 Marathon race day, from ten to three p.m.

13 Q. I'm putting in front of you now a document that's  
14 been marked as Exhibit 13. Do you recognize Exhibit 13?

15 A. (Deponent viewing document). I do not recognize  
16 Exhibit 13.

17 MR. SEEVE: I represent that Exhibit 13 is a  
18 blog post that was printed out from the website  
19 [www.lindsayruns.com](http://www.lindsayruns.com) at the URL that's shown at the bottom  
20 of every page of Exhibit 13.

21 MR. BROSS: Objection to the document, lack  
22 of foundation.

23 BY MR. SEEVE:

24 Q. Could you take a quick moment to skim through the

1 contents of Exhibit 13 and let me know when you're done?

2 A. (Deponent viewing document). Okay.

3 Q. What is the title of the blog post --

4 A. Yes.

5 MR. BROSS: Objection, hearsay.

6 BY MR. SEEVE:

7 Q. -- on Exhibit 13?

8 A. It is entitled, Marathon Monday.

9 Q. And what is the subject of this blog post?

10 MR. BROSS: Objection, hearsay, lay opinion  
11 testimony, lack of foundation.

12 A. The subject is an individual's experience  
13 surrounding the Boston Marathon --

14 Q. And in your opinion --

15 A. -- including registration.

16 Q. In your opinion, the title Marathon Monday, what  
17 does that refer to?

18 MR. BROSS: Objection, hearsay, lay opinion  
19 testimony, lack of foundation.

20 A. It refers to the Boston Marathon.

21 Q. And immediately under the title, two lines down,  
22 do you see the sentence, "Marathon Monday is synonymous  
23 with the Boston Marathon"?

24 MR. BROSS: Objection, hearsay, lay opinion

1 testimony, lack of foundation.

2 A. (Deponent viewing document). Yes, I do.

3 Q. Do you agree with this sentence in Exhibit 13?

4 Do you agree that Marathon Monday is synonymous with the  
5 Boston Marathon?

6 A. I do.

7 MR. BROSS: Objection, lay opinion testimony,  
8 hearsay, lack of foundation.

9 A. Yes, I do agree.

10 MR. SEEVE: Let's take a break and go off the  
11 record now.

12 (Recess taken).

13 MR. SEEVE: Let's go back on.

14 BY MR. SEEVE:

15 Q. One more question about Exhibit 13 before I ask  
16 you to put it aside.

17 Do you see immediately under the title there's a  
18 date?

19 A. (Deponent viewing document). Yes.

20 Q. And what is that date?

21 MR. BROSS: Objection, hearsay.

22 A. September 12, 2011.

23 Q. I'm putting in front of you now a document that's  
24 been marked as Exhibit 14.

1 A. (Deponent viewing document).

2 Q. Do you recognize Exhibit 14?

3 A. I do recognize Exhibit 14.

4 MR. SEEVE: I represent that Exhibit 14 is a  
5 web page printed out from the website  
6 www.urbandictionary.com at the URL located at the bottom  
7 of every page of Exhibit 14.

8 MR. BROSS: Objection, lack of foundation.

9 BY MR. SEEVE:

10 Q. Can you take a moment to skim through Exhibit 14  
11 and let me know when you're done?

12 A. (Deponent viewing document). Okay. I'm done.

13 Q. What are the contents of Exhibit 14 about?

14 MR. BROSS: Objection, hearsay, lack of  
15 foundation.

16 A. It is the search for the term Marathon Monday,  
17 and each description pulled is specific and refers to the  
18 Boston Marathon.

19 Q. If you look at Definition 1 on the first page of  
20 Exhibit 14, do you see the Numeral 1 next to the phrase  
21 Marathon Monday?

22 A. (Deponent viewing document). Yes.

23 Q. Can you read the first paragraph of that  
24 definition of Marathon Monday, please?

1           A.    Yes.  "Marathon Monday is often considered among  
2 Bostonians as the greatest day of each year.  Falling on  
3 the third Monday of April, the marathon provides a race as  
4 a backdrop to the biggest day of drinking and legalized  
5 hooky playing found anywhere in the country."

6           Q.    The paragraph that you just read refers to a  
7 marathon, correct?

8                         MR. BROSS:  Objection, hearsay, lack of  
9 foundation.

10          A.    Yes.

11          Q.    What marathon, in your opinion, is it referring  
12 to?

13                         MR. BROSS:  Objection, hearsay, lack of  
14 foundation, lay opinion testimony.

15          A.    It refers specifically to the Boston Marathon.

16          Q.    Then if you look at the second definition of  
17 Boston Marathon on the first page of Exhibit 14, next to  
18 the Roman Numeral -- or sorry, next to the Arabic Numeral  
19 2, do you see that?

20          A.    (Deponent viewing document).  Yes, I do.

21          Q.    Can you read -- Can you read the -- the second  
22 definition of Marathon Monday?

23                         MR. BROSS:  Objection, hearsay, lay opinion  
24 testimony, lack of foundation.

1           A.    (Deponent viewing document).  Sure.  "Marathon  
2 Monday:  The greatest holiday and another reason why  
3 Boston is the best city to go to school in."

4           Q.    Thank you.

5                   And this definition refers to Boston; is that  
6 correct?

7                   MR. BROSS:  Objection, hearsay.

8           A.    It does refer to Boston.

9           Q.    And why, in your opinion, does this definition of  
10 Marathon Monday refer to Boston?

11                   MR. BROSS:  Objection, hearsay, lay opinion  
12 testimony, lack of foundation.

13           A.    Marathon Monday refers to the Boston Marathon.

14           Q.    And the third definition of Marathon Monday on  
15 the first page of Exhibit 14, can you read that one?

16           A.    Yes.  "Marathon Monday:  The third Monday in  
17 April where college students in Massachusetts get the day  
18 off due to the Boston Marathon and spend the entire day  
19 drinking, often in public."

20           Q.    Thank you.

21                   And this definition refers explicitly to the  
22 Boston Marathon; is that correct?

23                   MR. BROSS:  Objection, hearsay, lay opinion  
24 testimony, lack of foundation.

1 A. Yes, it specifically refers to the Boston  
2 Marathon.

3 Q. And at the -- at the bottom right of the first  
4 page and the other pages of Exhibit 14, there's a date; is  
5 that correct?

6 MR. BROSS: Objection --

7 A. (Deponent viewing document). Correct.

8 MR. BROSS: -- hearsay, lay opinion  
9 testimony.

10 BY MR. SEEVE:

11 Q. Can you read that date?

12 A. March 22, 2012.

13 Q. Thank you.

14 I'm putting in front of you now a document marked  
15 as Exhibit 15. Do you recognize Exhibit 15?

16 A. (Deponent viewing document). I do not recognize  
17 this document or web page.

18 MR. SEEVE: I represent that this document is  
19 a poem that was printed out from the website  
20 soundcloud.com at the URL located at the bottom --

21 MR. BROSS: Objection.

22 MR. SEEVE: -- of every page --

23 MR. BROSS: Sorry.

24 MR. SEEVE: -- of Exhibit 15.

1 MR. BROSS: Objection, lack of foundation.

2 Sorry.

3 BY MR. SEEVE:

4 Q. What is the title of the poem shown in Exhibit  
5 15?

6 MR. BROSS: Objection, hearsay.

7 A. (Deponent viewing document). The title of the  
8 poem is Marathon Monday.

9 Q. And if you could, just take a moment to read the  
10 poem quickly to yourself and let me know when you're done.

11 A. (Deponent viewing document).

12 Q. I know the text is small. I'm sorry about that.

13 A. (Deponent viewing document). Okay.

14 Q. Do you see, close to the top of the poem, in the  
15 fifth line it refers to the Chinatown stop?

16 MR. BROSS: Objection, vague, hearsay.

17 A. (Deponent viewing document). I see that  
18 reference.

19 Q. And a few lines down refers to Haymarket. Do you  
20 see that?

21 A. (Deponent viewing document). Yes.

22 MR. BROSS: Objection, hearsay.

23 BY MR. SEEVE:

24 Q. And then the next line refers to Mass Ave.

1 MR. BROSS: Objection, hearsay.

2 And can you just give me a minute to finish my  
3 objection before you respond?

4 THE DEPONENT: Oh, sure.

5 MR. BROSS: Thank you.

6 BY MR. SEEVE:

7 Q. Sorry. In the next line down, do you see that it  
8 refers to Mass Ave.?

9 MR. BROSS: Objection, hearsay.

10 A. (Deponent viewing document). Yes, I do.

11 Q. Do you recognize these places that this poem is  
12 referring to?

13 MR. BROSS: Objection, hearsay, lay opinion  
14 testimony, lack of foundation.

15 A. Yes, I do.

16 Q. Where are they?

17 A. These are all places in Boston.

18 Q. And the title Marathon Monday, in your opinion,  
19 what does that refer to?

20 MR. BROSS: Objection, hearsay, lay opinion  
21 testimony, lack of foundation.

22 A. Refers to the Boston Marathon.

23 Q. And why do you believe that it refers to the  
24 Boston Marathon?

1 MR. BROSS: Objection, hearsay, lay opinion  
2 testimony, lack of foundation.

3 A. Because the Boston Marathon is Marathon Monday.

4 Q. I'm putting in front of you now a document that's  
5 been marked as Exhibit 16. Do you recognize this  
6 document?

7 A. (Deponent viewing document). I am familiar with  
8 the Smithsonian, but I am not familiar with this website,  
9 web page.

10 MR. SEEVE: I represent that Exhibit 16 is a  
11 document that was printed from the website  
12 blog.smithsonianstudenttravel.com at the URL that's  
13 located at the bottom of every page of Exhibit 16.

14 MR. BROSS: Objection, lack of foundation.

15 BY MR. SEEVE:

16 Q. Could you take just a second to skim through  
17 Exhibit 16 and let me know when you're finished?

18 A. (Deponent viewing document). Okay. I've read  
19 it.

20 Q. What is the subject of the document in Exhibit  
21 15?

22 MR. BROSS: Objection, hearsay, lack of  
23 foundation, lay opinion testimony.

24

1 BY MR. SEEVE:

2 Q. I'm sorry, I think I might have said Exhibit 15  
3 and I meant Exhibit 16. Let me ask that question again.

4 What is the subject of Exhibit 16?

5 MR. BROSS: Objection, hearsay, lack of  
6 foundation, lay opinion testimony.

7 A. The title is Boston's Marathon Monday, and the  
8 post and text refers to the Boston Marathon and gives some  
9 history of the Patriot's Day holiday, which is the day on  
10 which the Boston Marathon occurs, the third Monday in  
11 April, Marathon Monday.

12 Q. And immediately below the title, do you see a  
13 date?

14 A. (Deponent viewing document). Yes.

15 Q. And can you read that date?

16 MR. BROSS: Objection, hearsay, lack of  
17 foundation.

18 A. Yes. April 20, 2010.

19 Q. I've put in front of you a document -- a document  
20 that's been marked as Exhibit 17. And do you recognize  
21 this document?

22 A. (Deponent viewing document). I am familiar with  
23 the Puma website generally.

24 MR. SEEVE: I represent that Exhibit 17 is a

1 document that was printed out from the website  
2 www.puma.com at the URL that appears at the bottom of  
3 every page of Exhibit 17.

4 MR. BROSS: Objection, lack of foundation.

5 BY MR. SEEVE:

6 Q. Could you take just a brief second to skim  
7 through Exhibit 17 and familiarize yourself with its  
8 contents, and let me know when you're done?

9 A. (Deponent viewing document). Okay. I have read  
10 it.

11 Q. Thanks.

12 On the front page of Exhibit 17, do you see a  
13 title?

14 A. (Deponent viewing document). Yes.

15 Q. Can you read that title?

16 A. Yes. It is, Are you ready for the -- sorry. Are  
17 you ready for Marathon Monday?

18 Q. And what is the subject of Exhibit 17, in your  
19 view?

20 MR. BROSS: Objection, hearsay, lack of  
21 foundation.

22 A. (Deponent viewing document). It is a description  
23 of Marathon Monday in Boston, which is Boston Marathon  
24 race day.

1 Q. And in the title of Exhibit 17, what do you think  
2 the term Marathon Monday refers to?

3 MR. BROSS: Objection, hearsay, lack of  
4 foundation, calls for lay opinion testimony.

5 A. It's referring to the Boston Marathon.

6 Q. I've put in front of you a document that's been  
7 marked as Exhibit 18.

8 A. (Deponent viewing document).

9 Q. Do you recognize Exhibit 18?

10 A. I am generally familiar with the MGH website.

11 MR. SEEVE: I would represent for the record  
12 that Exhibit 18 is a document that was printed out from  
13 the website www2.massgeneral.org at the URL that appears  
14 at the top of every page of Exhibit 18.

15 MR. BROSS: Objection to document, lack of  
16 foundation.

17 BY MR. SEEVE:

18 Q. Could you take just a second to skim through  
19 Exhibit 18, familiarize yourself with its contents and let  
20 me know when you're done?

21 A. (Deponent viewing document). Okay. Yes.

22 Q. What is the subject of Exhibit 18?

23 MR. BROSS: Objection, hearsay, lay opinion  
24 testimony, lack of foundation.

1 A. (Deponent viewing document). It is entitled,  
2 MGHers gear up for Marathon Monday, and the text refers to  
3 a participant in the Boston Marathon raising money to help  
4 with cancer research.

5 Q. At the left side of Page 1 of Exhibit 18, just  
6 underneath the shield that says MGH, do you see a date?

7 MR. BROSS: Objection, hearsay.

8 A. (Deponent viewing document). Yes.

9 Q. What is that date?

10 MR. BROSS: Objection, hearsay.

11 A. April 16, 1999.

12 Q. I'm putting in front of you now a document that's  
13 been marked as Exhibit 20 -- I'm sorry, a document that's  
14 been marked as Exhibit 19. Do you recognize this  
15 document?

16 A. (Deponent viewing document). I do not recognize  
17 this document.

18 MR. SEEVE: I represent that this document --  
19 excuse me.

20 I represent that this document is a website that  
21 has been printed out from the Google News website.

22 MR. BROSS: Objection, lack of foundation.

23 BY MR. SEEVE:

24 Q. Do you see right under the logo, Google News, the

1 phrase Daytona Beach Morning Journal?

2 MR. BROSS: Objection, hearsay, lack of  
3 foundation.

4 A. (Deponent viewing document). Yes.

5 Q. And to the right of that, do you see a date?

6 MR. BROSS: Objection, hearsay.

7 A. (Deponent viewing document). Yes.

8 Q. What is that date?

9 MR. BROSS: Objection, hearsay.

10 A. (Deponent viewing document). April 19, 1970.

11 MR. SEEVE: I represent to you that the  
12 newspaper article that appears below that date is a  
13 newspaper article that appeared in the Daytona Beach  
14 Morning Journal on that date, April 19th, 1970.

15 MR. BROSS: Objection, lack of foundation,  
16 leading -- leading the witness.

17 BY MR. SEEVE:

18 Q. Do you see that newspaper article?

19 A. (Deponent viewing document). I do.

20 Q. And what is the title of that newspaper article?

21 MR. BROSS: Objection, hearsay.

22 A. (Deponent viewing document). Boston Marathon  
23 Set.

24 Q. If you could, take just a second to skim through

1 that newspaper article, familiarize yourself with its  
2 contents and let me know when you're done.

3 A. (Deponent viewing document). Okay.

4 Q. What is the subject of the newspaper article in  
5 Exhibit 19?

6 MR. BROSS: Objection, hearsay, lack of  
7 foundation, lay opinion testimony.

8 A. The article is a Boston Marathon preview.

9 Q. And do you see, in the first paragraph of the  
10 article, the phrase Marathon Monday --

11 MR. BROSS: Objection, hearsay.

12 BY MR. SEEVE:

13 Q. -- at the very end of the paragraph?

14 A. (Deponent viewing document). I do.

15 Q. To what does this phrase refer, in your opinion?

16 MR. BROSS: Objection, hearsay, lack of  
17 foundation, calls for lay opinion testimony.

18 A. Refers to the Boston Marathon.

19 Q. I'm putting in front of you now a document that's  
20 been marked as Exhibit 20.

21 A. (Deponent viewing document).

22 Q. Do you recognize Exhibit 20?

23 A. I recognize the Star-Bulletin. I do not  
24 recognize the specific article.

1 MR. BROSS: Sorry. If I can interrupt for a  
2 second, has -- and this refers back to Document 19 and 20,  
3 have these documents been produced to us?

4 MR. SEEVE: They have not.

5 MR. BROSS: Okay.

6 BY MR. SEEVE:

7 Q. If you could, take just a second to skim through  
8 the contents of Exhibit 20, familiarize yourself with its  
9 contents and let me know when you're done, please.

10 A. (Deponent viewing document). Okay.

11 Q. What is the subject, in your view, of this  
12 document?

13 MR. BROSS: Objection, hearsay, lack of  
14 foundation, calls for lay opinion testimony.

15 A. The subject is a group of participants in the  
16 Boston Marathon from Hawaii being welcomed at the start of  
17 the Boston Marathon by a particular individual who opened  
18 up his store to them.

19 MR. SEEVE: I represent to you that this  
20 document is an article from the Honolulu Star-Bulletin  
21 printed out from the website archives.starbulletin.com  
22 from the URL that can be found at the top of every page of  
23 Exhibit 20.

24 MR. BROSS: Objection, lack of foundation to

1 the document.

2 BY MR. SEEVE:

3 Q. Do you see, at the bottom of Page 3 of 4 in the  
4 second paragraph from the bottom, the sentence,  
5 "Temperatures are expected to rise into the high 50s on  
6 Marathon Monday"?

7 MR. BROSS: Objection, hearsay, lack of  
8 foundation.

9 A. (Deponent viewing document). I do.

10 Q. And in this sentence, to what does the phrase  
11 Marathon Monday refer?

12 MR. BROSS: Objection, hearsay, lack of  
13 foundation, calls for lay opinion testimony.

14 A. Marathon Monday refers to the Boston Marathon.

15 Q. Sorry. Actually before we put Exhibit 20 aside,  
16 on Page 4 of 4 of Exhibit 20, near the bottom of the page  
17 do you see a copyright date?

18 MR. BROSS: Objection, hearsay.

19 A. (Deponent viewing document). Yes.

20 Q. And can you read that date?

21 A. (Deponent viewing document). 1997.

22 Q. Thanks.

23 Now, I'm putting in front of you a document  
24 that's been marked as Exhibit 21. Do you recognize

1 Exhibit 21?

2 A. (Deponent viewing document). I do recognize the  
3 Tufts University president's web page generally.

4 MR. SEEVE: I represent that this is a  
5 message from the president of Tufts that was printed from  
6 the website president.tufts.edu at the URL that can be  
7 found at the top of every page of Exhibit 21.

8 MR. BROSS: Objection, lack of foundation to  
9 the document.

10 BY MR. SEEVE:

11 Q. Could you take a moment to skim through Exhibit  
12 21 and familiarize yourself with its contents? Let me  
13 know when you're done.

14 A. (Deponent viewing document). Okay.

15 Q. What is the subject of Exhibit 21?

16 MR. BROSS: Objection, hearsay, lack of  
17 foundation, calls for lay opinion testimony.

18 A. It is a letter from the Tufts University  
19 president encouraging support, and fundraising support as  
20 well, for members running on behalf of the team, the Tufts  
21 marathon team at the Boston Marathon.

22 Q. And do you see in the first paragraph of the  
23 text, Exhibit 21, is the sentence, "Once again, a Tufts  
24 team will be lining up with more than 20,000 runners in

1 Hopkinton on Marathon Monday"?

2 MR. BROSS: Objection, hearsay, lack of  
3 foundation.

4 A. (Deponent viewing document). Yes, I do.

5 Q. And the term Marathon Monday in that sentence, to  
6 what does that term refer?

7 MR. BROSS: Objection, hearsay, lack of  
8 foundation, calls for lay opinion testimony.

9 A. Marathon Monday refers to the Boston Marathon.

10 Q. And just above that paragraph, above the  
11 salutation, do you see a date?

12 MR. BROSS: Objection, hearsay.

13 A. (Deponent viewing document). Yes.

14 Q. And what is that date?

15 MR. BROSS: Objection, hearsay.

16 A. October 3, 2003.

17 Q. Thank you.

18 I'm putting in front of you now a document that's  
19 been marked as Exhibit 22.

20 A. (Deponent viewing document).

21 Q. Do you recognize Exhibit 22?

22 A. I do not recognize this specific article. I am  
23 generally familiar with the Melrose newspaper's website.

24 MR. SEEVE: I represent to you that this is

1 an article printed from the website  
2 melrosemirror.media.mit.edu at the URL that can be found  
3 at the top of every page of Exhibit 22.

4 MR. BROSS: Objection, lack of foundation to  
5 the document.

6 BY MR. SEEVE:

7 Q. Can you take a moment to skim through the  
8 document, Exhibit 22, and familiarize yourself with its  
9 contents and let me know when you're done?

10 A. (Deponent viewing document). Okay.

11 Q. What is the subject of Exhibit 22?

12 MR. BROSS: Objection, hearsay, lack of  
13 foundation.

14 A. It is a former Boston Marathon champion's -- a  
15 recount of his victory at the Boston Marathon in 1941.

16 Q. Do you see in the first sentence of this article  
17 the phrase, "Marathon Monday will always be special to  
18 Medford milkman Joe Smith" --

19 MR. BROSS: Objection.

20 BY MR. SEEVE:

21 Q. -- "who captured the Boston Marathon,  
22 parentheses, BAA, end parentheses, title as a member of  
23 the North Medford Club"?

24 MR. BROSS: Objection, hearsay, lack of

1 foundation.

2 A. (Deponent viewing document). Yes.

3 Q. In your view, what does the term Marathon Monday  
4 in that sentence refer to?

5 MR. BROSS: Objection, hearsay, lack of  
6 foundation, calls for lay opinion testimony.

7 A. It refers to the Boston Marathon.

8 Q. And in the next paragraph, do you see it starts  
9 with the phrase, "The day of the BAA marathon, dash,  
10 1942"?

11 MR. BROSS: Objection, hearsay.

12 A. (Deponent viewing document). Yes.

13 Q. And that phrase, BAA marathon, what does that  
14 refer to?

15 MR. BROSS: Objection, hearsay, lack of  
16 foundation, calls for lay opinion testimony.

17 A. The BAA marathon is, in fact, the Boston  
18 Marathon.

19 Q. And on Page 2 of Exhibit 22, near the bottom,  
20 just below a picture entitled Isabel Joe-Smith, do you see  
21 a date?

22 MR. BROSS: Objection, hearsay.

23 A. (Deponent viewing document). Yes.

24 Q. And what is that date?

1 MR. BROSS: Objection, hearsay.

2 A. May 7th, 2004.

3 Q. I'm putting in front of you now a document that's  
4 been marked Exhibit 23. Do you recognize Exhibit 23?

5 A. (Deponent viewing document). I am familiar with  
6 the Harvard University website. I'm not familiar with  
7 this specific web page.

8 MR. SEEVE: I represent that Exhibit 23 is a  
9 web page that was printed from www.news.harvard.edu at the  
10 URL that appears at the top of Page 1 of Exhibit 23.

11 MR. BROSS: Objection, lack of foundation to  
12 the document.

13 BY MR. SEEVE:

14 Q. Can you take just a second to skim document --  
15 Excuse me.

16 Can you take just a second to skim Exhibit 23,  
17 familiarize yourself with its contents and let me know  
18 when you're done?

19 A. (Deponent viewing document). Okay.

20 Q. Do you see on the right side of the picture in  
21 the middle of the page is the -- the phrase Marathon  
22 Monday?

23 MR. BROSS: Objection, hearsay.

24 A. (Deponent viewing document). Yes.

1 Q. And right under that phrase, do you see the  
2 sentence, "Brian Stevenson, '01, takes a rest on his  
3 Lowell House dorm room couch after running the Boston  
4 Marathon on Monday as a bandit, a term used for  
5 unregistered runners"?

6 A. (Deponent viewing document). Yes, I do.

7 Q. And in your opinion, the phrase Marathon Monday  
8 as it appears above that sentence, what does that refer  
9 to?

10 MR. BROSS: Objection, hearsay, lack of  
11 foundation, calls for lay opinion testimony.

12 A. Marathon Monday is referring to the Boston  
13 Marathon.

14 Q. And just above -- I'm sorry, just below the  
15 Harvard University Gazette logo, do you see a date?

16 MR. BROSS: Sorry. Objection, hearsay.

17 A. (Deponent viewing document). Yes.

18 Q. And can you read that date?

19 A. April 19, 2001.

20 Q. I'm putting in front of you a document now that's  
21 been marked as Exhibit 24.

22 A. (Deponent viewing document).

23 Q. Do you recognize Exhibit 24?

24 A. I do not.

1 Q. Can you take just a second to skim through  
2 Exhibit 24 and familiarize yourself with its contents?  
3 Let me know when you're done.

4 A. (Deponent viewing document). Okay.

5 MR. SEEVE: I represent to you that Exhibit  
6 Number 24 is a web page that I printed out from  
7 bostonist.com at the URL that's located at the top of both  
8 pages of Exhibit 24.

9 MR. BROSS: Objection, lack of foundation to  
10 the document.

11 BY MR. SEEVE:

12 Q. What's the subject of the document in Exhibit 24?

13 MR. BROSS: Objection, hearsay, lack of  
14 foundation to the document, calls for lay opinion  
15 testimony.

16 A. (Deponent viewing document). The post or article  
17 is called, "Marathon Monday Plans," and refers to how a  
18 few people will spectate at the Boston Marathon on  
19 Marathon Monday.

20 Q. And in your view, the phrase Marathon Monday and  
21 the title Marathon Monday Plans, what does that term refer  
22 to?

23 MR. BROSS: Objection, hearsay, lack of  
24 foundation, calls for lay opinion testimony.

1 A. Refers to the Boston Marathon.

2 Q. And in the URL that you can see at the top of the  
3 page, there's a date; is that correct?

4 MR. BROSS: Objection, hearsay.

5 A. (Deponent viewing document). That is correct.

6 Q. What is that date?

7 MR. BROSS: Objection, hearsay.

8 A. April 16, 2006.

9 Q. Now, I'm going to put in front of you a document  
10 that has been marked Exhibit 25.

11 A. (Deponent viewing document).

12 Q. Do you recognize this document?

13 A. I do recognize this document.

14 Q. What is this document?

15 MR. BROSS: Objection, hearsay.

16 A. This is the menu at Finagle a Bagel restaurants.

17 Q. Specifically, it's a photograph of the Finagle a  
18 Bagel menu; is that correct?

19 A. That -- That is correct.

20 Q. And do you know who took this photograph?

21 A. Yes, I do.

22 Q. Who took this photograph?

23 A. I took this photograph.

24 Q. Do you remember when you took this photograph?

1 A. I do remember.

2 Q. When did you take the photograph?

3 A. Approximately 12 months ago, approximately.

4 Q. So in roughly June of 2012; is that right?

5 A. Roughly.

6 Q. Do you see, at the very bottom of the menu of  
7 Finagle a Bagel in this photograph, the phrase Marathon  
8 Monday?

9 A. (Deponent viewing document). Yes.

10 Q. And in your view, what does that phrase refer to?

11 MR. BROSS: Objection, hearsay, calls for lay  
12 opinion testimony.

13 A. The menu item Marathon Monday is a breakfast item  
14 created to refer to the Boston Marathon.

15 Q. Where was this photo taken?

16 A. At the Finagle a Bagel on Route 9 in Brookline.

17 Q. Brookline is in Boston; is that correct?

18 A. It's a town adjacent to Boston.

19 Q. And do you see the menu item Marathon Monday is  
20 described as cholesterol-free eggs, tomato, ham, two grams  
21 per serving fat, and lite scallion cream cheese on a  
22 hundred percent whole wheat bagel?

23 A. Yes.

24 Q. I'm going to ask you to just speculate as to why

1 that menu item might be called Marathon Monday.

2 MR. BROSS: Objection, hearsay, lay opinion  
3 testimony, lack of foundation.

4 A. It's a healthy item -- a more healthy item,  
5 compared to Finagle a Bagel's other offerings, that would  
6 be attractive to health-conscious consumers and would  
7 create a connotation to the Boston Marathon, a positive  
8 connotation.

9 MR. SEEVE: So we've been going, I think, for  
10 almost an hour. Let's take another -- another break and  
11 go off the record.

12 (Recess taken).

13 MR. SEEVE: Let's go back on.

14 BY MR. SEEVE:

15 Q. Earlier, you testified that you're the director  
16 of communications and marketing at the BAA; is that  
17 correct?

18 A. Correct.

19 Q. And what do your job responsibilities as director  
20 of communications and marketing at the BAA entail?

21 A. I'm in charge of licensing, sponsorships,  
22 marketing activities, media, internal/external  
23 communications, graphics design, IP enforcement. Those  
24 are among my responsibilities.

1 Q. And just focusing on the marketing aspect of your  
2 job, what specifically do you do with regard to marketing  
3 for the BAA?

4 A. I'm responsible for the BAA and Boston Marathon  
5 presentation, image, how we project, how we're perceived,  
6 creating programs of value that add to the participants'  
7 experience, the community's experience, families of  
8 participants' experience, spectators' experience, among  
9 other things.

10 Q. What tools do you use to assess the perception of  
11 the BAA and its -- its related marks? For example, do you  
12 use surveys?

13 MR. BROSS: Objection, compound, vague.

14 (Telephone interruption).

15 A. We do and we have used surveys after the Boston  
16 Marathon on occasion. We can also measure our success and  
17 activity and create a barometer with the value of rights  
18 fees, sponsorships, incoming inquiries from people who  
19 want to associate themselves or companies that want to  
20 align themselves with our organization, our events,  
21 especially our main event, the Boston Marathon.

22 Q. And what other types of market research, if any,  
23 do you do as director of communications and marketing for  
24 the BAA?

1           A.    We might undertake valuation studies, which is a  
2 measurement of impressions, impact, reach, whether it be  
3 from on-site observers, participants or viewers, things of  
4 that nature.

5           Q.    And when it comes to the communications aspect of  
6 your job, can you describe that?

7           A.    Sure.  I'm responsible for creating public  
8 relations plans and implementing them, media relations  
9 plans, implementing them, community relations plans  
10 including community outreach, implementing them, being  
11 proactive, also being reactive, depending upon time of the  
12 year and what may be happening with our events and  
13 organization, create the collateral materials responsible  
14 for social media, responsible for the websites, social  
15 media accounts, and generally how the organization is  
16 viewed locally, nationally, internationally, both by the  
17 general public and a more vertical-interested person.

18          Q.    For how long have your job responsibilities  
19 involved the perception -- public perception of the BAA?

20          A.    I would say that since I've been with the  
21 organization for more than two decades, very conscious as  
22 to how the organization and the main event, Boston  
23 Marathon, is perceived.  That goes along with the media  
24 relations aspect which I -- which is the area in which I

1 started.

2 Q. In the course of your work, do you personally use  
3 the term Marathon Monday ever?

4 A. I do.

5 Q. And what do you generally mean when you refer to  
6 Marathon Monday?

7 MR. BROSS: Objection, vague.

8 A. When we -- When I or any other staff member are  
9 referring to it, it's specifically the Boston Marathon.

10 Q. And in the course of your business, do you ever  
11 use the term Marathon Monday to mean something other than  
12 the Boston Marathon or the day of the Boston Marathon?

13 MR. BROSS: Objection, vague and ambiguous.

14 A. No. When we are talking about the Boston  
15 Marathon -- When we're talking about Marathon Monday,  
16 we're talking about the Boston Marathon.

17 Q. And in your position as director of  
18 communications and marketing, is it your view that it's  
19 generally understood that the term Marathon Monday refers  
20 to the Boston Marathon?

21 MR. BROSS: Objection, lay opinion testimony.

22 A. Marathon Monday does refer to the Boston  
23 Marathon.

24 Q. Have you heard the term Marathon Monday used by

1 customers and participants in BAA events?

2 MR. BROSS: Objection, hearsay.

3 A. Yes, often.

4 Q. And when those customers and participants in the  
5 BAA events use the term Marathon Monday, what do they  
6 mean?

7 MR. BROSS: Objection, hearsay, calls for lay  
8 opinion testimony.

9 A. They're referring to the Boston Marathon.

10 Q. To the best of your ability, can you estimate the  
11 number of times per week that, in the course of your job,  
12 you either use or hear the term Marathon Monday?

13 A. Many. I would estimate several to more than  
14 several times a week; almost daily.

15 Q. So more than a hundred times a year, for example?

16 MR. BROSS: Objection, leading.

17 A. Yes. Several times a week would be more than a  
18 hundred times a year.

19 Q. And has the use of Marathon Monday remained  
20 steady throughout your tenure at the BAA?

21 A. Yes. We -- That's a constant. It's a constant  
22 to refer to the Boston Marathon as Marathon Monday.

23 Q. Is it a constant within the organization? Let me  
24 ask that a better way.

1 Employees of the BAA, during your tenure at the  
2 BAA, have consistently used the term Marathon Monday to  
3 refer to the Boston Marathon; is that correct?

4 A. That is correct.

5 Q. And customers and purchasers of BAA merchandise,  
6 during your tenure at the BAA, have consistently used the  
7 term Marathon Monday to refer to the Boston Marathon; is  
8 that correct?

9 MR. BROSS: Objection, hearsay, calls for lay  
10 opinion testimony.

11 A. Yes. Participants in our races, when using the  
12 term Marathon Monday, are talking about the Boston  
13 Marathon.

14 Q. And in the context of the market research that  
15 you do as part of your job as director of communications  
16 and marketing for the BAA, have you ever come across a  
17 time when the term Marathon Monday is being used to mean  
18 something totally separate from the Boston Marathon?

19 MR. BROSS: Objection, vague, ambiguous.

20 A. Can you repeat that question?

21 Q. During your market research at the BAA, have you  
22 ever heard the term Marathon Monday used to mean something  
23 other than the Boston Marathon?

24 MR. BROSS: Objection, vague and ambiguous.

1 A. Well, if we are doing the research, then it's in  
2 reference to the Boston Marathon.

3 Q. At what address do you currently reside?

4 A. Home residence?

5 Q. Yes.

6 A. 4B Allen, A-L-L-E-N, Street in Natick,  
7 Massachusetts.

8 Q. And what's the address of your workplace?

9 A. 40, four, zero, Trinity Place, Fourth Floor,  
10 Boston, Mass. 02116.

11 MR. SEEVE: Let's take a very brief break.

12 Go off the record.

13 (Discussion off the record).

14 MR. SEEVE: Let's go back on.

15 I have no further questions. Thank you.

16 THE DEPONENT: Thank you.

17 (Lunch break).

18 (Exhibit-26, Opposer's Response to  
19 Applicant's First Set of Interrogatories; Exhibit-27,  
20 Verification for First Set of Interrogatories; Exhibit-28,  
21 Opposer's Response to Applicant's Second Set of  
22 Interrogatories; Exhibit-29, Verification for Second Set  
23 of Interrogatories; Exhibit-30, Notice of Opposition;  
24 Exhibit-31, Email dated 11/11/11, marked for

1 identification).

2 MR. BROSS: Go back on the record.

3 THE DEPONENT: Sure.

4 MR. BROSS: Everybody ready?

5 THE DEPONENT: Yes.

6 EXAMINATION

7 BY-MR.BROSS:

8 Q. Okay. Hi. We formally met before. I'm Mark  
9 Bross. I represent the applicant, Velocity, in this  
10 matter.

11 Just a reminder, you're still under oath even  
12 though we've come back from lunch. I just have a few  
13 follow-up questions based on your testimony earlier, and  
14 also I have a few housekeeping things I just want to  
15 clarify and take care of just because of some of the  
16 things that happened, just in the way things were done in  
17 the case.

18 This is the first. I'm giving you right now a  
19 document marked Exhibit 26.

20 A. (Deponent viewing document).

21 Q. And while we're there, might as well do also  
22 Exhibit 27.

23 A. (Deponent viewing document).

24 Q. And that highlighting on the top of Exhibit 27 is

1 just my own highlighting so -- sorry about that. It just  
2 happens to be the one that got marked.

3 Let's start with Exhibit 26. Do you recognize  
4 this document?

5 A. I do.

6 Q. Okay. And what is it, please? Can you identify  
7 it for the record?

8 A. It is the Opposer's Response to Applicant's First  
9 Set of Interrogatories, the Preliminary Statement.

10 Q. Okay. And it contains more than preliminary  
11 statement, doesn't it?

12 MR. SEEVE: Objection.

13 A. (Deponent viewing document). What do you mean?

14 Q. Well, you just said preliminary statement.

15 A. Oh, okay.

16 Q. There's more to this --

17 A. Oh, I'm sorry.

18 Q. -- document than just a preliminary statement,  
19 correct?

20 A. I should have said it's the opposer's response to  
21 applicant's first set of interrogatories.

22 Q. That's fine. I just want to make sure --

23 A. Got it.

24 Q. -- for the record, it's clear that it's the

1 entire responses to the interrogatories, correct?

2 A. That's correct.

3 Q. And have you seen this document before?

4 A. I have.

5 Q. And have you read it?

6 A. I have.

7 Q. Okay. If you flip to Page 22 of this document,  
8 you see the verification page is blank; is that correct?

9 A. (Deponent viewing document). That is correct.

10 Q. Okay. As part of the interrogatory responses,  
11 you were supposed to sign these interrogatories responses,  
12 but apparently something got mixed up and you did not, at  
13 the time we got them; is that correct?

14 A. At the time in May?

15 Q. Yes.

16 So the document attached to Exhibit 26, the  
17 verification is blank --

18 A. Yes.

19 Q. -- right?

20 A. Yes, it is.

21 Q. Okay. Now, please take a look at Exhibit 27.

22 A. (Deponent viewing document). Yes.

23 Q. Okay. Do you recognize that document?

24 A. I do.

1 Q. Okay. And what is it?

2 A. This is the verification page, I believe.

3 Q. Okay. Is that the verification page that belongs  
4 in connection with Document 26?

5 A. (Deponent viewing document). Yes, it is.

6 Q. Okay. And is that your signature?

7 A. Yes, it is.

8 Q. Okay. Thank you.

9 Oh, and I guess one other question. So there's  
10 nothing -- Is there anything in your testimony today that  
11 changed or altered any of the responses to the first set  
12 of interrogatories?

13 A. There is not.

14 Q. Okay. Thank you.

15 Okay. I'm giving to you now a document, Exhibit  
16 Number 28 and Exhibit Number 29.

17 A. (Deponent viewing document).

18 MR. BROSS: And here's one for you as well.

19 MR. SEEVE: Thank you.

20 BY MR. BROSS:

21 Q. Okay. And 28. Here's 29.

22 Do you recognize the document that has been  
23 marked Exhibit 28?

24 A. I do.

1 Q. Can you identify that document, please?

2 A. Yes. It is the opposer's response to applicant's  
3 second set of interrogatories.

4 Q. Okay. Have you seen this document before?

5 A. I have.

6 Q. Okay. Can you turn to Page 11?

7 A. (Deponent complying). Yes.

8 Q. Oh, and do you see that the verification is  
9 blank?

10 A. (Deponent viewing document). I do.

11 Q. Okay. And if you turn to document -- to Exhibit  
12 Number 29, do you recognize that document?

13 A. (Deponent viewing document). I do.

14 Q. Is that the verification that was supposed to go  
15 with Exhibit 28?

16 A. That is correct.

17 Q. Okay. And is that your signature?

18 A. Yes, it is.

19 Q. Okay. Is there anything in the deposition today  
20 that has altered your responses to the interrogatories?

21 A. There is not.

22 Q. Okay. Thank you.

23 Okay. Now, I want to follow up a little more  
24 with respect to some of your testimony. In particular, I

1 want to follow up with the testimony -- or do you remember  
2 testifying that the phrase or the description Marathon  
3 Monday -- Monday is synonymous with the Boston Marathon?  
4 Was that your testimony earlier?

5 A. Yes.

6 Q. Okay. And what was the basis for that  
7 testimony? What's the basis for your opinion?

8 A. The basis of my opinion is that the Boston  
9 Marathon is, in fact, synonymous with Marathon Monday and  
10 vice versa since, when you say Marathon Monday or anybody  
11 thinks of Marathon Monday, they think of the Boston  
12 Marathon.

13 Q. Okay. And how did you arrive at that opinion or  
14 how did you come to that determination?

15 A. Through my years of experience and being  
16 extremely familiar with the event, the Boston Marathon.

17 Q. Okay. So your years of experience being familiar  
18 with the event. So I guess I don't see how -- How does  
19 that translate into that knowledge?

20 MR. SEEVE: Objection.

21 BY MR. BROSS:

22 Q. What about your experience has led you to believe  
23 it, the phrase?

24 A. I -- I am intimately knowledgeable, I believe,

1 and an expert, I believe, on the Boston Marathon, and  
2 Marathon Monday is commonly used to refer to the Boston  
3 Marathon.

4 Q. Have you taken any polls?

5 MR. SEEVE: Objection.

6 A. We have not done a survey on that term.

7 Q. Have you done any other kind of research?

8 A. No.

9 Q. Have you any experience with other cities across  
10 the country?

11 MR. SEEVE: Objection.

12 A. What do you mean with other cities?

13 Q. Well, so you're experienced with the Boston  
14 Marathon.

15 A. Mm-hmm.

16 Q. Have you talked to people in New York regarding  
17 the phrase Marathon Monday?

18 A. No.

19 Q. What about Chicago?

20 A. I have not -- I have not.

21 Q. Okay. So -- But is your testimony that anyone  
22 who uses the phrase Marathon Monday anywhere in the  
23 country is referring to the Boston Marathon?

24 MR. SEEVE: Objection, mischaracterizes

1 testimony.

2 A. Could you repeat the question?

3 Q. Yes. Is it your testimony that the phrase  
4 Marathon Monday, if it's used by anyone in the country,  
5 it's synonymous, refers to the Boston Marathon?

6 A. I believe that when people refer to Marathon  
7 Monday, they are speaking about the Boston Marathon and  
8 referring to the Boston Marathon.

9 Q. Anywhere in the United States?

10 MR. SEEVE: Objection.

11 A. I -- I'm not quite sure if that's -- if you're  
12 asking is that my testimony or is that what I believe.

13 Q. I'm asking you is it your testimony -- and, I  
14 guess, if that's what you believe.

15 A. Yes, I believe.

16 Q. Okay.

17 A. That is my belief.

18 Q. And is that your testimony?

19 A. If that -- If -- If my testimony is my belief,  
20 then yes. Does that make sense?

21 Q. Not really. I guess I'm trying to -- I guess I'm  
22 trying to get at what your -- When you claim that the  
23 Marathon Monday is synonymous with the Boston Marathon --

24 A. Yes.

1 Q. -- what are you saying?

2 A. That Marathon Monday refers to the Boston  
3 Marathon is my testimony.

4 Q. Okay. All right. So I'm asking you, is that  
5 true for anybody in the United States?

6 A. I don't know.

7 Q. Okay. So you -- So is it true for anybody --  
8 Well, other than you, is it true for anybody?

9 MR. SEEVE: Objection.

10 A. I believe that to be true, but I'm testifying for  
11 myself and I'm representing, I believe, my own testimony.

12 Q. Okay. But you're not representing as to what  
13 anybody else means by the phrase Marathon Monday?

14 A. I am a representative of many other than myself  
15 who I believe Marathon Monday means the Boston Marathon.

16 Q. Okay. But I mean -- So who are these people that  
17 you represent?

18 A. Those from all over the country, world, runners,  
19 nonrunners alike.

20 Q. Okay. But now, I guess -- I guess I'm unclear  
21 how to reconcile that with your testimony that it's not --  
22 that you're not willing to say that that's synonymous all  
23 over the country.

24 A. I am willing to say that.

1 Q. Okay. So your testimony now is that Marathon  
2 Monday is -- Marathon Monday is synonymous with the Boston  
3 Marathon anywhere in the country?

4 MR. SEEVE: Objection.

5 A. Yes.

6 Q. And that if somebody says Marathon Monday, they  
7 are necessarily referring to the Boston Marathon?

8 MR. SEEVE: Objection.

9 A. I believe that would be the case.

10 Q. Okay. And you're saying that without any  
11 evidence as to what people across the country would be  
12 saying?

13 MR. SEEVE: Objection. Mischaracterizes  
14 witness's testimony. Calls for speculation.

15 A. Can you repeat the question?

16 Q. Yes. Are you saying that -- What is your  
17 evidence for that claim?

18 MR. SEEVE: Objection.

19 A. The evidence is that I believe Marathon Monday is  
20 a term so closely associated with the Boston Marathon that  
21 that would be true.

22 Q. So somebody in New York who says Marathon Monday  
23 is referring to the Boston Marathon?

24 MR. SEEVE: Objection.

1           A.    I believe that would be the case.

2           Q.    Okay.  I'm presenting to you Exhibit 30.

3           A.    (Deponent viewing document).

4                       MR. SEEVE:  Thank you.

5           BY MR. BROSS:

6           Q.    Do you recognize this document?

7           A.    (Deponent viewing document).  Yes.

8           Q.    Can you identify it for the record, please?

9           A.    This is the notice of opposition.

10          Q.    For what?  Can you -- Can you continue as to what  
11 it is, please?

12          A.    (Deponent viewing document).  Opposition to the  
13 applicant, Velocity.

14          Q.    Okay.  So it's the opposition in this matter --

15          A.    Yes, it is.

16          Q.    -- regarding the use of the Marathon Monday  
17 trademark --

18          A.    That is correct.

19          Q.    -- correct?  Okay.

20                       Can you please take a look at -- And you have  
21 seen this document before?

22          A.    Yes.

23          Q.    Okay.  Can you please take a look at Exhibit A --

24          A.    (Deponent viewing document).

1 Q. -- which is attached to this document? Doesn't  
2 have a page number.

3 A. (Deponent viewing document). Okay.

4 Q. Okay. Actually, so -- Before we get there, so --  
5 so this notice of opposition, this was filed by the BAA,  
6 correct?

7 A. Yes.

8 Q. In opposition to Velocity's use of the mark  
9 Marathon Monday, correct?

10 A. That's correct.

11 Q. Okay. And Exhibit A, this was attached to that  
12 opposition; is that correct?

13 A. (Deponent viewing document). That is attached.

14 Q. Okay. Can you please look at the first page  
15 of -- after the Exhibit A, the first page -- the next page  
16 after it states Exhibit A, and can you identify that  
17 document, please?

18 A. (Deponent viewing document). That is a Google  
19 search page.

20 Q. That is correct.

21 MR. BROSS: And I'll identify it for the  
22 record. It is a Google search page that was attached to  
23 the opposition from www.google.com with the web -- web  
24 page listed at the bottom of the page.

1 BY MR. BROSS:

2 Q. Do you see that?

3 A. (Deponent viewing document). I do.

4 Q. Okay. And can you -- And the date appears to be  
5 11/15/2001. Do you see that?

6 A. (Deponent viewing document). I do.

7 Q. Okay. Okay. Now, what I -- what I want to draw  
8 your attention to -- or I want to ask you about is the  
9 first -- the fifth, I guess, search -- or the fifth result  
10 from that search.

11 A. (Deponent viewing document). Yes.

12 Q. Okay?

13 A. I see it.

14 Q. Okay. Actually, before -- before we go there,  
15 what does it look like the search was done in connection  
16 with this Google page?

17 A. Marathon Monday.

18 Q. Right. And where do you see that?

19 A. In the top -- at the top of the page.

20 Q. Right. In the search bar?

21 A. Yes.

22 Q. Okay. Okay. Now, can you look at the fifth -- I  
23 guess it's the fifth result down?

24 A. (Deponent viewing document). Yes.

1 Q. Okay. And can you tell me what that one says?

2 A. "Marathon Monday mania, the ING New York City  
3 Marathon."

4 Q. Okay. And can you read right below what that  
5 says?

6 A. Yes. What -- It says, "What a Marathon Monday it  
7 was. Thank you to everyone that participated. We will be  
8 picking 50 names and will be posting them at a variety of  
9 places tomorrow."

10 Q. Okay. So does it look like there -- or -- So  
11 does Marathon Monday there mean the Boston Marathon?

12 A. It does not.

13 Q. Okay. What does it mean there, do you think?

14 A. The day after the New York City Marathon.

15 Q. Okay. So in New York, at least, Marathon Monday  
16 does not refer to the Boston Marathon, does it?

17 A. I believe it does refer to the Boston Marathon in  
18 New York as well.

19 Q. So -- So then, I guess, how do you reconcile that  
20 with this -- with this search?

21 MR. SEEVE: Objection.

22 A. I believe New York is using that term to play off  
23 the name recognition that the Boston Marathon has with  
24 Marathon Monday.

1 Q. What's your basis for that belief?

2 A. I'm intimately familiar with the New York Road  
3 Runners and the New York City Marathon.

4 Q. So is the New York City Marathon run on Monday?

5 A. It is not.

6 Q. Okay. And why would they be using Marathon  
7 Monday to refer to -- to play off the Boston Marathon?

8 A. Because the organizers of the New York City  
9 Marathon know the name recognition that the Boston  
10 Marathon has, being run on Marathon Monday, so they are  
11 playing off of that association to appeal to their  
12 audience.

13 Q. To their -- So why would the Boston Marathon  
14 appeal to the New York City Marathon audience?

15 MR. SEEVE: Objection.

16 A. Because the Boston Marathon is recognized as the  
17 pinnacle in the sport and they want to draw an association  
18 off of leaning on that connotation.

19 Q. So it's your position that the Boston Marathon is  
20 higher than the New York Marathon?

21 MR. SEEVE: Objection.

22 A. It is.

23 Q. And what's your basis for that opinion?

24 A. The Boston Marathon is the world's oldest and

1 most prestigious annual marathon.

2 Q. Is New York City one of the major marathons?

3 A. It is.

4 Q. Okay. And the Boston Marathon is also a major  
5 marathon --

6 A. It is.

7 Q. -- is that correct?

8 But it's your opinion -- or it's your belief that  
9 the Boston Marathon is actually better than the New York  
10 Marathon?

11 MR. SEEVE: Objection, mischaracterizes  
12 testimony.

13 A. While New York is considered a major marathon,  
14 Boston is unique and distinct in a number of ways and is  
15 regarded as the world's leader.

16 Q. And, again, what is your basis for that opinion?  
17 In --

18 A. I am an expert in the industry.

19 Q. Okay. Do you have reports to back that up?

20 MR. SEEVE: Objection.

21 A. I do not have a report in front of me to back  
22 that up.

23 Q. Do you have a report back in your office?

24 MR. SEEVE: Objection, vague.

1 A. No.

2 Q. Is there a report anywhere that supports that?

3 A. I do not know.

4 Q. Okay. So is this anything more than your  
5 opinion?

6 MR. SEEVE: Objection.

7 A. It's my opinion at this time, but there may be  
8 reports to back that up.

9 Q. Are you aware of any?

10 MR. SEEVE: Objection.

11 A. Not that I could produce right now.

12 Q. Could you produce in the future? Could you  
13 produce it at all?

14 MR. SEEVE: Objection.

15 A. It's possible.

16 Q. I guess I don't -- It's possible. So does that  
17 mean you're aware of them or you're not?

18 A. I would not be surprised if there were reports  
19 that existed to back that up.

20 Q. Okay. Do you know that they exist or not?

21 A. I do not know.

22 Q. Okay. So as of today, you cannot produce a  
23 report that supports your claim; is that correct?

24 MR. SEEVE: Objection, vague.

1 A. Correct.

2 Q. Okay. Okay. I am done with that exhibit for  
3 right now. May come back to it later.

4 Actually, I do want to go back to -- I'd like to  
5 go back to your responses to applicant's first set of  
6 interrogatories, which I believe was -- I don't have the  
7 exhibit number in front of me.

8 A. Twenty-six.

9 Q. Exhibit 26.

10 So please turn back to that document for a  
11 second.

12 A. (Deponent viewing document).

13 Q. Okay. Please look at -- All right. Actually,  
14 sorry. Scratch that. I can't find what I'm thinking of.

15 So I guess let's move on to -- I'd like to take a  
16 look at a document that's been -- Exhibit Number 5 that  
17 was initially -- that you've previously seen.

18 A. (Deponent viewing document).

19 Q. Okay. Do you recognize this document?

20 A. I recognize that document from earlier today.

21 Q. Okay. And can you identify it again, please, for  
22 me?

23 A. (Deponent viewing document). That is a web page  
24 from the website cafepress.com which shows an on-demand

1 printed T-shirt with a graphic with the text Marathon  
2 Monday over the Boston skyline.

3 Q. Okay. Does CafePress have any connection with  
4 the Boston Marathon?

5 A. It does not.

6 Q. Okay. Does the BAA have any kind of trademark in  
7 the phrase Marathon Monday?

8 A. It does not.

9 Q. Okay. Did CafePress get authorization from BAA  
10 to use this?

11 A. It did not.

12 Q. Okay. Did the BAA object to the use of the  
13 T-shirt by CafePress?

14 MR. SEEVE: Objection.

15 A. I'm not aware of with -- if we submitted a formal  
16 objection to this or not.

17 Q. Okay. Did the BAA take any other steps to  
18 interfere with the use of this?

19 MR. SEEVE: Objection.

20 A. (Deponent viewing document). This may be among  
21 those designs and graphics which we submitted a complaint  
22 to CafePress looking at the time, February 11, 2009.

23 Q. Where are you finding that date?

24 A. On Page 2 at the top.

1 Q. Okay. Do you know if you did submit a complaint  
2 to this?

3 A. We may have.

4 Q. Okay. But have we seen those documents?

5 MR. SEEVE: Objection.

6 A. Have you seen those documents?

7 Q. Yes. Have they been produced?

8 A. Not as part of this -- as part of this case.

9 Q. Okay. Has the BAA ever licensed the use of the  
10 phrase Marathon Monday in connection with T-shirts?

11 A. No.

12 Q. Okay. Why not?

13 MR. SEEVE: Objection.

14 A. We simply haven't done it.

15 Q. Have you licensed the use of Marathon Monday in  
16 connection with anything?

17 A. We have not.

18 Q. Okay. So does anybody who use -- who uses the  
19 phrase Marathon Monday, do they have to get authorization  
20 from the BAA?

21 A. No.

22 Q. Okay. If you can, take a look again at Exhibit  
23 Number 25.

24 A. (Deponent viewing document).

1 Q. Okay. And this was the picture you took of  
2 Finagle a Bagel --

3 A. Yes.

4 Q. -- is that correct?

5 Did Finagle a Bagel ever receive authorization to  
6 use the phrase Marathon Monday?

7 A. They did not.

8 Q. Okay. Did you ever complain to them regarding  
9 the usage?

10 A. We did not.

11 Q. Why not?

12 MR. SEEVE: Objection.

13 A. Finagle a Bagel's use of Marathon Monday is not  
14 restricted. There are other entities, as you've pointed  
15 out similarly, that used Marathon Monday. No, we did not  
16 seek to complain to Finagle a Bagel for use of that term.

17 Q. Okay. Have you ever sought to complain the use  
18 of that term with respect to anybody?

19 MR. SEEVE: Objection.

20 A. I don't believe anyone has filed to use the term  
21 Marathon Monday unto itself except for in this filing by  
22 Velocity.

23 Q. So except for Velocity, have you ever complained  
24 about anyone else's uses -- use of the term?

1 A. No.

2 MR. SEEVE: Objection.

3 BY MR. BROSS:

4 Q. Okay.

5 MR. SEEVE: Objection.

6 BY MR. BROSS:

7 Q. And how has -- Has the BAA ever used that -- the  
8 term Marathon Monday in connection with a product, any  
9 product?

10 MR. SEEVE: Objection.

11 A. We have.

12 Q. When?

13 A. We commonly refer to it on our website, social  
14 media, so we do use -- we do use the term.

15 Q. Yes, but in connection with the sale of a  
16 product --

17 MR. SEEVE: Objection.

18 BY MR. BROSS:

19 Q. -- or a service?

20 A. Well, definitely with regard to the service  
21 because we are producing the Boston Marathon, and so we  
22 would use it interchangeably when -- in the production of  
23 our service.

24 Q. Okay. What about in connection with a product?

1 A. No.

2 Q. Okay. I also want to talk -- Or you mentioned --  
3 This is Exhibit Number 31.

4 A. (Deponent viewing document).

5 Q. Do you recognize this document?

6 A. I do.

7 Q. Okay. Can you identify it for the record,  
8 please?

9 A. It is an email that I sent to Charles Tuite on  
10 November the 11th, 2011.

11 Q. Okay. And it's also sent to somebody else, isn't  
12 it?

13 A. A coworker of mine by the name of Michael Pieroni  
14 is copied -- sorry, is sent to.

15 Q. Okay. And who is Charles Tuite?

16 A. I believe Charles is the president or owner of  
17 Velocity.

18 Q. Okay. You earlier testified to -- that you had a  
19 conversation with Charles Tuite regarding BAA names and  
20 marks a couple years ago. Do you remember that testimony?

21 MR. SEEVE: Objection.

22 A. We had a conversation relating to his interest in  
23 pursuing a business relationship with the BAA.

24 Q. Okay. And if you look down at the one, two -- I

1 guess it is the fifth line down, starts that, "I know that  
2 we had a conversation." Do you see that?

3 A. (Deponent viewing document). Yes.

4 Q. Okay. Can you -- Is that the -- Do you recall --  
5 I guess, are you referring to those earlier conversations  
6 in that -- with that line?

7 A. (Deponent viewing document). No. That's  
8 referring to a different conversation.

9 Q. Okay. And what was the -- All right. So let's  
10 try and keep this conversation straight. So you had one  
11 conversation with Charles Tuite regarding what you earlier  
12 testified to, which was where he approached you regarding  
13 the use of -- or the use of Boston Marathon marks; is that  
14 correct?

15 A. No.

16 Q. Okay.

17 A. He approached us wanting to expand and do  
18 business with the BAA.

19 Q. Okay. Okay. When was that conversation?

20 A. That would have been a couple years ago. I don't  
21 have an exact date.

22 Q. Okay. So a couple years ago is 2011, so that's  
23 not this conversation that's referred to in this email?

24 MR. SEEVE: Objection.

1 A. Believe that's a different conversation.

2 Q. Okay. So what is the conversation referred to in  
3 this email, the one where it says, "I know that we had a  
4 conversation a couple years ago"?

5 A. (Deponent viewing document). This conversation  
6 does refer to an incident in which Velocity posted to  
7 craigslist the fact that it was offering to the general  
8 public to produce items using the Boston Marathon name.

9 Q. Okay. So who initiated the conversation?

10 A. When it came to my attention --

11 Q. Mm-hmm.

12 A. -- that Velocity had its post on craigslist, I  
13 called Velocity and pointed out the fact that it was  
14 violating our marks.

15 Q. And this was --

16 A. And --

17 Q. Sorry.

18 A. -- Velocity employees apologized, told me that  
19 they would take down the posting, they would make their  
20 owner and president aware that this had occurred. And  
21 then shortly after that, I received another call from  
22 Velocity employees apologizing again, telling me that they  
23 took it off the site and letting me know that I could  
24 expect a call from their president or owner, Charles

1 Tuite.

2 Q. Okay.

3 A. Very shortly after that, it could have been that  
4 same day, could have been the next day, he did call,  
5 Charles did, to apologize.

6 Q. Okay.

7 A. Shortly after that, not immediately, but within a  
8 week or a month, he followed up by wanting to come into  
9 the office. I accepted the appointment, at which time he  
10 both apologized and asked for consideration on a business  
11 arrangement -- extended business arrangement with the BAA.

12 Q. Okay. So these conversations were all regarding  
13 the Boston Marathon mark or the relationship -- Well, I  
14 guess -- Were they? So --

15 A. They were related to additional BAA business.

16 Q. Okay. In what form?

17 MR. SEEVE: Objection, vague.

18 A. He wanted to know how he could use Boston  
19 Marathon marks to sell merchandise.

20 Q. Okay. What type of merchandise?

21 A. I recall T-shirts, sweatshirts, long-sleeve  
22 shirts, specifically.

23 Q. Okay. Was there ever a mention of the -- the  
24 phrase Marathon Monday?

1 MR. SEEVE: Objection.

2 A. Not that I recall.

3 Q. Okay. Okay. Now, I have another question  
4 regarding the line above that where it said, "The Federal  
5 Trademarks Office called last..."

6 You see that?

7 A. (Deponent viewing document). I do.

8 Q. "...and told us the term Marathon Monday had been  
9 registered."

10 Who called you from the Federal Trademarks  
11 Office?

12 A. I do not recall receiving a call. I recall an --  
13 receiving an email where it was pointed out that Marathon  
14 Monday was registered.

15 Q. Who did you receive an email from?

16 A. Someone from the general public. I do not --  
17 Yeah, correct.

18 Q. So -- So I guess they -- So no one ever called  
19 you regarding it?

20 MR. SEEVE: Objection.

21 A. I do not recall if I received a follow-up call  
22 from anyone after it was called to my attention.

23 Q. Okay. But was it -- So -- But the person from  
24 the general public was not -- Well, I guess, who was that

1 person?

2 A. I don't know who the person was.

3 Q. And you don't know if they called you?

4 A. I do not recall if that person followed up with a  
5 call to me.

6 Q. Do you still have that email?

7 A. I do not know.

8 MR. BROSS: We would like that email if he's  
9 got it.

10 BY MR. BROSS:

11 Q. Actually, I want to follow up, I guess, on a --

12 MR. BEVILACQUA: Actually, take -- I mean,  
13 going an hour again so --

14 MR. BROSS: Oh, has it been an hour already?

15 MR. BEVILACQUA: Started at 12:15.

16 MR. BROSS: Yeah. If you can give me five  
17 more minutes, I'll be done and then we can -- if that's  
18 okay. If you want to take a break now, that's fine.

19 BY MR. BROSS:

20 Q. I want to follow up on the line of questioning we  
21 talked about earlier, which is that Marathon Monday is  
22 synonymous with the Boston Marathon.

23 A. (Deponent nodding).

24 Q. Do you have any research that shows that?

1 MR. SEEVE: Objection.

2 A. No.

3 Q. Okay. Have you ever done any -- Have you done  
4 any market studies that shows that?

5 A. No.

6 Q. Is there anything other than your opinion that  
7 that's the case that supports that?

8 MR. SEEVE: Objection.

9 A. I believe that there is more than my opinion that  
10 supports that.

11 Q. Okay. Like what?

12 A. I would refer to it as common knowledge in Boston  
13 and certainly within our industry.

14 Q. Is the common knowledge anywhere other than  
15 Boston?

16 MR. SEEVE: Objection.

17 A. I believe it is.

18 Q. And what is your basis for that?

19 A. It's -- I believe it's a highly recognizable  
20 expression that I and others -- many others have heard,  
21 not confined to the Boston area.

22 Q. What do you mean by many others like you? Like,  
23 who are the others?

24 MR. SEEVE: Objection.

1 A. Not only runners, but the general public.

2 Q. So many others, not just -- So others being  
3 runners and not just in the sports industry?

4 A. I believe that there's a recognition among the  
5 general public of nonrunners that Marathon Monday does  
6 refer to the Boston Marathon.

7 Q. Even in Chicago?

8 A. Yes.

9 Q. And New York?

10 A. Yes.

11 Q. So when someone in New York refers to Marathon  
12 Monday, even the day after the New York Marathon, you  
13 think they're referring to the Boston Marathon?

14 MR. SEEVE: Objection.

15 A. I believe that they're aware that this refers to  
16 the Boston Marathon and they understand that it's New  
17 York's play on Marathon Monday associated with the Boston  
18 Marathon.

19 Q. Does New York typically copy Boston?

20 MR. SEEVE: Objection.

21 A. They have.

22 Q. In what ways?

23 A. This would be one.

24 Q. Any other ways?

1 A. Yes.

2 Q. Such as?

3 A. A specific example would be the replication of  
4 the look of our media guide.

5 Q. What do you mean? I don't think I understand.

6 A. To pattern its media guide after our media guide.

7 Q. What do you mean by media guide?

8 A. A booklet produced by the event for the media  
9 that gives event statistics and facts, not just a guide  
10 book, but for the media. It's common for all events to  
11 have these, so we have one, other events have one.

12 Q. Are you talking about in connection with the  
13 Boston Marathon, a media guide in connection with that?

14 A. That's correct.

15 Q. Okay. All right. So other than anything in  
16 connection with the Boston Marathon, you can't think of  
17 another -- another type -- I mean, because media guides --  
18 You're talking about media guides in connection with the  
19 Boston Marathon; is that correct?

20 MR. SEEVE: Objection. The question of  
21 whether New York typically copies Boston is not  
22 well-defined and pretty vague and its relevance is  
23 questionable.

24 Please -- Please answer the question.

1 A. Were you referring to the New York Road Runners'  
2 imitation or copying of the BAA's production of the Boston  
3 Marathon or were you talking about the City of New York  
4 copying the City of Boston?

5 Q. Either/or. I mean, you've told me that you  
6 thought that when New York uses the phrase Marathon  
7 Monday --

8 A. Mm-hmm.

9 Q. -- they're playing off -- they're copying  
10 Boston. That's your testimony, correct?

11 MR. SEEVE: Objection.

12 A. That's correct.

13 Q. So even though they're using it the day after  
14 their marathon --

15 A. (Deponent nodding).

16 Q. -- you think that they're referring to the Boston  
17 Marathon.

18 A. I believe it's a play to capitalize on the name  
19 recognition that Marathon Monday has with the Boston  
20 Marathon.

21 Q. A name that you've never registered.

22 MR. SEEVE: Objection.

23 A. That is correct.

24 Q. Okay. And I asked you what other ways has New

1 York copied Boston --

2 A. (Deponent nodding).

3 Q. -- and you came up with media guides.

4 A. Sorry. Do you mean the City of New York to the  
5 City of Boston or the New York Road Runners as the race  
6 management company of the New York City Marathon to the  
7 BAA's management of the Boston Marathon?

8 Q. Well, let's do both. I mean, let's take -- let's  
9 take the small one first.

10 MR. SEEVE: Objection, vague.

11 BY MR. BROSS:

12 Q. The New York association Road Runners versus the  
13 Boston.

14 MR. BROSS: And I'm going over the five  
15 minutes so I apologize for this, but --

16 BY MR. BROSS:

17 Q. So let's start with the New York Road Runners  
18 association versus the Boston Marathon association. So  
19 are there other ways in which New York has copied Boston  
20 in connection with our marathon --

21 MR. SEEVE: Objection.

22 BY MR. BROSS:

23 Q. -- those two groups?

24 MR. SEEVE: Again, questionable relevance

1 here.

2 A. There are.

3 Q. Like?

4 A. Such as the creation and positioning of a jacket  
5 that would be a recognizable and recognition item for its  
6 participants similar -- the same as the BAA successfully  
7 positioned that in the '90s and through the 2000s up until  
8 today. Just one example.

9 Q. Okay. What about the larger as the -- the City  
10 of New York where -- because the phrase Marathon Monday  
11 New York was not -- I mean, that was a Google search,  
12 correct? I mean, that was a Google search where we saw  
13 the phrase Marathon Monday --

14 MR. SEEVE: Objection.

15 BY MR. BROSS:

16 Q. -- in connection with the New York Marathon.

17 A. We saw that in the earlier testimony.

18 Q. Yes. And that was exhibit -- what exhibit was  
19 that again? That was from the notice of opposition and I  
20 don't have the exhibit numbers on mine.

21 A. (Deponent viewing document). Exhibit 30?  
22 Exhibit 30.

23 Q. Okay. So your testimony was that the phrase  
24 Marathon Monday mania, Marathon Monday is playing off the

1 words of the Boston Marathon.

2 MR. SEEVE: Objection, mischaracterizes  
3 testimony.

4 A. (Deponent viewing document). Hang on a second.

5 Q. It's the one, two, three -- fifth one down.

6 A. (Deponent viewing document). Yes. What was the  
7 question?

8 Q. So your testimony is that -- that the Marathon  
9 Monday there is playing off the Boston Marathon?

10 A. That's correct.

11 Q. Okay. And so -- And that's to a -- This is to a  
12 broader audience other than just to runners, correct?

13 MR. SEEVE: Objection.

14 BY MR. BROSS:

15 Q. Or appears to be.

16 A. I believe this is specific to runners.

17 MR. BEVILACQUA: Is this the last line of  
18 questioning? Otherwise --

19 MR. BROSS: Yes.

20 MR. BEVILACQUA: -- take --

21 MR. BROSS: Yes, it is.

22 Okay. I believe that that is all I have.

23 THE DEPONENT: Thank you.

24 MR. BROSS: Thank you.

1 MR. SEEVE: I have no further questions.

2 MR. BEVILACQUA: Actually, could we just take  
3 a break before we --

4 MR. BROSS: Sure.

5 MR. BEVILACQUA: -- close it, for a second?

6 (Recess taken).

7 (Deposition of JOHN FLEMING concluded at

8 1:29 p.m.)

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS )  
 )  
COUNTY OF MIDDLESEX )

I, Ayako Odanaka, a Certified Realtime Reporter,  
Registered Professional Reporter and Notary Public duly  
commissioned and qualified in and for the Commonwealth of  
Massachusetts, do hereby certify that the witness whose  
deposition is hereinbefore set forth, was duly sworn by me  
and that such deposition is a true record of the testimony  
given by the witness.

I further certify that I am neither related to or  
employed by any of the parties in or counsel to this  
action, nor am I financially interested in the outcome of  
this action.

In witness whereof, I have hereunto set my hand  
and seal this 8th day of July 2013.



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Ayako Odanaka, CRR, RPR  
CSR No. 147904  
My Commission Expires  
February 9, 2018

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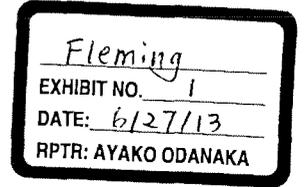
The deposition of John Fleming, was taken in the matter, on the date, and at the time and place set out on the title page thereof.

It was requested that the deposition be taken by the reporter and that same be reduced to typewritten form.

It was agreed by and between counsel and the parties that the deponent will read and sign the transcript of said deposition.

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

\_\_\_\_\_)  
Boston Athletic Association, )  
 )  
Opposer )  
 )  
v. )  
 )  
Velocity, LLC, )  
 )  
Applicant )  
\_\_\_\_\_)



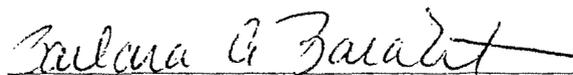
Opposition No. 91/202562

NOTICE OF DEPOSITION OF JACK FLEMING

Please take notice that Opposer Boston Athletic Association (“Opposer”), through its counsel and pursuant to Rule 30 of the Federal Rules of Civil Procedure, will take deposition upon oral examination of Jack Fleming on June 27, 2013, beginning at 9:30 a.m. at the offices of Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, Massachusetts 02109. The deposition will continue day to day until completed.

The deposition shall be recorded stenographically before an officer authorized by law to administer oaths, and is being taken for such use and purpose as may be permitted by law and the Federal Rules of Civil Procedure, including trial.

BOSTON ATHLETIC ASSOCIATION  
By its attorneys,

  
\_\_\_\_\_  
Michael J. Bevilacqua  
Barbara A. Barakat

Date: June 12, 2013

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposer's Pretrial Disclosures were served by first-class mail, postage-prepaid, this 12<sup>th</sup> day of June, 2013 upon:

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

  
Barbara A. Barakat

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# The Signs of Marathon Monday

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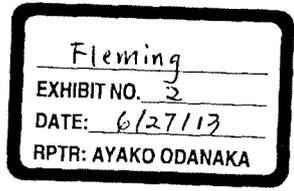
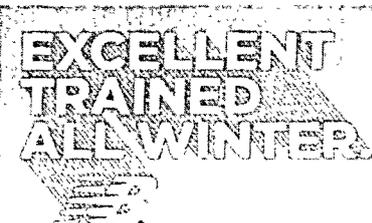
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America's oldest and most prestigious marathon, the Boston Marathon draws runners from well over 180 countries. A holiday here in Boston, there are many telling signs that it is Marathon Monday time. Enjoy some of the marketing around this year's 115th running of the Boston Marathon!

## New Balance

While **New Balance** is not an official sponsor of the Boston Marathon, the company has been calling the city home since 1906 and always makes the most of the home field advantage (especially with prominence around the MBTA). This year's campaign: "Let's Make Excellent Happen." With other compelling taglines that include "Excellent is Made in Boston," "Excellent Loves Heartbreak," "Excellent Makes Molehills Out of Newton Hills," "Excellent Screams Through Wellesley" -- what's not to love?

The company cites an "exceptionally brutal" winter that created challenges for those training here in the Hub as inspiration for the campaign. They have a neat tool on their website, for example, where you can calculate your weather handicap (http://www.newbalance.com/performance/running/boston-marathon/trained-tough/) compared to other cities. The company has also released limited edition running sneakers, the Boston 890 (http://www.newbalance.com/performance/running/boston-marathon/boston-890/). It also has limited edition Boston Marathon tees that make a perfect statement about the feat completing this Marathon truly is, nodding its head with pride to the towns the race touches and winds through.



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Chase Garbarino (http://bostinno.streetwise.co/author/chase/) received +1 from Walter Frick (http://bostinno.streetwise.co/author/wfrick/) RunKeeper Integrates With Rival Health App... (http://bostinno.streetwise.co/2013/06/25/runkeeper-integrates-with-rival-health-app-myfitnesspal/) My fitness pal is in the lead IMO for owning the health graph concept Runkeeper articulated very...

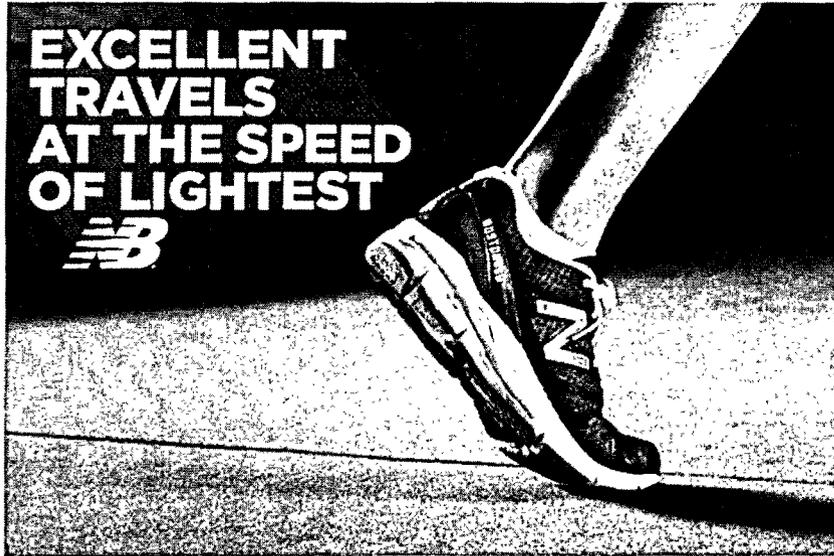
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 Very excited to be part of this team - please feel free to shoot me a message with any questions!

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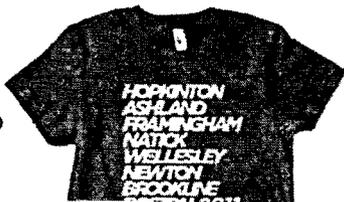
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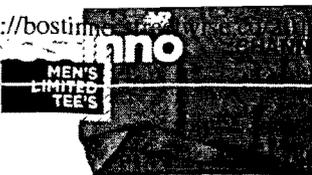
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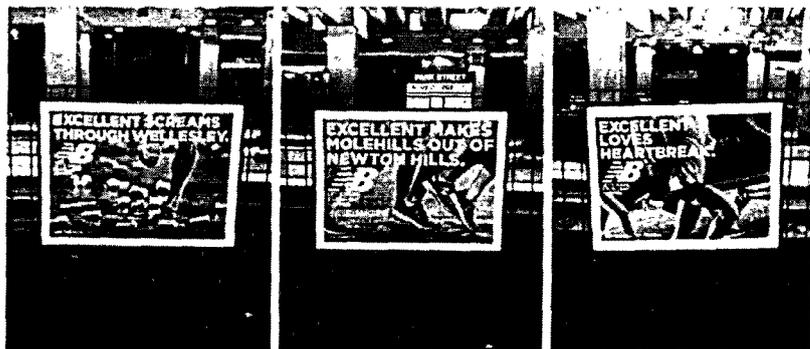
			
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(http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/nb\_mbta

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### Adidas

Although not a hometown hero like New Balance, for the 23rd year Adidas is the official footwear and apparel sponsor of the Boston Marathon. Their emblem is THE icon for Boston Marathon runners. They supply volunteers and media officials (thats over 12,000 in number) with exclusive jackets. This year the logo is screen printed on jackets, instead of embroidered (http://mainerunner.blogspot.com/2011/03/adidas-screws-up-2011-boston-marathon.html), which has some runners up in arms with regard to its durability. Adidas seems to have claimed it was a supply chain error, and has repriced the product at \$85.

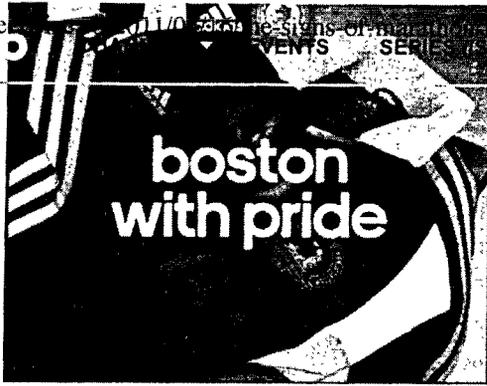
Adidas is giving back to the Boston community this year with its Treadmill Challenge at City Hall Plaza, Hynes Convention Center and Faneuil Hall called the adiZero Charity Challenge. If you're up for running for miles on stationary treadmills there to raise money for Boston Public Schools and other local causes, each mile run will result in Adidas donating \$5 to the cause (\$10 if you are crazy and want to run after midnight). On Friday 130 miles were counted, raising nearly \$1500. And the first 26 people to run at all locations will win adiZero footwear. They also are crowdsourcing on their runner's Facebook page "Game Faces," (http://www.facebook.com/adidas.running?sk=app\_156823704374730) where runners can upload their photos in a chance to be in their MTV Movie Awards commercial this June.

In 2009 Adidas extended its contract with the Boston Athletic Association so they can continue to sponsor the event through the B.A.A.'s 125th anniversary in 2013 and the 125th running of the Boston Marathon in 2021. So, expect to continue to see something fresh from them in the coming years here in Boston. Their taglines: "Boston with Love," "Boston with Heart," and "Boston with Pride."



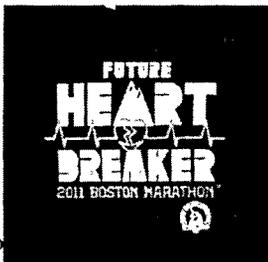
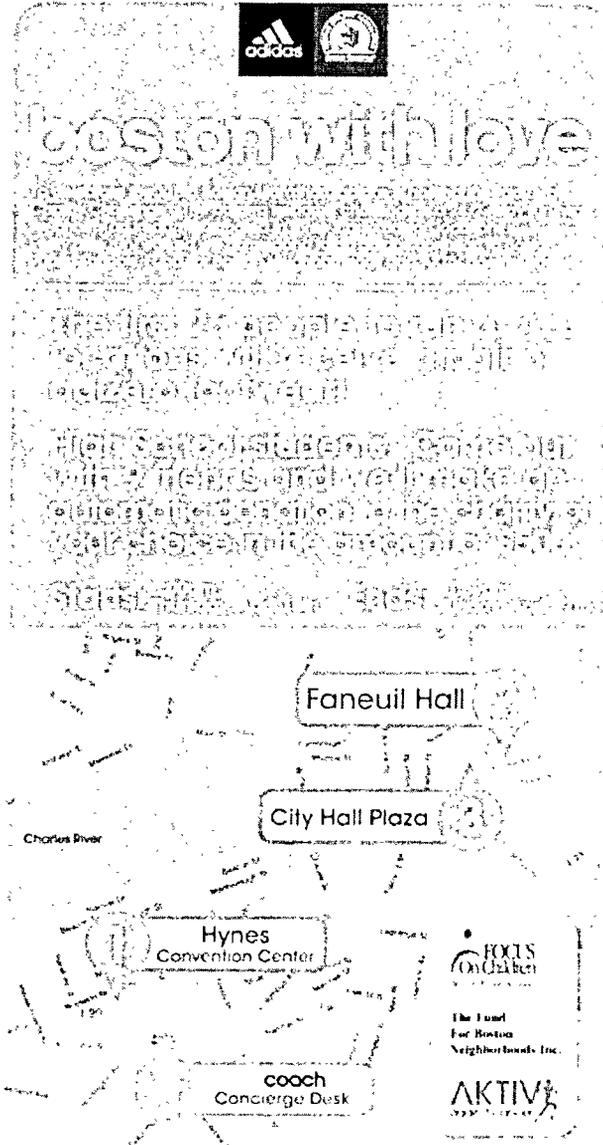
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pm-3/?\_\_hstc=136830063.613420d4cfeff1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&  
\_\_hssc=136830063.3.1372322752740)



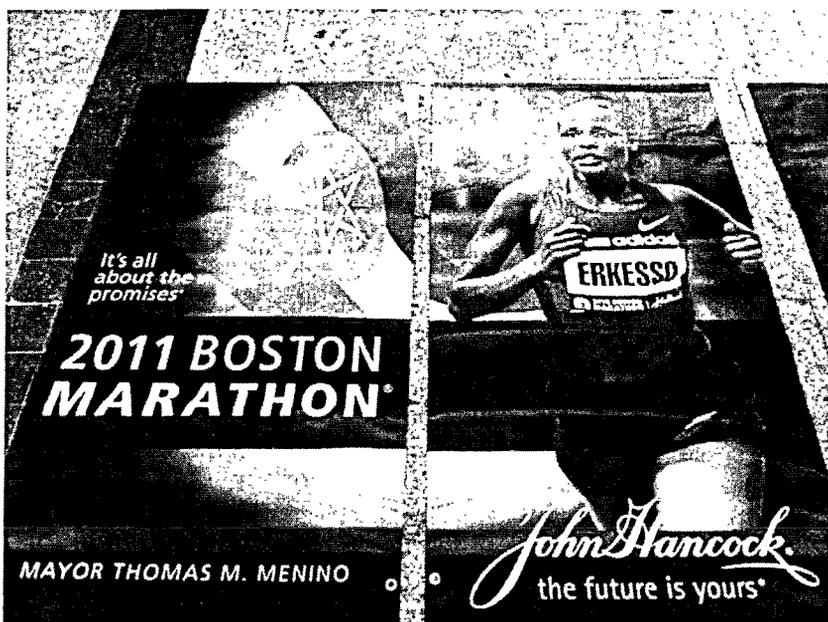


([http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/adidas\\_tees](http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/adidas_tees)

[/?\\_\\_hstc=136830063.613420d4cfeff1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&\\_\\_hssc=136830063.3.1372322752740\)](http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/adidas_tees)

## John Hancock

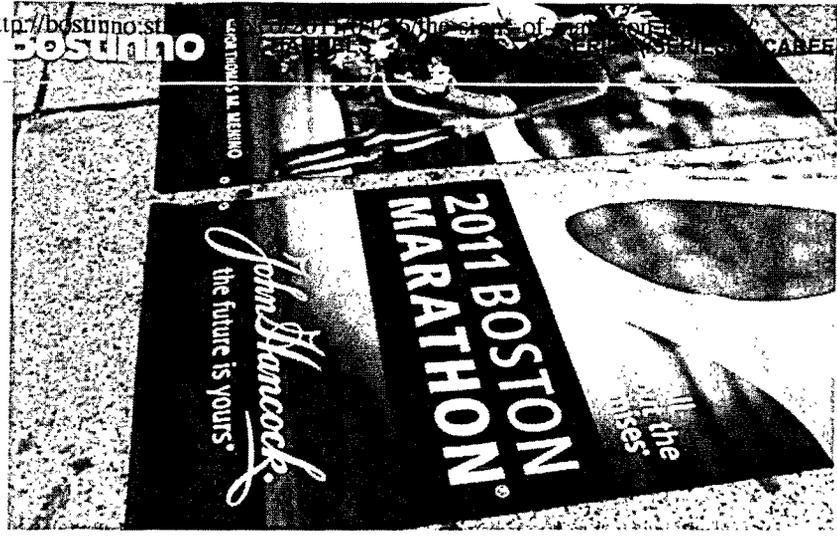
In Boston, warmer weather isn't a sure sign of spring. What is: when you start to see John Hancock Boston Marathon banners on lightpoles. **John Hancock** is the primary, landmark sponsor and funder of the Boston Marathon. The company's own tagline, "The Future is Yours," aligns perfectly with driven runners pushing their hardest to the Finish Line. You see John Hancock's logo everywhere in Boston, starting with the famous light pole flags depicting some of the most famous runners in the Boston Marathon.



([http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/jh\\_futureisyours](http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/jh_futureisyours)

[/?\\_\\_hstc=136830063.613420d4cfeff1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&\\_\\_hssc=136830063.3.1372322752740\)](http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/jh_futureisyours)





(http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/jh\_ground  
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\_\_hssc=136830063.3.1372322752740)

### Dana-Farber

The Boston Marathon is one of the most important fundraising times for **Dana-Farber**. The official charity program for the race since 1990, 550 runners will travel from Hopkinton to Boston on behalf of the cause. The Dana-Farber Marathon Challenge (DFMC) team consists of novice to experienced runners who are not necessarily time-qualified for the Boston Marathon. Every runner has been touched personally by cancer, and are dedicated to fight through the fundraising and training component of DFMC. 100% of funds raised go to the Claudia Adams Barr Program in Innovative Basic Cancer Research. In 2010, the DFMC team raised \$4.4 million. Dana-Farber has set up an online store on Cafe Press (<http://www.cafepress.com/danafarber/4404665>) to purchase their Boston Marathon logo'ed up gear -- from doggy tees to baby bibs. We like their logo best -- especially as a fake tattoo.



## Other Sponsors

John Hancock, Adidas, and Dana-Farber are the three top sponsors of the 115th running of the Boston Marathon, But check out the creatives below from other sponsors. These include **PowerBar** (has sweepstakes and nutritional panel with professional runners dropping knowledge), **JetBlue** (the official airline, who ran an Extra Mile contest to provide 4 winners with round-trip tickets and hotel accommodations in Boston), and **AT&T** (providing the Athlete Alert Program so spectators can track individuals as they pass the 10k, half marathon, 30k, and finish line).



## NUTRITION SEMINAR

Saturday, April 16 at 11:00 a.m. in booth

Sunday, April 17 at 11:00 a.m. in booth

### PANEL INCLUDES:

**Dr. Jenna A. Bell** PowerBar Nutritionist

**Josh Cox** 50K American Record Holder

**Adam Goucher** 3x USA Cross Country Champion (Saturday Only)

**Ann Rollins** RD DT2 Systems, A PowerBar Team Elite Team (Saturday Only)

**Sarah Bashinski-Flament** Olympic Trials Qualifier (Sunday Only)

**Craig Zelent** PowerBar Team Elite Athlete (Sunday Only)

Emcee: **Bart Yasso** Runner's World Magazine



LEARN | TRAIN | SHARE @ [WWW.POWERBAR.COM](http://WWW.POWERBAR.COM)

([http://bostonno.com/2011/04/16/the-signs-of-marathon-monday/powerbar\\_panel](http://bostonno.com/2011/04/16/the-signs-of-marathon-monday/powerbar_panel))

/?\_\_hstc=136830063.613420d4cfeff1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&  
\_\_hssc=136830063.3.1372322752740)



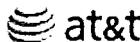
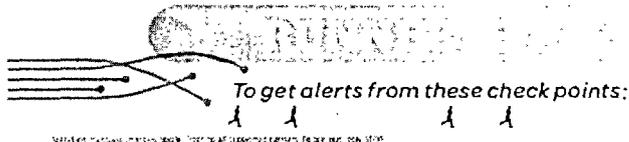


**HOW TO ENTER:**

- Send us a brief essay (202 words or less) telling us why you should get a chance to run in Boston this year
- Entrants must meet all official Boston Athletic Association qualifying standards. Winner's eligibility will be verified through B.A.A. before prizes are awarded. Proof of qualification will be required.

(http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/screen-shot-2011-04-16-at-12-34-09-  
pm/?\_\_hstc=136830063.613420d4cfeff1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&\_\_hssc=136830063.3.1372322752740)

## AT&T Athlete Alert Program



(http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/att\_athletealert  
/?\_\_hstc=136830063.613420d4cfeff1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&\_\_hssc=136830063.3.1372322752740)

## Narragansett

We couldn't forget about **Narragansett** and their brilliant branding when thinking about the signs of Marathon Monday. This Rhode Island based brewery hosts the Boston Marathon Pre-Race Dinner (http://www.narragansettbeer.com/2011/04/this-weekend-boston-marathon-hi-neighbor-homestand-and-beer-summit) on Sunday from 4:30-8pm at City Hall Plaza. For runners, tickets are enclosed with their official runner's bib packet. For Narragansett, "It's all about Boston this weekend," with the Red Sox at home at the hugely popular Beer Summit also in town. They'll be at all three. Check out their fun creative below, and expect to see a beer bottle top running the race this year.

**Hi-Neighbor!**  
Have a 'Gansett! It's all about  
**BOSTON**  
**THIS WEEKEND!**

We're sponsoring the pre-race  
**PASTA DINNER**  
for the **BOSTON**  
**MARATHON**  
at **CITY HALL** on **SUNDAY**  
and we'll be around  
**FENWAY PARK**  
on **MONDAY** for both the  
**MARATHON & the BALL GAME**

You can also find us  
at the **BEER SUMMIT**  
at **PARK PLAZA**

Session 1: **FRI NIGHT 5:30-9 pm**  
Session 2: **SAT DAY 12:30-4 pm**  
Session 3: **SAT NIGHT 5:30-9 pm**

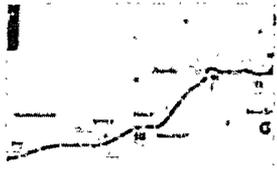
**NARRAGANSETT BREWERY WAS ALREADY THRIVING**

(http://bostinno.com/2011/04/16/the-signs-of-marathon-monday/naragansett

/?\_\_hstc=136830063.613420d4cffe1033c7441ac15c4660.1372322752739.1372322752739.1372322752739.1&\_\_hssc=136830063.3.1372322752740)

What other signs of the Boston Marathon pop out to you around Boston? Let us know in the comments!

Related Posts



When is the Boston Marathon? Plus a Route Map, Start Times & All the Other Details You Need to Anne Karasek (http://bostinno.streetwise.co/author/anne-karasek/)



Everything You Need to Know About the 117th Boston Marathon (http://bostinno.streetwise.co/all-series/2013-Lisa-DeCanio (http://bostinno.streetwise.co/author/lisa\_decanio/)



Boston Marathon Winner to Return Medal to Honor Victims (http://bostinno.streetwise.co/2013/06-Caroline-Lyle (http://bostinno.streetwise.co/author/caroline-lyle/)

Comments 0 total

Type @ and a user's name to tag them in a comment

Notify me of follow-up comments via email

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Navigation menu with categories: Sites, Communities, Channels, Events, Series, Careers, Follow. Includes links to Bostinno, Arts & Entertainment Marketing, Channel Directory, Event Calendar, Series Directory, Career Directory, and social media feeds.



# MARATHON SPORTS SINCE 1975

• BOSTON'S FAVORITE RUNNING SPECIALTY STORE SINCE 1975 •



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## >4/16/13: Our City Is Strong



This took too long to write, and in part it's because there really are *no words* to describe how we all feel right now.

On this surreal Tuesday, in the immediate wake of this incredible, tragic, senseless act of violence that took place quite literally at our doorstep, we are deeply saddened for the loss of life and the injuries sustained by the multitude of victims. We send our prayers, thoughts, and positive energy to all who have been affected by this act.

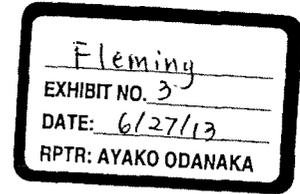
As a company at the epicenter of the running community in Boston, we feel it is our duty to respond. We will not respond with any commentary on those responsible for the attack; that would merely validate their actions. We will focus instead on the incredible sense of solidarity, of unity, and of love within the running community and Boston at large.

We are incredibly grateful that the members of our staff on site at the time of the attack are, miraculously, safe, and we are proud of the individual decisions our staff made in the face of inconceivable circumstances. And the outpouring of prayers, offers of help, and love from all corners of the running world is heartfelt and appreciated.

The decision to help one another through tragedy can be instinctive, and those very instincts are native to the running community, and part of what makes it such a special group of people in the first place. While running is very much an individual sport in many respects, we all strive to celebrate and triumph together, united by a common pursuit. Whether celebrating a first 5k, a PR, or a lifelong pursuit of crossing the finish line on Boylston Street, we all train, race, and celebrate together.

And because of this, we will persevere. As Bostonians – which we ALL are on Marathon Monday, native or not – we are **strong**, stubborn New Englanders to the core. As runners – we are unified through love for one another, love for our sport, love for the thrill of crossing finish lines, and for (sometimes) beating the clock.

Yesterday's events will cause us to cherish those triumphs all the more, in honor of those who no longer can. Know this: Boston will not stop running. We will run again, and we owe it to those who can't.



## NEWSLETTER

Stay in touch for monthly news, product updates, special events, and more...

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## NEWS

>6/14/13: Father's Day Sale, 20% Off Men's Apparel Saturday 6/15 and Sunday 6/16 (/blogs/news/8104841-6-14-13-fathers-day-sale-20-off-mens-apparel-saturday-6-15-and-sunday-6-16)

>6/4/13: Explaining the Compression Craze (/blogs/news/8040031-6-4-13-explaining-the-compression-craze)

>6/27/13: Tips for Summer Injury Prevention (/blogs/news/7982549-5-27-13-tips-for-summer-injury-prevention)

>5/2/13: New Balance 890v3 Boston Edition, 100% of Profits To THE ONE FUND (/blogs/news/7802593-5-2-13-new-balance-890v3-boston-edition-100-of-profits-to-the-one-fund)

>5/2/13: Saucony and Competitor Magazine Announce "26 Strong", Looking for Veteran Marathoners (/blogs/news/7802503-5-2-13-saucony-and-competitor-magazine-announce-26-strong-looking-for-veteran-marathoners)

<http://www.marathonsports.com/blogs/news/7/02175-our-city-is-strong>  
/?\_hstc=255453271.e53961b73f0a0ec807d517cf5b348e99.1372323483123.1372323483123.1372323483123.1&\_hssc=255453271.1.1372323483123)

Marathon Sports

### FIND MISSING PEOPLE

Mayor's Hotline - Call (617) 635-4500

Google Person Finder - <http://google.org/personfinder/2013-boston-explosions/> (<http://google.org/personfinder/2013-boston-explosions>

/?\_hstc=255453271.e53961b73f0a0ec807d517cf5b348e99.1372323483123.1372323483123.1372323483123.1&\_hssc=255453271.1.1372323483123)

American Red Cross "Safe And Well" - <http://www.redcross.org/find-help/contact-family/register-safe-listing> (<http://www.redcross.org/find-help/contact-family/register-safe-listing>?\_hstc=255453271.e53961b73f0a0ec807d517cf5b348e99.1372323483123.1372323483123.1372323483123.1&\_hssc=255453271.1.1372323483123)

### TIPS

If you have any information about this attack, please use the TIPS hotline - 1-800-494-TIPS

### DONATE

And we are imploring all those who have the means to donate to the [American Red Cross](http://www.redcross.org) (<http://www.redcross.org>/?\_hstc=255453271.e53961b73f0a0ec807d517cf5b348e99.1372323483123.1372323483123.1372323483123.1&\_hssc=255453271.1.1372323483123). Give money, or wait a week and give blood, it all helps.

• **Tweet** 0

(<http://pinterest.com>  
/pin/create  
/button  
/?url=<http://www.marathonsports.com>&  
description=&  
media=<http://cdn.shopify.com>  
/s/images  
/admin  
/no-image-  
original.gif?ad3b8d4042150f94a0dd3f9adaa945f2bd7df5d&  
\_hstc=255453271.e53961b73f0a0ec807d517cf5b348e99.1372323483123.1372323483123.1372323483123.1372323483123.1&  
\_hssc=255453271.1.1372323483123)

• **Like** 1

Written by *Stride Longley* — April 15, 2013

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• [News \(/blogs/news/tagged/news\)](/blogs/news/tagged/news)

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[Events \(/pages/clinic-calendar\)](/pages/clinic-calendar) | [News \(/blogs/news\)](/blogs/news) | [Gift Cards \(/pages/giftcards\)](/pages/giftcards)  
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## @MARATHON\_SPORTS

Tweets

Follow

 **Expect Miracles** 14h  
@ExpectMiracles1

Hi! @Marathon\_Sports is anyone is interested in running the 2013 Falmouth Road Race, our Boston based charity has numberst #3 @www.marathonsports.com

Retweeted by Marathon Sports

Sports

Expand

 **Cait Sevigg** 14h  
@Seviggz

all registered for the MassAveMile with @RaceAve.com @Marathon\_Sports and @WholeFoods requested

Retweeted by Marathon Sports

Sports

Expand

 **Marathon Sports** 16h  
@Marathon\_Sports

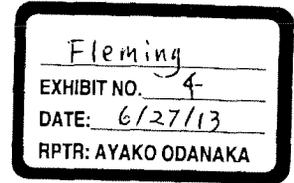
Big, big, big day. #prideonline with our 2013 SR1000

Show Summary

 **Mayor Tom Menino** 17h

Tweet to @Marathon\_Sports





News | Top News

# Marathon Monday MBTA Schedule Includes Medford Bus Line Reroutes

Commuter rail should expect delays.

Posted by Jarret Bracks (Editor), April 12, 2012 at 02:11 pm

Comment Recommend Like 0 Tweet 0



The Route of the Boston Marathon stays south of the Charles River, but the race is expected to impact some bus lines that run in Medford.

According to a schedule released by the MBTA, the 94, 95, 96, 134 and 101

### Popular Stories

- Today on Patch: New Features and a New Look
- Tufts Pool, Wright's Pond Open Saturday
- Medford High Cheerleaders' Car Wash Saturday

buses will take different routes at certain periods of the day Monday to avoid disrupting the race.

The MBTA suggests anyone taking public transit Monday check the "i-Alerts" page on its website for information on delays and advisories.

Along with buses, West Medford's commuter rail will likely be impacted Monday by increased ridership and "extreme crowds," according to the MBTA. Commuter rail riders should expect delays.

The following is the complete press release, courtesy of the MBTA:

With thousands of fans expected to attend various Marathon Monday events throughout the Boston area, the MBTA will operate additional service to accommodate ridership.

### Boards

Make an announcement, speak your mind, or sell something

### Post

#### City Council Meeting

BRAVO Councillor Penta, BRAVO

Speak Out June 27, 2013 at 12:07 am

MaryP

#### Seaport Hotel Receives Good Earthkeeping Award from the...

Boston, Massachusetts - June 26, 2013—The Seaport Boston Hotel was recently presented with the.



Announcements June 26, 2013 at 08:00 pm

Ryan Sullivan

More Boards »

MBTA.com throughout the day for up-to-the-minute information.

Customers are encouraged to add value to their CharlieCards while heading inbound to Boston if possible to reduce lines later in the day. Red Sox fans can purchase CharlieTickets or add value to their CharlieCards at fare vending machines located inside Fenway Park near Gates C and E.

For complete service information, check MBTA.com and media broadcasts regularly. To receive T-Alerts on your phone, please click [here](#) to sign up.

Pre-Marathon Events:

On Saturday, April 14th, 2012, a road race will take place on Boylston Street. Boylston St. will be closed to traffic between the hours of 9:00 a.m. and 11:00 a.m. All bus routes that run through Boylston Street will be re-routed during the road closure.

On Sunday, April 15th, 2012, a 5k road race will take place along the Copley and Boston Commons areas. Routes **9,10,39,43**, and **55** will be diverted between the hours of 8:00 a.m. and 12:00 p.m. The Silver Line will run its regular route excluding the Tremont Street stop.

Full Marathon Monday service details for each mode are as follows:

Subway

- The Red, Blue, Orange, Green, and Mattapan Line will operate on its regular weekday schedule with extra service before and after the marathon.
- Copley Station will be closed all day. Due to road closures, Green Line stops at South St. and Kent St. will be bypassed from 10:00 a.m. to 3:00 p.m. St. Mary's on Beacon St. will be bypassed between the hours of 11:00 a.m. and 3:00 p.m. Customers attending the Boston Marathon will have access to the Green Line at Hynes Convention Center or Arlington Station. Customers will only be permitted to exit from the Boylston Street side of Hynes Convention Center Station.
- Customers are urged to load value on to their CharlieCards in advance in order to avoid long lines on Marathon Monday.
- MBTA employees in orange vests will be deployed throughout the transit system to assist customers who may have questions.
- Bicycles will not be allowed on the subway. Bicycles are permitted on the commuter rail except for peak-period trips, which are identified by shading on the schedules.

For up-to-the-minute service information, please check [T-Alerts](#).

Commuter Rail

- Commuter rail service will operate on its regular weekday schedule.
- Due to the dramatically increased ridership with extreme crowds, customers should expect delays throughout the day and are encouraged to budget additional time for his/her commute. For up-to-the-minute service information, including all delays, please check [T-Alerts](#).

Bus

- Buses and trackless trolleys will operate on a Saturday schedule.
- Route 55 - Queensbury/Copley Station - Service will be terminated until completion of the Boston Marathon.
- On Marathon Monday, buses will be rerouted at certain times during the day to prevent disruption of the race. These routes include:
  - o Southside Routes
  - 1 - Dudley - Harvard via Massachusetts Avenue.
  - 8 - Harbor Point - Kenmore ~ Trip terminates at the Old Sears Building.
  - 9&10 - City Point (South Boston) - Copley Square ~ Trip terminates at Back Bay Station
  - 39 - Forest Hills Station to Back Bay Station ~ Trip terminates at Back Bay Station on the Dartmouth Street Side
  - 47 - Central Square Cambridge - Albany Street. Inbound trip terminates at Granite and Memorial Drive. Outbound trip terminates at the Old Sears Building.
  - 52 - Watertown - Dedham Mall

### Parents! LearnBop's Free Online Math Program Starts July 8!

Most students lose about two months of learning over the summer--by the time high school...

Announcements June 26, 2013 at 06:09 pm  
unknownauthor

### Dana Cohen-Medford Optical Nationally Recognized

Dana Cohen of Medford Optical was featured in the national publication of Eye Care...

Announcements June 26, 2013 at 01:10 am  
Dana Cohen

### Suffolk Federal Credit Union Welcomes Debra Kaminski to...

Suffolk Federal Credit Union recently welcomed Debra Kaminski of Islip as its Director of...



Announcements June 25, 2013 at 08:58 pm  
Krista Svedberg

### 12th annual WEEI/NESN Jimmy Fund Radio-Telethon set for...

BOSTON, Mass. (June 24, 2013) - WEEI Sports Radio 93.7 FM and NESN are proud to announce that...

Announcements June 24, 2013 at 07:19 pm  
unknownauthor

- 57 – Watertown Square to Kenmore Square. Trip terminates at Blandford Street.
- 59 – Needham Junction – Watertown Square. Inbound trip terminates at Newton Highlands.
- 60 – Chestnut Hill Mall – Kenmore Square. Inbound trip terminates at the Old Sears Bldg.
- 65 – Brighton Center – Kenmore Square. Trip terminates at the Old Sears Bldg.
- 66 – Harvard - Dudley
- 86 – Sullivan Square Station – Reservoir (Cleveland Circle)
- 504(2) – Watertown Square or Newton Corner – Downtown, o Northside Routes
- 86 – Sullivan Square Station – Reservoir (Cleveland Circle)
- 62/76 – 62-Bedford V.A. Hospital – Alewife Station ~ No service to Lexington Ctr.
- 76 – Hanscom AFB – Alewife Station ~ No service to Lexington Ctr.
- 77 – Arlington Heights - Harvard Station via Mass. Avenue
- 80 – Arlington Center to Lechmere Station. Outbound service rerouted ONLY.
- 350 – North Burlington - Alewife Station
- 94 – Medford Square - Davis Square Station
- 95 – West Medford – Sullivan Square Station
- 96 – Medford Square – Harvard Station via George Street
- 134 – North Woburn – Wellington Station via Woburn Square and Winchester Ctr.
- 101 – Malden Center Station – Sullivan Square Station

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Medford Arts Center Fundraiser Features Psychic



Peter Pan Flies into Medford This Weekend



Medford High Cheerleaders' Car Wash Saturday



Tufts Pool, Wright's Pond Open Saturday

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Announcements June 24, 2013 at 02:42 pm

Susan Whitman

### LETTER: Farewell to Medford Patch

Medford Patch editor Jake O'Donnell is making a move to the big city.



Speak Out June 20, 2013 at 12:13 am

Jake O'Donnell

(Editor)

### ACCC Asks: Have You Ever Declined a Wedding Invitation?

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Announcements June 19, 2013 at 08:30 pm

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| 28 | Free Fun Fridays At<br>Freedom Trail Foundation<br>June 28, 2013, 10:30 AM | 29 | Boston Strong First<br>Responders Basketball<br>June 29, 2013, 9:00 AM     |
| 29 | MASTER PSYCHIC DENISE<br>FIX at CARROLL'S<br>June 29, 2013, 12:00 PM       | 29 | Author Event - Edith<br>Maxwell and Liz Mugavero<br>June 29, 2013, 2:00 PM |

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### McGlynn Sixth-Grader Wins Third Place in MWRA Poster Contest

The Massachusetts Water Resources Authority is pleased to announce that Gerry Pellegrini, a...



Announcements June 19, 2013 at 03:26 pm  
Kristin MacDougall (for MWRA)











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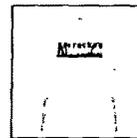
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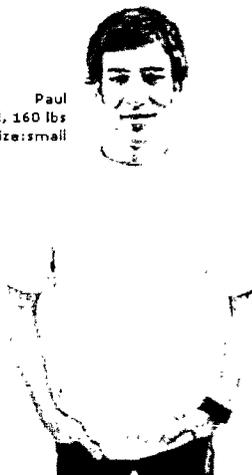
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Paul  
6' tall, 160 lbs  
shirt size: small



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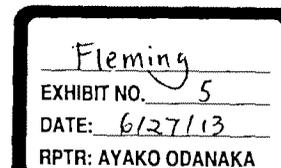
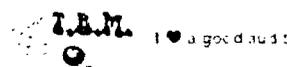
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www.myfoxboston.com/.../marathon-monday...



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**"Blue Mountain State" Marathon Monday (TV episode 2010) - IMDb**

Rating: 7.9/10 - 58 votes

Directed by Jay Chandrasekhar. With Darin Brooks, Gabrielle Dennis, Sam Jones III, Alan Ritchson.

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**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 ...

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By Lonnie Burstein Hewitt Beginning at 7 pm on March 26, the Athenaeum Music & Arts Library at 1008 Wall St., will host a marathon that's not just another ...

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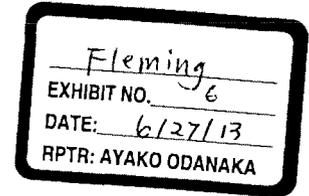
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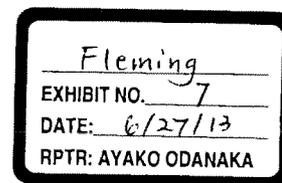
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## Marathon Monday – Restaurants on the Boston Marathon Route

by kristengz on April 19, 2010

Happy Patriot's Day to my fellow Massachusetts dwellers! Today, as all Bostonians know well, is Marathon Monday. The 114th running of the Boston Marathon will take place beginning this morning. Today is also my third consecutive year volunteering at the Marathon loading buses at the Boston Common. Set up begins at 5:00am and I'll be there with Dane and my PIC (partner in crime) Nino to help get the thousands of runners on buses headed to the starting line in Hopkinton.

The first year I managed to keep myself awake and went out for breakfast once our volunteer shift was over. Last year, I was exhausted and could not manage to keep it together and stay in the city. This year, I promise myself that I will stay on Boylston Street and watch the runners cross that finish line.

That got me to thinking, where is the best place to go after we've bid farewell to the runners and sent them on their way? Then that just made me wonder what other restaurants are along [the marathon route](#). So I started researching, and chose some of my favorites.

And here they are, in no particular order.

### **Lir**

*903 Boylston Street, Boston*

This is where we will most likely be spending our time after our volunteer shift. Lir is an Irish Pub right on Boylston Street, where the marathon finish line is. You can watch the runners go by inside from the front windows, which open during the nicer weather to create an outdoor patio feel. A local radio station, WAAF, will also be broadcasting there beginning at 10am. I happen to really love this place. It has a great relaxed feel. Never had a brunch there, but I'm looking forward to it!

### **Eastern Standard**

*528 Commonwealth Avenue, Boston*

**B-000021**

This place is currently on our Restaurant Wish List. We've never been here, but I have heard nothing but rave reviews from friends who have visited. I would really love to try their Mac and Cheese with Pork Belly Confit. I think we all know how I feel about mac and cheese, and it one of the item menus that people tell me to try time and time again. Eastern Standard also has an outdoor patio, which I would imagine would be open if weather permits, making it a great spot to see the race.

### **Cactus Club**

*939 Boylston Street, Boston*

This would make an awesome spot to see the Marathon. Cactus Club is located on Boylston Street, at the corner of Boylston and Hereford Street. The Boston Marathon route has the runners come down Hereford, then turn left on to Boylston where the finish line awaits them. There's an amazing energy when the runners turn that corner and head for the end of the marathon. Not to mention, Cactus Club has awesome margaritas and sangria. What better way to cheer the runners than with a delicious cocktail in hand? Cactus also has an outdoor patio, which is lovely if the weather holds out.

### **O'Leary's**

*1010 Beacon Street, Brookline*

Our favorite Irish pub in all of Boston. This pub is laid back with great food and a comfortable atmosphere. Every meal I've had here has been delicious, not to mention every drink. They have several Irish beers on draught, along with Magner's cider. O'Leary's is smaller than the two previous bars I mentioned, so you won't have quite as many people on Marathon Monday, though you can still count on it being crowded because of the prime location along the marathon route. No outdoor seating here, but you'll definitely see the runners if you step outside onto the sidewalk on Beacon Street.

There are countless places to see and enjoy the Boston Marathon today, even if it's from the comfort of your own couch. At least know you'll be sleeping later than we will, and wish us luck with our 5:00am shift at the Boston Common!

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Susan April 22, 2010 at 7:16 pm

I was at Eastern Standard on Monday!

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kristengz April 23, 2010 at 6:32 pm

Nice, how was the view? I was at Lir. It was REALLY crowded, but an awesome place to be!

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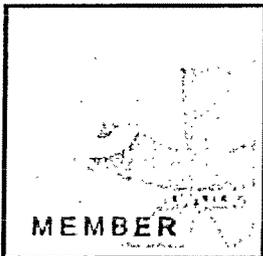
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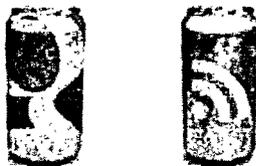
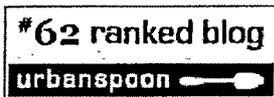
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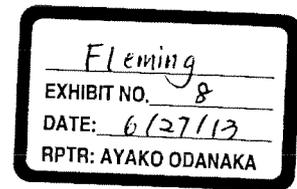
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**April 18, 2011**

### Marathon Monday

For most of us, April 18 is just an ordinary Monday. Some may be scrambling to file taxes while others are receiving their returns. But for a one group in Massachusetts, months of training and hours of mileage clocked during the unforgiving New England winter and has led up to this day. Today is Marathon Day.

The streets of Boston will be full of runners and fans alike as the city traditionally shuts down to focus on the race.

For a lot of us, marathon running is a sport to admire and not necessarily in which to participate, but that doesn't mean we can't stay active. Whether you want to dance to celebrate that tax return or jog on your lunch break, there's something for everyone.

As we regularly do here at *Sip & Savor*, we encourage our readers to incorporate physical activity into a daily routine. As an integral part of a balanced lifestyle, burning calories keeps you fit and provides both short and long term benefits.

Best of luck to marathoners and non-marathoners alike!

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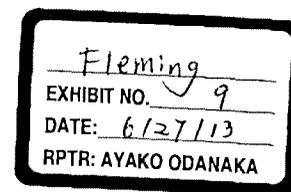
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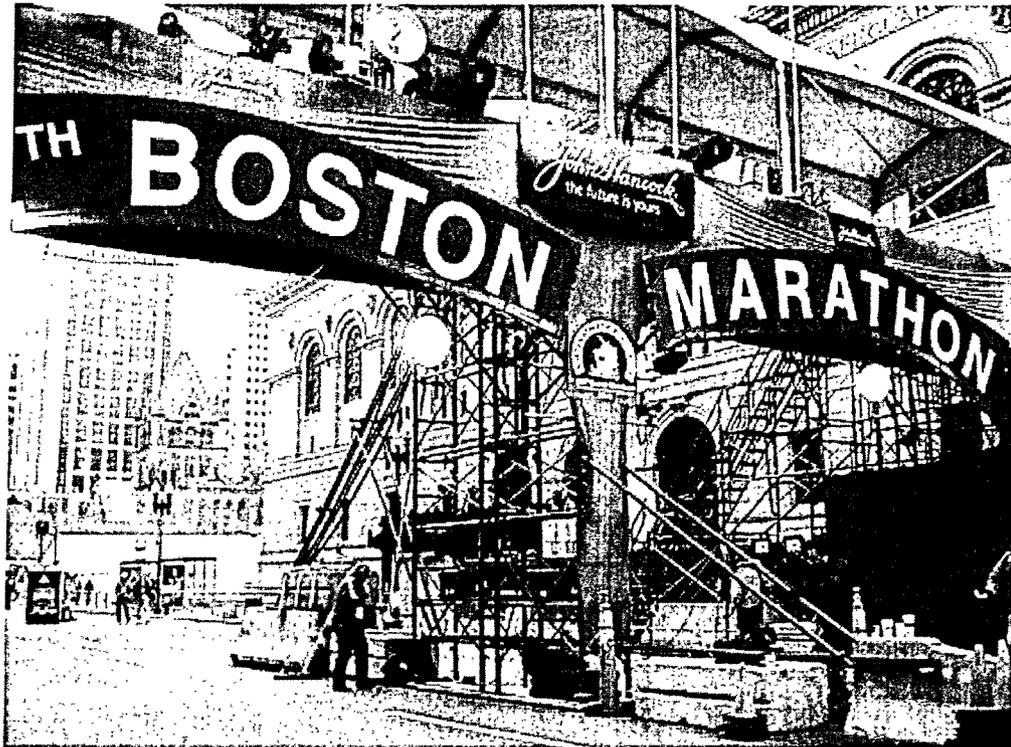
## Marketing on Marathon Monday

Posted on April 21st, 2008 by EliciaBasoli

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**B-000030**



Today some 25,000 runners will travel 26.2 miles from Hopkinton, MA to Boston in the 112th running of the Boston Marathon. Our office in Copley Square happens to be just a couple of blocks from the finish line, so I always try to swing by to check it out (although with 50,000 fans expected along the race route with many in Boston, its hard to get a great view at the finish line unless you show up hours before to park your lawn chair and cooler).

At any sporting event you'll find BIG brand sponsors and advertisers aplenty. For the first time in 112 years, corporate ads have been permitted on the marathon starting and finishing lines. According to the Boston Athletic Association in a recent AP article, these changes illustrate distance running's dependence on sponsors – for prize money, publicity, operating expenses, donations to cities and towns along the route to provide public safety and other services, etc.

I stopped by the finish line on my way to work this morning to take a few photos and saw that John Hancock is one of two brands with a presence at the finish line. JH has sponsored the Boston Marathon for 23 years now providing a variety of services as well as this year's \$796,000 prize purse (the largest in the history of the race). They also help support the thousands of media who cover the race and their corporate communications department manages the press room and coordination of press materials and credentials.

Adidas also had banners placed at the finish line and I heard that they partnered with MarathonGuide.com and WCSN (World Championship Sports Network) to provide a webcast of the marathon. Poland Spring is another sponsor, providing TONS of bottles of water at the finish line for runners. I also saw “wrapped” vehicles from Red Bull and Powerade, and multiple ads from Nike. Many other sponsors included Saturn, PowerBar, JetBlue, The Boston Phoenix and the Newton Wellesley Hospital – who actually started their own NWH blog to document a team who is running the marathon on behalf of the hospital.

I wonder what the original marathon organizers from over 100 years ago would think of all of these

**B-000031**

super sponsors and banners galore? Is it too commercial? I don't think so – especially compared to what we see in other professional sports like the NHL or MLB. If you think about all the money and planning that goes into an event like this, it makes sense. Sponsors are very necessary and have become a valuable resource to the organizers and the runners themselves.

Good luck to all the runners and, to the sponsors, best wishes for a successful year!

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## One Comment

### 1. [Caroline Pierce](#) ~ Apr 22, 2008 at 1:16 pm

I was one of the lucky ones who took the day off yesterday so I could watch the marathon. I grew up in Boston and it is one of my favorite days in the city. Towards the end of the day I met a runner who is part of the “50 Marathons in 50 States Club.” Yes, that means he has run marathons in all 50 states (and the prize ... a T Shirt). Yesterday was his 66th marathon. He is from Pittsburgh and ran the Pittsburgh Marathon, when it was still in existence. The race was cancelled a few years back because the event lost its title sponsor. Although the Pittsburgh Marathon was small in comparison to the Boston marathon, it still attracted more than 6,000 runners. I would have to agree with Elicia that sponsors play an integral part in these types of events. Organizers are optimistic that the Pittsburgh Marathon will return in 2009, of course with the help of corporate sponsors.

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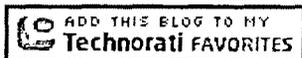
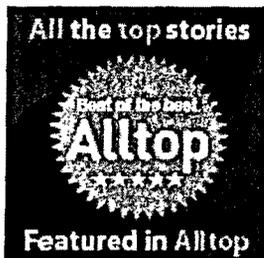


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- [In Kayla Harrison, U.S. Has Chance For Judo Gold, And A 'Comeback Kid' Story](#) July 26, 2012  
Kayla Harrison, 22, is the best chance the United States has to win its first Olympic gold medal in the sport of judo. Like many of the world's best athletes, Harrison's road to London wasn't easy. [...]
- [Romney Backer Explains Why Obama's Wrong, Despite Her Firm's Gov't Contracts](#) July 26, 2012

**B-000033**

Rebecca Smith owns a construction-management firm that does a lot of work overseeing the building of schools, jails and other projects for state and local governments. She explains why she is "disgusted" by President Obama's thesis that government had a significant role in her success. [...]

- [The Disagreement Behind Our Economic Platform](#) July 26, 2012  
Getting economists of different stripes to agree on Planet Money's six policy proposals wasn't easy — and panel member Dean Baker says the disagreements matter. [...]

## • [NY Times Business](#)

- [Zynga, Maker of FarmVille, Reports Sluggish Second Quarter](#) July 26, 2012  
A shortfall in revenue and a weak outlook sent the social game developer's stock plunging by nearly 40 percent on Wednesday. The news was seen as boding ill for Facebook. [...]  
*By DAVID STREITFELD and JENNA WORTHAM*
- [State of the Art: Placing a Dollar Value on Apple's Mountain Lion Software - State of the Art](#) July 26, 2012  
Apple offers Mountain Lion, a new version of its OS X software for the Mac. With "over 200 new features," it costs \$20, but is it worth it? [...]  
*By DAVID POGUE*
- [Exxon and Shell Earnings Disappoint](#) July 26, 2012  
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- [Spanish Banker Defends His Legacy](#) July 26, 2012  
Rodrigo Rato said every big decision he made in his two years at Bankia, the institution at the center of Spain's banking woes, had been under the guidance of the Spanish government and central bank. [...]  
*By RAPHAEL MINDER*
- [DealBook: Geithner Faces Senate on Rate-Rigging Scandal](#) July 26, 2012  
Congress intensified its focus on the interest-rate rigging scandal on Thursday, as Timothy F. Geithner, the Treasury secretary, vowed that authorities would forcefully pursue criminal investigations into some of the world's biggest banks. [...]  
*By BEN PROTESS*

## • [Boston Globe Magazine](#)

- [Bread and chocolate](#) September 10, 2011  
Four divine desserts. [...]  
*Adam Ried*
- [Her new haven](#) September 10, 2011  
A homeowner starts from scratch in this two-bedroom Bay Village condo, housed in a former church. [...]  
*Jaci Conry*
- [All the rage](#) September 10, 2011  
On the tenth anniversary of 9/11, writer Joe Keohane argues that the real legacy of the attacks is a unremitting anger directed not at terrorists, but at each other. [...]  
*Joe Keohane*
- [Readers remember](#) September 10, 2011  
Globe Magazine readers share their memories from September 11, 2001. [...]
- [Family resemblance](#) September 10, 2011

**B-000034**

Our son doesn't really look like either of us, but that's just fine with me. [...]

*Brooke Lea Foster*



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**B-000035**

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BOSTON MARATHON WEEK

*Special Program [Return to listing page]*

Experience the excitement of the Boston Marathon® throughout the week leading up to the main event. Starting with a Museum-wide kickoff event on Saturday, April 7, explore the science behind long-distance endurance with interpretations throughout the Museum, hands-on activities, and special guest presentations. Learn how the human body copes with the intense pressures of training for and running a marathon.



Stop by a special display showcasing the changing history of marathon clothing and equipment, and explore how technology and engineering have shaped the evolution of runners' apparel (Green, Wing Level 2, across from the Human Body Connection). Join us for our finale on Sunday, April 15 and on Marathon Monday (April 16), check out our live race feed and see if you can spot the Museum's marathon runners!

To learn more about our Boston Marathon team and their effort to raise funds for the Museum's Traveling Programs, visit [mos.org/marathon](http://mos.org/marathon).

Related Links:

[Museum of Science 2011 Boston Marathon Team](#)

ACCESSIBILITY FOR THIS OFFERING:



SCHEDULES:

- April 9, 2012: 9:00 a.m.
- April 10, 2012: 9:00 a.m.
- April 11, 2012: 9:00 a.m.
- April 12, 2012: 9:00 a.m.
- April 13, 2012: 9:00 a.m.
- April 14, 2012: 9:00 a.m.
- April 15, 2012: 9:00 a.m.
- April 16, 2012: 9:00 a.m.

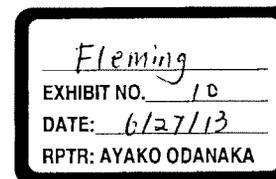
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[MOS\\_MarathonWeekEventGuide\\_2012.pdf](#)

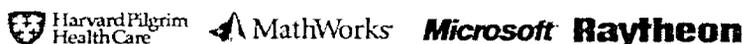
- GET CURIOUS
- > What Makes Us Human? (Live Presentation)
  - > Our Bodies, Our Health (Live Presentation)
  - > How Your Life Began (Exhibit)

- PASS IT ON
- > View Educator Version for this Offering
  - > Exploring Life's Origins (Collaboration)
  - > Genzyme Teacher Sabbaticals (Collaboration)

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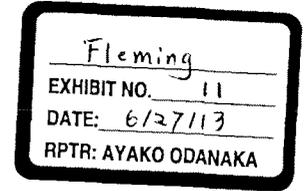
The Museum of Science, Boston 1 Science Park Boston, MA 02114 phone 617-723-2500 email [information@mos.org](mailto:information@mos.org)

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B-000036

# | style carrot |

APRIL 19, 2010 - 10:42 AM



## Sneaker Alert: Marathon Monday

### PARTY @ PUMA

Puma's stuck their senior director of merchandising, Magda Cardoso, in the window of their Newbury Street store today – on a treadmill - in honor of the Boston Marathon. Stop by and see her sweat. There's a sale and a party (yes, of course there's beer and music). Details below!

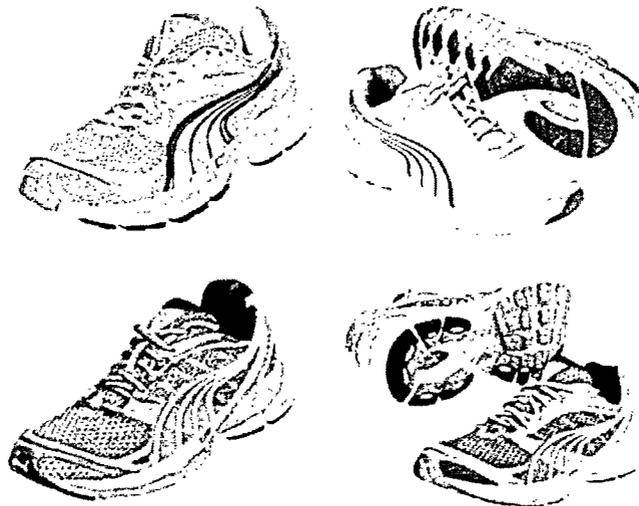


The Puma Store. 333 Newbury Street, Boston

Boston's BladeRunners will be at the DJ booth all day.

A the end of Cardoso's 26.2 mile jaunt, PUMA is throwing a soiree (everyone's invited!) complete with balloons, snacks, and drinks courtesy of Harpoon, and maybe even dancing.

Anyone who tries on a pair of PUMA's new Complete Ventis or Complete Spectana running sneakers gets 26% off of any piece of footwear today. You can also enter to win \$50 PUMA gift cards, which will be raffled off throughout the day.



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### Carbo-load or Marathon Monday Brunch

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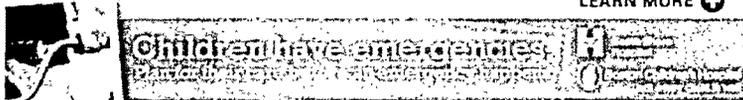
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### You are Viewing a Past Event

If this is a recurring event that will be happening again this year, please let us know.

Official Website: [Carbo-load or Marathon Monday Brunch](#)  
Location: 25 Charles Street, Boston, MA, 02114 [map](#)  
Phone: 617-723-7575  
Dates: Sunday, April 18, 2010 - Sunday, April 18, 2010  
Hours: 10:00am-3:00pm  
In/Outdoor: Indoor  
Cost: see below  
Category: Food Fun



Boston Marathon athletes and fans will have a high-end choice this year when it comes to their yearly pre-marathon-carbo-load dinner on April 18, 2010. The Beacon Hill Hotel & Bistro will be hosting runners in for a relaxing, healthy and gourmet selection of carbo-laden specials prepared by Executive Chef Jason Bond.

This year Chef Bond welcomes in both runners and spectators to try one of his pasta specials in either appetizer or entrée portions including:

- Mushroom Raviolini with San Marzano Tomato Sauce and Tomino Cheese  
Appetizer Portion: \$14.00, Entrée Portion \$24.00
- Braised Farmhouse Chicken and 9-Grain Noodles with Parmigiano  
Appetizer Portion: \$14.00, Entrée Portion \$24.00
- Herbed Papardelle with Rhode Island Mussels and Clams, Green Garlic Sauce and Chorizo  
Appetizer Portion: \$14.00, Entrée Portion \$24.00

The above specials will be served in conjunction with the Beacon Hill Hotel & Bistro's regular dinner menu. Hours for dinner service on Sunday, April 18, 2010 are 5:30PM - 10:00PM. Reservations are recommended by calling 617-723-7575.

\*Marathon Monday Brunch! - Those seeking an oasis perfect for families and couples on Marathon Monday (April 19, 2010) should consider popping into the Beacon Hill Bistro for Marathon Monday Brunch served 10:00AM - 3:00PM!

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B-000041

7/26/2012

o Boston

We make best efforts to update information, but it changes frequently, so we cannot warrant it. Please call to check Carbo-load or Marathon Monday Brunch schedules, fees, and directions before making the trek. We help you, please help us. Report an Error if you find one.

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RPTR: AYAKO ODANAKA



## Marathon Monday

September 12th, 2011 | Posted by Lindsay Runs in Blog Posts

Marathon Monday is synonymous with the Boston Marathon.



Turns out, Marathon Monday now isn't just about the actual **running** of the race, but simply **registering** for the race itself.

This morning at 10 a.m. EST, the first round of registration opened for runners who have met the Boston Qualifying standards by 20 minutes or faster. Over the next few days, the registration system will open up for runners who have met the Boston Qualifying standards by 10 minutes, 5 minutes, and so on. Do I think this is a fair system that will work? I'm not sure. In my eyes, a 2:39 marathoner and a 3:39 marathoner equally deserve to run this race. Dropping the qualifying standards may be the next best way to avoid shutting out those who run the times, but then the 3:40 standard that has become universal with a 'BQ' for so many people for so long will change.

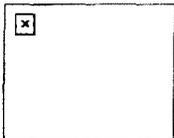
There is really no one fair way, and I feel *extremely* fortunate and grateful to have run a fast enough time to be able to register today without stress, knowing that after verification of my time, **I will be running the streets of Boston on April 16, 2012.** Others will have to wait nervously to see if they're even afforded the opportunity to register before the race is maxed out. *Thoughts and fingers crossed for you, friends!*

B-000043



I'm having some doubts about signing up for *yet another* marathon right now, especially given my training for NYC isn't going as well as I want it to. Why would I want to put my body through this, just mere months later? In the winter, nonetheless. Fun? ...or crazy? or stupid? I always knew Boston is like the mother of all marathons, the ultimate goal for many. It's an exclusive club. I figured it'd be *nice* to run it at some point in time. I didn't realize how much I *really* wanted to do it until today. I woke up and did an easy 3 mile shakeout in preparation for an evening run. My mind was consumed with pros and cons of registering this morning. The more I ran, the more excited I became. I felt a bit reinvigorated and my feet took on a life of their own. I knew then I was ready for the challenge. It's not a *dream goal* anymore, it's a *real goal*.

Another reason I want to do Boston is because I'm registered for the Big Sur Marathon, and I want to do the Boston 2 Big Sur Challenge.



April 16: Boston

April 29: Big Sur

Hopefully I'll be able to walk (or waddle) afterward. *Go big or go home, right?* I'll be turning 25 on March 20th, and this **challenge is a gift to myself**. I've been making a more conscious effort to spend more time discovering more about who I am and what I'm capable of. Sometimes I'm really unsure. Running, I've found, helps me become a bit more introspective in this journey. In a way, I want to challenge myself to complete Boston 2 Big Sur to show myself that I'm capable of anything, and I know I'll be happy and proud of myself upon completing the journey. So while I still plan on celebrating the big 2-5 like a normal person with booze, cake and friends, April will mark the real celebration of myself, as crazy as that sounds.

On a completely unrelated note, I'm newly obsessed with figs. I'm not sure why I've never really tried them before, we just never had them in our house growing up and they seemed like a foreign food when I passed them in the store. I didn't really know how to prepare them, or what to make. After reading how others enjoy them so easily, I decided to take the plunge. SO DELICIOUS.

I've been enjoying them simply sliced up over greek yogurt:



In salads with sliced peaches and feta (thanks for the salad tumbler, Megan!):

B-000044



And mashed up to create a jelly-like spread, grilled on Ezekiel toast with a slice of swiss cheese. Mmmm, melty sweet and savory goodness.



Tell me: Thoughts on Boston registration? Did you register or are you planning to register if you're able? What's your favorite use for figs?

big sur marathon, boston marathon, figs, food, marathon, race

You can follow any responses to this entry through the RSS 2.0 You can leave a response, or trackback.

### 16 Responses



Enilia @ Run for Your Life says:  
Monday, 12th September 2011 at 11:48 am

Congrats on registering! Even though I don't (yet?) have a BQ time, I'm really curious to find out how this new system ended up working out. I'm still going to shoot for a BQ time in NYC even though I'm sure 2012 registration will be long closed by then. If I get that coveted 3:35 time, I hope I'll have a somewhat decent shot at registering next year!



Christine says:

B-000045

Monday, 12th September 2011 at 11:55 am

Congrats – simply amazing! You are so humble about the whole BQ process. It's inspiring! 😊

I haven't tried figs but they look really good from your pictures! Are they sweet? Must try.

Reply



Christine says:

Monday, 12th September 2011 at 11:56 am

PS. I am already looking forward to being there this year and cheering for you!

Reply



Ali says:

Monday, 12th September 2011 at 12:21 pm

I'm in for the cheering squad. We will be so loud and colorful. Fingers crossed for your confirmation! Yay Boston 2012!

Reply



Grace @ Balancing Me says:

Monday, 12th September 2011 at 1:02 pm

Oooh, can I come? I love cheering for anything and everything. Plus, I'm really good at making posters (a quality you pick up as a teacher and never seem to lose).

Congrats on Boston — my best friend from college will be racing as well, so I get to be there on the sidelines no matter what!

Reply



Christine says:

Monday, 12th September 2011 at 11:46 pm

wooooo! yayyyy 😊

ps- grace, just found your blog and i LOVE it!

Reply



Celia says:

Monday, 12th September 2011 at 12:18 pm

Congrats! You are awesome and someone with your super impressive times definitely should be allowed to run Boston. Much admiration for your running abilities and speed! If you ever want to share any of your speed with me...Still hoping there is a slim chance I will get to register otherwise shooting for an awesome time that will guarantee me a spot for 2013 and I will be there cheering you on this year! PS figs are awesome. love.

Reply



Maggie says:

Monday, 12th September 2011 at 1:02 pm

I'm curious to see how the registration works out, esp considering it closed so fast last year! I'll also be interested to see how it works in the coming years with them dropping the qualifying standard 5 min (hence, my 3:35 goal).

You know, of course, I'd love to be able to run the Boston marathon, but I know my life will go on fine without it. Maybe its because if you'd asked me 3 years ago what Marathon Monday was, I'd have no idea. I like what the BQ standard does for me – it pushes me to be a better runner. I'll be thrilled if I ever get a BQ and if I ever get to run it, but realize there are lots of runners much better than I, so its not something to get my hopes up for.

Reply



Jessica @ Early AM Runner says:

Monday, 12th September 2011 at 7:32 pm

Congratulations on your BQ time and being able to register!

**B-000046**

Reply



- *Page* says:  
Tuesday, 13th September 2011 at 2:12 am

YAAAAAY! It will be amazing and you'll love B2BSur!

Reply



- *Lauren* says:  
Tuesday, 13th September 2011 at 7:35 am

I'm so excited that you registered! But I can completely understand how you feel. I'm running MCM next month and my training for that has not been great. I haven't been getting in the quality that I need/want for a good marathon. And so I did question why I would sign up for yet another marathon, under those circumstances. In the end, I had a similar experience. Thinking about Boston reinvigorated and excited me – made me WANT to train harder. Just because it's Boston. There's something magical about that.

And I also think the B2B challenge sounds amazing! I would love to do it someday (maybe this year...?) for the reasons that you list.

Reply



- *Kelly* says:  
Tuesday, 13th September 2011 at 7:53 am

I love this post for many reasons. First, you are going to rock Boston! I am so jealous you got to register AND that you're also running Big Sur – the top two on my marathon dream list! A fer NYC and some time off. I have a feeling you'll be super jazzed for Boston. It's such an awesome race. And I will be there to cheer for you 😊

Figs FTW. They are my absolute favorite caramelized over Greek yogurt. the most delicious thing ever in life. But I really want to try them on grilled cheese now too!

Reply



- *Cecyl* says:  
Tuesday, 13th September 2011 at 8:30 am

So excited for you, Lindsay!! Doing B2B will be amazing, and I'm sure all the pain will be worth the experience. I hope to be able to do it someday when I'm done with school. I love that you look at it as a gift to yourself, because at the end of the day that's really what running is, and what it all boils down to. This will give you something awesome to look forward to in the winter 😊 Can't wait to cheer you on at Boston next year!! (Hopefully that means we can finally meet!)

Reply



- *Susan - Nurse on the Run* says:  
Tuesday, 13th September 2011 at 8:54 am

Yay for Boston to Big Sur!! Crazy as it sounds, I was kind of jealous of the ladies last year who did it...such a fun challenge, especially since there are other crazies right there with you. 😊

Definitely excited for a training buddy for Boston this year! It's a great race, but a tough winter to train through. I'm interested to see how registration pans out with the new system...it's definitely a trial for the BAA and I'm not sure how it's going to go!

Reply



- *Jamie @ Sometimes Healthy Living Blog* says:  
Tuesday, 13th September 2011 at 12:32 pm

YAY congrats to you!

You continue to amaze me every day, Lindsay. I work with you – you're younger than me. Yet I feel like I can go to you for advice. You are wise beyond your years, and I'm so lucky to know you.

Additionally, I totally agree with ya about running helping you to become introspective on the journey. Maybe that is why you, my friend are so wise. Because, you run A LOT! Must heal foot ASAP so I can be as smart as Lindsay.

Congrats again 😊

Reply



- *Meagan (The Runner's Kitchen)* says:  
Thursday, 15th September 2011 at 2:56 pm

B-000047

Yeah Boston 2012! We are going to have an awesome training crew 😊

And figs? I've been obsessed lately (although they do come in 2nd next to my beloved tomato-mayo-toast combo...). I've had them covered in chocolate - thanks to you!, wrapped in bacon, drizzled with honey and topped with yogurt, dried, stuffed with goat cheese....

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Hi, I'm Lindsay! Thanks for stopping by Lindsay Runs, where I write about good runs, good eats, and good times in NYC. Currently training for 2012 Chicago Marathon.



### Must Reads

- o [Ali on the Run](#)
- o [Health On The Run](#)
- o [Hungry Runner Girl](#)
- o [Insightful Appetite](#)

B-000048

- o [Meals for Miles](#)
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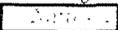
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September 2011

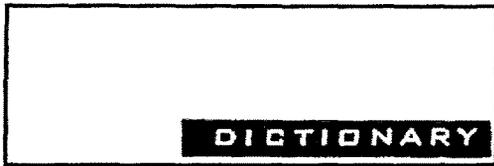
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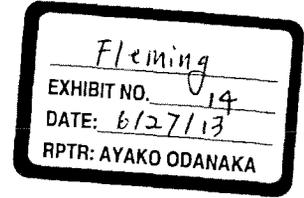
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Marathon Monday

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1. marathon monday 92 up, 11 down

Marathon Monday is often considered, among Bostonians, as the greatest day of each year. Falling on the third Monday of April, the marathon provides a race as a backdrop to the biggest day of drinking and legalized hookie-playing found anywhere in the country.



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Over at BC the day takes on even more epic proportions, where all classes are cancelled as the race runs right past campus making it impossible for teachers and commuter students to get there. It's basically just a huge excuse to get wasted...really wasted...like blackout by 11:00 AM wasted. The stringent community and campus official restrictions on drinking are relaxed for the day and an anything goes mentality pervades. In short it's a total shit show and every college student's dream.

11:21 AM on Marathon Monday: the winner of the race crosses the finish line and everyone in Boston is already too drunk to notice

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by [eagles617](#) Apr 20, 2009 [share this](#) [add a video](#)

2. Marathon Monday 33 up, 13 down

the greatest holiday, and another reason why Boston is the best city to go to school in

Dude, Jimmy got so fucked up Marathon Monday. I love Boston!

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3. marathon monday 42 up, 20 down

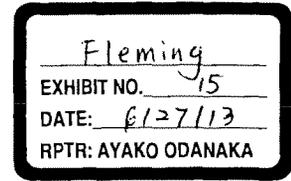
The third Monday in April where college students in Massachusetts get the day off due to the Boston Marathon and spend the entire day drinking (often in public).

"What's Marathon Monday?"  
"It's the day we all get drunk and run a marathon."  
"Let's skip the marathon part and call it a holiday!"

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B-000050





# Marathon Monday

Donnie Welch Poetry 6 months ago

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"Marathon Monday"

This is how you forget yourself

1: get stoned

Get real fucking stoned

Hop on a train, it doesn't matter where it's going

Just that there's a Chinatown stop somewhere inbetween

Watch the way the inbound T rattles your seat

The same way an oddly appropriate fortune cookie

Makes you so self-conscious about your existence

Then ask yourself questions like,

If a train leaves Haymarket

At the same time another leaves Mass ave

And they cross paths

Then what's the distance of eventually?

don't forget that you're still really stoned so that question shouldn't make much sense

Step 2: Forget about the girl

Not just the girl you can't get your mind off of

Since you did that awkward accidental eye contact thing in English class

I mean the idea of the girl

The thought that somewhere there is a second half waiting for you

Because there just might not be

And that's why they make whiskey and fine art museums

Three: Always donate to the charity the cashier asks you about

It'll make you feel lucky

Four: Buy lottery tickets when you're drunk and leave them in your pocket

You'll feel like a million bucks the morning after

Even though you didn't have enough cash for a taxi home the night before

Five: Keep in mind that money is only as good as the people you spend it on

Six: Set the time aside to make love with the ferocity of a bar fight

Because more often than not, we fuck like feather weights

We're all quick feet and fast dodges

Afraid to throw that punch that'll really knock someone out

And make it so that we can't just leave this one in the ring

Both of us know though

It's what we've been asking for all along

So spend a night loving

Like you are just two drunken messes trying so desperately to make each other bleed

Because you and I

We understand that some nights,

You just need it to be like that

7: Play in arcades often; it'll make you remember why you fall in love.

We are just pointless little pinballs in this fucked up machine of a world

But when we bounce off each other's soft bumper bodies

It reminds us that there is a momentum worth moving for

Worth bruising our fingers over,

Translating Morse code messages through red button receivers

Until the metallic clack of those flippers

Reads "I am just a sucker with a pocket full of quarters

And you are a gorgeous confusion of neon lights

And high scores I can never hope to reach

But I will give myself blisters

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Squeezing all the happiness I can out of your joysticks  
 8: Make cheap puns, because people will usually laugh at them or at the very least, they'll laugh at you  
 9: Root for the college team your father loves  
 Because sometimes that's all you've got  
 Admittedly, it probably doesn't take that much to say "I love you Dad"  
 But, "Hey, did you see the Notre Dame game?"  
 Tends to roll off the tongue a little easier  
 10: Believe in the fountain of youth  
 Find it bottled somewhere behind the Heinekens and 99cent Arizonas  
 At your local convenience store  
 But don't bother buying it unless it's two for one  
 Listen, you've gotta let people give you nicknames like "Diddles"  
 And temporary tattoos of kissing flamingos  
 Because you can't take forever that seriously  
 If you really hope to make it the whole way through  
 You were just one microscopic accident away from being absolutely nothing at all  
 And yet here you are  
 You beautiful, broken, idiot  
 So keep songs constantly playing in your head  
 And make everything the adventure you always wanted it be  
 Just let go of yourself  
 And if all you can do that for is a minute  
 Then  
 In your favorite made up language, count backwards to sixty.

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## Boston's Marathon Monday

Posted on April 20, 2010 by Melissa

Yesterday marked the 114 annual Boston Marathon, one of the top marathons in the United States. Robert Kiprono Cheruiyot from Kenya won the men's competition with a 2:05:52 time that broke the Boston Marathon course record by over a minute. He also received the fourth fastest time in an American marathon. The old Boston Marathon record (2:07:14) was set in 2006 by Robert Kipkoech Cheruiyot, a four-time Boston champion who is unrelated to Kiprono Cheruiyot.

A marathon is a 26.2 mile road race that began in commemoration of Greek soldier Pheidippides who was sent from the Battle of Marathon to Athens to announce that the Persians had been defeated. Legend has it that he ran the entire distance without stopping and exclaimed "We have won" before fainting and dying. The route Pheidippides followed was approximately 26 miles, thus setting today's standard.

Another reason Boston was celebrating yesterday was because of Patriots' Day, which is a state holiday celebrated in Massachusetts and Maine that commemorates the anniversary of the Battles of Lexington and Concord during the American Revolutionary War. This marks the start of the war, and was preceded by Paul Revere's famous midnight ride. The battles, which were fought on April 19, 1775, were the first steps to the American colonies' rebellion to become a new nation. Patriots' Day, was always celebrated on April 19 until 1969 when the official holiday was moved to the third Monday of April.



David L. Ryan / Globe Staff

Fleming
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Entry was posted in History, Holidays and tagged Boston Marathon course record, Boston's marathon monday, Patriots' Day, top marathons in the United States. Bookmark the permalink.

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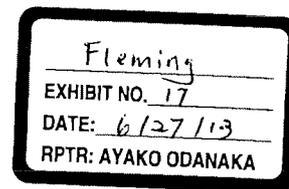
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- **PUMA Running**
- Written on: **April 02, 2012**

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## Running

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#### **Navigation Information**

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#### **Accuracy And Protection Of Personal Information**

PUMA relies on our customers to notify us of any changes in personal information. Should inaccurate information come to our attention, we will investigate and correct the information and, if necessary, advise you of the change. Only those staff members who need your personal information in order to respond to your requests are given access to it. Employees are provided with training and information regarding the proper handling of personal information. All information stored in our computer system is protected from unauthorized access and information that is stored in document form is kept in secure locations to prevent access by unauthorized persons.

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**PUMA.com Privacy Officer**

10 Lyberty Way  
Westford, MA, USA 01886

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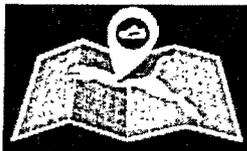
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# MGHHOTLINE



April 16, 1999

## *MGHers gear up for Marathon Monday*

On Monday, Alicia Foley will run the toughest race of her life – the 26-mile Boston Marathon. But Foley, supervisor of the MGH Bone Marrow Transplant Processing Lab, knows that her race will be over in a few hours, while Kayla Aiello, a patient at the MGH, faces a longer and tougher race against the cancer that has invaded her 4-year-old body.

Foley is one of 45 people who have committed to finishing the Boston Marathon to raise money for pediatric cancer research at the MGH. Some of them, like Foley, have never run a marathon – never even run a race. But they are motivated by the children and their families who never give up their fight against cancer.



*Members of the MGH Marathon Team, from left, Alicia Foley, Deb Watts, MPT, and Susie Flaherty, MSW.*

The MGH Marathon Team was started last year by Howard Weinstein,

MD, chief of Pediatric Hematology/Oncology, after one of his patients died from incurable sarcoma. Weinstein had run the Boston Marathon many times, but this time he pledged to run to raise money in memory of the 18-year-old boy who had been under his care.

Weinstein was joined by 10 colleagues and friends who raised more than \$45,000. This year, the team of 45 runners hopes to raise \$150,000. All of the money goes directly toward finding effective new treatments for patients.

For Foley, the run is deeply personal. She met Kayla last fall, when the young girl was being treated for Wilm's tumor, which had spread from her right kidney to her lungs. Foley assisted with collecting and preserving Kayla's peripheral blood stem cells in case she would need a bone marrow transplant. Foley has since grown close to the Aiello family, going to their house for dinner every week, and she signed up to run the marathon in honor of Kayla.

Many of the runners have their own inspiration: Dan Santanello is running for his 7-year-old daughter, Kristin, and Paul Beggan is running for his 11-year-old daughter, Lindsey. Deb Watts, MPT, is running for two of her patients, Mike Davis and Matt Barry, both 17. And Craig Garfield, MD, a resident in Pediatrics, is running for 5-year-old Emma Carey.

The evening before the marathon, the runners, the kids and their families will be treated to a "carbo-load" pasta dinner at the Park Plaza Hotel, sponsored by Fleet Bank. During the race, patients and their families are invited to Weinstein's house, located at the 20-mile mark in Newton, to cheer on the team.

Sandy Aiello, Kayla's mother, says she can't describe how much she appreciates Foley running for her daughter. "I feel that if it wasn't for the MGH Pediatric Hematology/Oncology clinic, my daughter wouldn't have had the chance she has. Alicia and the rest of the team have worked so hard to cure Kayla's cancer. They're all near and dear to our hearts."

---

### **MGHers on the 1999 MGH Marathon Team**

Nicole Dorn, Marketing  
Alan Ezekowitz, MD, PhD, Pediatrics  
Susie Flaherty, MSW, Social Service  
Alicia Foley, Hematology/Oncology  
Erin Gammell, MSPT, Physical Therapy  
Craig Garfield, MD, Pediatrics

Jen Griffin, MPT, Physical Therapy  
Andrew Hansen, Transplantation Biology Research Center  
Honor Hawkins, Marketing  
Shawn Hillier, Radiology  
Nicole Lee Johnson, Dietetics  
Tom Lynch, MD, Hematology/Oncology  
Mary O'Brien, RN, Pediatrics  
Allison Poulos, General Clinical Research Center  
Kara Raynor, Partners Development  
Lisa Sohl, RN, Nursing  
Deb Watts, MPT, Physical Therapy  
Howard Weinstein, MD, Pediatric Hematology/Oncology

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**[Return to the April 16 table of contents](#)**

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# Boston Marathon Set

BOSTON (AP) — Foreign distance stars, headed by England's Ron Hill, Canada's Jerome Drayton and Japan's fleet sons of Nippon, feature a bulky field of 1,152 entered for the 74th Boston Marathon Monday.

Despite qualifying restrictions imposed for the first time this year, a near-record field is expected to move to the starting line for the 26-mile, 385-yard run from a narrow, tree-lined street in Hopkinton to The Prudential Tower in Boston's Back Bay.

There were more than 1,300 entries in 1969, when there was a record 1,152 starters. Of that number in the noon start, 678 finished within the official four-hour time limit.

Hill, the European champion, looms a strong contender to become the first Briton to win the annual Patriot's Day classic. A 31-year-old textile chemist, he is a two-time Olympic runner and is seeking to avenge his only marathon loss last year.

Hill will be out to beat Drayton, who turned in a major upset in winning the Fukouka race in Japan last December. Drayton won in 2 hours, 11 minutes, 13 seconds. Hill was right behind in 2:11.54.

Drayton, a native of Germany who changed his name from Peter Bunlak, will be out to prove his triumph over Hill was no fluke. He competed on the indoor track circuit this winter and is confident of winning here.

Japan's Yoshiaki Umetani set a course record with a blistering time of 2:13.49 last year, but is not back to defend his laurels. The Japanese like to switch their official delegations to give more runners a chance to compete in Boston.

The official three-man delegation this year is headed by Terou Yoshida, 25, who has run in 3 marathons and had a time of 2:13.21 at Fukouka. His running mates will be Kunto Fujita and Kokichi Uchino.

With 12 nations represented, U.S. hopes will be carried mainly by former Oregon star Ken Moore, who was timed in 2:13.29 at Fukouka, the fastest marathon clocking ever by an American,

and Pat McMahon, former Irish Olympic runner now a school teacher in nearby Lowell. McMahon finished eighth last year and has worked hard on speed this spring.

Paul. He has a tentative May 16 date in Los Angeles with Scrap Iron Johnson and another tentative May 25 date in Philadelphia with Roger Russell.

Teddy Brenner, Garden matchmaker, is holding Foreman as a possible opponent for Jerry Quarry in the Garden June 17 if a proposed Quarry-Mac Foster bout falls through.

ed on a single by Blake. The cat skated again when Blake doubled in the bottom of the eighth and came home on a single by Waldron.

The Wildcats now have a 9-10 overall record and are 7-2 in conference games.

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B-CC 021 000 01x-4 8 1  
P. Renfro, Wolf (3) and X O. Renfro; Peoples, Dobson (8) and Grant.

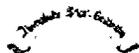


BOXER POINTS OUT NYC LANDMARK — French fighter Marcel Cerdan Jr. and his wife, Danielle, 25, view the Empire State Building from their New York City hotel. Cerdan

arrived in the United States Tuesday to prepare for his non-title welterweight bout in New York next month.

AP Wirephoto

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# Sports

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## HAWAII\_SPORTS

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Special to the Star-Bulletin

*The Hawaii Boston Marathon contingent poses in front of the 50th state flag just before start of 100th Boston Marathon. Peter Thalman is kneeling in front with haku lei on his head.*

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# Bostonian spreads aloha at marathon

## Only Hawaii runners are invited to his historic mansion

By Pat Bigold  
Star-Bulletin



BOSTON -- Drive up Main Street in Hopkinton, and you can't help noticing the Greek Revival-style white mansion that stands across from Bettergoods sandwich shop.

Above the ornate portal to the structure built in 1757, between two 20-foot tall Grecian columns, is a 5-foot-wide by 8-foot-long flag that looks very out-of-place in such a setting. Rub your eyes to get a better study on the eight red-white-and-blue horizontal bars and Union Jack in the upper left corner, and you suddenly realize that it's the Hawaiian flag flapping in the chilly Massachusetts spring air.

Last year, Holliston resident Peter Thalman, owner of the electric power engineering firm that occupies the mansion, played enthusiastic host to 32 cold and nervous Hawaii runners for several hours before the start of the historic 100th Boston Marathon. It was the first time he'd done it but Thalman said he plans to continue the practice and the big flag will stay where it is -- about 100 feet from the street that has been the starting site of the Boston Marathon since 1924.

"Only Hawaii people are specifically invited inside on marathon morning," said Thalman, who has a very personal reason for his desire to care for runners from the 50th state. "I never told anyone from Hawaii the real reason," said Thalman, drawing a deep breath. "My wife (Jane) died about three years ago. We used to love to take trips to Hawaii. In fact, the last trip we took together was to Hawaii. We went there with our four kids."

Two of his daughters are students at Boston College. A boy and a girl are still in high school. In 1996, he saw a story about Honolulu's "Faerber's Flyers" running club, which was sending some members to run in the 100th Boston.

"Nancy Goglia was the spokesperson for the group and I got her address off the Internet," Thalman said. "I sent her a card and asked her to speak to her club members and that's how the whole thing got going here."

Thalman and his co-workers supply bagels, oranges, water, juice and Power Bars to the

Hawaii group, which is expected to number 11 this year. They'll be invited to relax in the warm executive offices of the antique mansion.

Last year's marathon relaxed entry standards and more than doubled its normal size for the centennial, but the field will be back to normal this time with about 11,500 runners entered.

Veteran masters runner Chick Alsop has an injury and said the Boston Athletic Association has agreed to let him carry over his qualification to 1998. Goglia has left Hawaii and is adjusting to a new job in California and won't be here, either. Dr. John Cogan, a 50-year-old Honolulu cardiologist, will be back. Newcomers to the race include 45-year-old Roundtop Drive resident Vi Jones-Medusky, who's on a high rolling into the race she's dreamed about for three years.

Jones-Medusky said she gained her inspiration to run the Boston Marathon in the summer of 1994 when she jogged on Commonwealth Avenue in Newton past the "Young at Heart" statue of of ancient Boston Marathon champion John A. Kelley.

"I thought, heck, this guy has competed in so many Bostons, I want to do it for my 45th birthday," said Jones-Medusky.

Kelley ran in 61 Boston Marathons, finishing 58 of them. He still attends the race.

Greg Matson, a 32-year-old Aloha Airlines pilot, is also making his first run in Boston.

Matson said he's dedicating the race to his father who was just operated on for a defective heart valve.

"I promised him," said Matson, "but my first goal now is to finish the race. I want to go under three hours."

Matson said he has learned a lot about endurance and course survival since he collapsed in a May 1996 triathlon in Hawaii and woke up in an ambulance with IV tubes attached to his body.

A lot of Hawaii runners who earn the qualifying time for Boston are unable to pay their way here. But Elpidio Cadavona, a 40-year-old mail carrier stationed, said his Realtor, Leo Tanaka, who owns Realty Factors, decided to sponsor him and picked up the cost of his airfare.

"I'm nervous and excited," said Cadavona. Other Hawaii entries are 36-year-old Grant Marcus, 43-year-old Manuel Dizon, 35-year-old Mel White, and 59-year-old David Cheever of Honolulu, and 50-year-old Carl Simons, 48-year-old Tim Cotter and 38-year-old Kathy Kunkle of Kailua-Kona.

Temperatures are expected to rise into the high 50s on Marathon Monday.

Updates of the race can be found at <http://www.bostonmarathon.org> on the internet.

Both ESPN and ESPN2 will televise the marathon which will be seen also in more than 60 foreign countries.

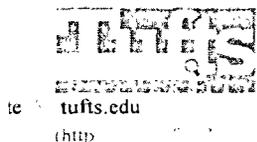
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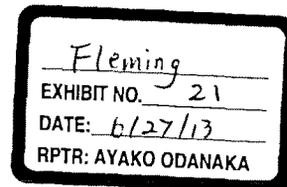
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## President's Marathon Challenge (<http://president.tufts.edu/2003/10/presidents-marathon-challenge/>)

To: Faculty and Staff  
From: President Lawrence S. Bacow  
Date: October 3, 2003

Dear Colleagues:

I am pleased to announce the 2nd Annual President's Marathon Challenge featuring our own Tufts faculty, staff, students, parents and alumni running with me in the 2004 Boston Marathon. Last year I was joined by 36 members of the Tufts Marathon Team for the 26.2 mile race on Patriot's Day. Once again, a Tufts team will be lining up with more than 20,000 runners in Hopkinton on Marathon Monday. I plan to be out there again and hope that many of you from across the university will run with me.

Again this year, we will be using Boston Marathon numbers to raise funds to support nutrition, medical, and fitness research and education at Tufts. Student participants are being asked to raise at least

\$1,000. Faculty and staff are being asked to raise at least \$2,500.

This year, we have an opportunity for even more members of the Tufts community to participate than last year. Still, we anticipate that interest will be greater than we can accommodate. Marathon entries are limited and available on a first come – first served basis, so please act soon.

Members of the team will be supported every step of the way during training by a cadre of dedicated Tufts faculty experts and members of Tufts' Athletics Department. Also, fundraising professionals from the University Advancement Division will guide and support you in your fundraising efforts. Completing a marathon and raising \$2,500 is a lofty goal, but it will also be a lot of fun. You will enjoy the camaraderie of Tufts faculty, alumni, parents, students, and staff on group training runs, at tune-up races, and at nutrition and fitness seminars.

The requirement of raising \$2,500 may keep some otherwise enthusiastic participants on the sidelines. If you feel that you cannot commit to raising \$2,500, we have set aside a limited number of entries with a fundraising goal of \$1,000. These entries are available by a lottery to be held on December 6, 2003.

Last year, the Tufts team got to know each other very well, ran together through a tough winter, enjoyed dinner at Gifford House on the eve of the marathon, and formed long-lasting friendships. All 37 runners on the Tufts team finished the race. You can check-out photos and other information about last year's Marathon Challenge at <http://marathon.president.tufts.edu> (<http://marathon.president.tufts.edu/>). I look forward to training and running the 2004 marathon with many of you, and I know that it will be great fun.

To take up the challenge, please email [marathonchallenge@tufts.edu](mailto:marathonchallenge@tufts.edu) indicating your interest. For additional information please contact Chris Grugan at [christopher.grugan@tufts.edu](mailto:christopher.grugan@tufts.edu), Eric Johnson at [eric.johnson@tufts.edu](mailto:eric.johnson@tufts.edu), or Miriam Nelson at [miriam.nelson@tufts.edu](mailto:miriam.nelson@tufts.edu).

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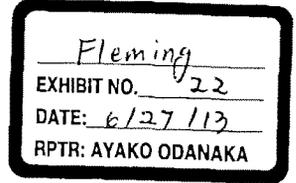
Random Thoughts

The Melrose Mirror

## Joe Smith winner Boston Athletic Association 1941

*... and Yonkers NY Marathon National Championship*

*from Isabel Smith*



Marathon Monday will always be special to Medford Milkman Joe Smith who captured the Boston Marathon (BAA) title as a member of the North Medford Club.

The day of the BAA Marathon - 1942, the photographers were sprawled all over Exeter Street, courtesy of the World Record Performance; 2 hours, 26 minutes, 51 seconds of Joe Smith, the Milkman from Medford. Joe was the tallest of all the winners, 6 feet 2 inches. He said, "When I came around the corner, I wanted to see my wife Isabel at the finish line."

I was with friends who came to the race and as I came to the finish line I could not believe the noise the crowd made, hollering, "Joe Smith, Joe Smith" over and over. Then to see him win and break the world record, I will never forget it.

He crashed into the photographers and knocked down all of them.

It was a Marathoner's dream. It dawned windless and cloudy with a temperature of 44 degrees. Smith's condition was not ideal. He had awakened flu-ridden and wasn't going to run. I talked him into it.

Actually, I sounded his marching orders "You've got to run. After all that training and for your team mates at the North Medford Track Club." My prodding succeeded and Joe Smith did run.

Joe was a six-day per week Hood's Milkman, running the route making deliveries at night. He became interested in running at age 25, back in 1939. One day he went out to see how far he could run and ran 19 miles. He couldn't walk for a week.

Joe declared his success in the sport to his coach and friend, Fred Brown of the North Medford Track Club. "He taught me everything I knew about running," he said.

Under Brown's tutelage, Joe trained 3 times a week with his workout of 35 miles. The bulk of the work was on Sunday when he and Brown would take 3 hour nonstop jaunts through the Medford Woods.

Three years later he won the 1941 Yonkers, N.Y. Marathon and his title was National Marathon Champion.

He was to be an alternate in the Olympics, but World War II came along and he entered the service to help in the war effort. Smith volunteered for the Coast Guard, put his running career on hold and served 38 months.

Later Joe was asked what he got for winning. A laurel, a medal, a bowl of beef stew and a lot of publicity.

Joe died Jan 25, 1993 at age 79.



Isabel-Joe Smith 1980

Isabel Smith April 2004

May 7, 2004

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**Current Issue:**  
*April 19, 2001*

**April 19, 2001**

*Fleming*  
EXHIBIT NO. 23  
DATE: 6/27/13  
RPTR: AYAKO ODANAKA

## HARVARD GAZETTE ARCHIVES

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### Calendar

Two-week listing of upcoming events

### Nor'easter stops Crimson tide

*Huskies end Harvard's 3-game Ivy run*

The Harvard baseball team wrapped up a four-game series against Yale with a pair of wins this past Saturday (April 14), after splitting a doubleheader a day earlier. The Crimson finished the homestand weekend with three consecutive victories, good for a 3-1 mark.



### **Marathon Monday**

Brian Stevenson '01 takes a rest on his Lowell House dorm room couch after running the Boston Marathon on Monday as a 'bandit,' a term used for unregistered runners. His unofficial time, according to his stopwatch, was four hours and 26 minutes. (Staff photo by Kris Snibbe)



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Fleming  
EXHIBIT NO. 24  
DATE: 6/27/13  
RPTR: AYAKO ODANAKA

## Marathon Monday Plans



The last helping of gefilte fish and horseradish has been consumed; three boxes of Peeps lay empty on the floor; by the time the alarm goes off tomorrow morning a battle will have been reenacted on the Lexington green – So we're thinking about tomorrow and where we'll be. We know that not everyone enjoys the benefits of a state holiday so some folks will actually be working as thousands travel the 26.2 from Hopkinton to Boston. We know, from experience, that Marathon Monday can be a good use of a vacation day. How will Bostonist watch the marathon? Read on...

Adam heads west to spend some quality time with his folks and lawn chairs as they set up on Rte. 135 in Framingham as they have for the past 20 years (admittedly he can't remember all of them – being too young, not too drunk). Not devaluing the love for his parents he's also got his eyes on the Red Sox, if anyone's got a pair for him he'd gladly take them.

Alex will be 'halfway home' as part of the Wellesley College Scream Tunnel. The location on Rte. 135 past that runs past Wellesley marks just about the halfway point on the race. She promises to shout niceties at all the runners. What she won't tell us is what will be on her banner. She's hard at work on it now.

Anna will be on the couch in style, watching tv coverage of the race as it gets closer and closer. She'll throw on her flip flops and scamper outside to where the marathon passes within feet of our apartment and marvel at how much more human the lead runners look in person.

Jon, Katie, and Josh will be having an editorial meeting in Brookline as the runners progress down Beacon St. well on their way to completing the trek. Oh, and by "having an editorial meeting" we really mean a couple of beers.

C. Fernsebner will be taking a long lunch to meet up with some others in the Exploit Boston flickr photo pool, digital camera in hand, outside the Park St. T stop at noon. Which reminds us: photos in the Exploit Boston group appear on Bostonist's pages in the page's left column. Likely to be a good group of photogs on the scene we have it on good authority that besides C. Fernsebner one can find friends of Bostonist Sooz and Abby on the scene as well.

Joel will be catching the play-by-play of the Sox game on his computer while at work. Not to worry, he tells us, he has a birds-eye view of the finish line from his office in the Hancock tower. Don't count on him to tell you who finished first, if Ortiz is at bat and runners are making their way down Boylston he's probably going to wait for the dinger rather than the tape to be broken at the finish – unless, of course, the boss is watching. In that case all plans are scrapped.

Christi won't be having any of it. Tied to the monitor between 9 and 5 she just hopes that there is a beer tent with her name on it when happy hour rolls around. Perhaps she has the right idea, if you don't waste a vacation day to stand outside watching people be athletic while you have a coke or a beer in 50 degree weather that day can be used to go to the beach when the weather is actually more suited for vacation.

We'll admit it, these are far from creative ways to watch the Boston Marathon. Where will you take in the sights and sounds of the 26.2 mile course, or have you forsaken it?

Photo courtesy Flickr user: [pkeleher](#)

Contact the author of this article or email [tips@bostonist.com](mailto:tips@bostonist.com) with further questions, comments or tips.

By [jon petitt](#) in [Miscellaneous](#) on April 16, 2006 9:19 PM [0 Comments](#) [0](#)

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**Hot**

# Breakfast



## MORNING: Served all day

We only use cage-free eggs. Cholesterol-free eggs available upon request.

### FINAGLE'S FAMOUS EGG SANDWICH | \$3.49

Egg & cheddar cheese on your favorite bagel with choice of bacon, ham, or sausage.

### TRADITIONAL PRESS | \$4.99

Egg, bacon, ham & cheddar cheese on a Plain bagel.

### VEGGIE OMELETTE | \$3.49

Egg & cheddar cheese mixed with seasonal vegetables on a bagel.

### PHOENIX PRESS | \$4.99

Egg, black bean salsa, tomato, avocado & cheddar cheese grilled on a Jalapeno bagel.

### KALAMATA PRESS | \$4.99

Egg, feta spread, olive tapenade & tomato grilled on harvest wheat bread.

### THE PATRIOT | \$3.99

Grilled steak, egg & pepper jack cheese on a bagel.

### COOLIDGE CORNER | \$7.99

Eggs, smoked salmon, scallion cream cheese & tomato on a bagel.

### BERKSHIRE | \$3.49

Egg, sausage & maple cream cheese on a Cinnamon Raisin bagel.

### MARATHON MONDAY | \$3.49

Cholesterol-free eggs, tomato, ham (2 g/serving fat) & lite scallion cream cheese on a 100% Whole Wheat bagel.

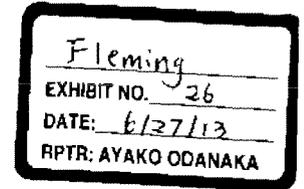
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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Boston Athletic Association, )  
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Opposer, )  
 )  
v. )  
 )  
Velocity, LLC )  
 )  
 )  
Applicant. )  
\_\_\_\_\_

Opposition No.: 91202562  
Application Ser. No.: 85/224698  
Mark: MARATHON MONDAY  
Class: 25



**OPPOSER'S RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES**

PRELIMINARY STATEMENT

1. These answers are made solely for the purpose of this proceeding and are subject to all objections as to competence, relevance, materiality, and admissibility, as well as to any and all other objections on any other ground. All of these objections and grounds are hereby expressly reserved and may be interposed at the time of any deposition or during any resulting proceedings.
2. These answers are based upon information and documents presently available to and located by Opposer and its attorneys, and Opposer intends no incidental or implied admissions. Opposer's responses or objections to any interrogatory or part of any interrogatory is not intended and should not be construed as an admission or that the answer or objections constitutes admissible evidence. Opposer's responses to all, or any part, of an interrogatory is not intended

and shall not be construed as a waiver by Opposer of all, or any part, of any objection to the interrogatory.

3. The following general objections are incorporated into each answer as though set forth in full regardless of whether Opposer also states a specific objection to an individual interrogatory. A specific answer may repeat a general objection for emphasis or for some other reason. Failure to include a general objection in any specific answer shall not be interpreted as a waiver of any general objection to that interrogatory.

#### GENERAL OBJECTIONS

1. Opposer objects to the interrogatories to the extent they seek information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information.
2. Opposer objects to the interrogatories to the extent they seek information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant.
3. Opposer objects to the interrogatories to the extent they seek information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege.
4. Opposer objects to the interrogatories to the extent they are overly broad, unduly burdensome, oppressive, request irrelevant information, and/or are not reasonably calculated to lead to the discovery of admissible evidence.

5. Opposer objects to the interrogatories to the extent they are unreasonably broad or burdensome by not providing a time limit as to the scope of the Interrogatory.
6. Opposer objects to the interrogatories to the extent they are unreasonably broad or burdensome by not providing a geographic scope for the Interrogatory.
7. Opposer objects to the interrogatories to the extent they contain words or phrases that lack an apparent meaning or have an uncertain meaning.
8. Opposer objects to the interrogatories to the extent they impose obligations beyond those set forth in the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.
9. Opposer objects to the interrogatories to the extent that they number more than the number allowed under the Trademark Trial and Appeal Board Manual of Procedure.

Subject to the forgoing qualifications, General Objections and the specific objections made below, Opposer answers Applicant's First Set of Interrogatories as follows:

## **INTERROGATORIES**

### **Interrogatory No. 1:**

Identify the person(s) most knowledgeable about the selection, creation, adoption, use and/or proposed use of the phrase MARATHON MONDAY by Opposer and describe the areas of knowledge of each person identified.

### **Response to Interrogatory No. 1:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 2 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it seeks information that is not within its possession, custody

or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant, since the phrase is used commonly to describe the Monday in April on which the Opposer holds the Boston Marathon. Opposer also objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: The person(s) most knowledgeable about the use and/or proposed use of the phrase MARATHON MONDAY by Opposer is Jack Fleming, Director of Marketing and Communications for the Boston Athletic Association. Opposer does not know who first selected created or adopted the phrase MARATHON MONDAY.

**Interrogatory No. 2:**

Describe in detail all services marketed and offered for sale or intended to be marketed or offered for sale by Opposer under the phrase MARATHON MONDAY.

**Response to Interrogatory No. 2:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 2. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by

others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: Opposer does not market or offer for sale or intend to market or offer for sale any services under the phrase MARATHON MONDAY.

**Interrogatory No. 3:**

Describe in detail all goods marketed and offered for sale or intended to be marketed or offered for sale by Opposer under the phrase MARATHON MONDAY.

**Response to Interrogatory No. 3:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 2. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: Opposer does not market or offer for sale or intend to market or offer for sale any goods under the phrase MARATHON MONDAY.

**Interrogatory No. 4:**

Describe in detail services marketed and offered for sale or intended to be marketed or offered for sale and offered by Opposer under the mark BOSTON MARATHON and/or the trade name Boston Athletic Association.

**Response to Interrogatory No. 4:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, request irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since this proceeding relates solely to the phrase MARATHON MONDAY.

**Interrogatory No. 5:**

Describe in detail goods marketed and offered for sale or intended to be marketed or offered for sale by Opposer under the mark BOSTON MARATHON and/or the trade name Boston Athletic Association.

**Response to Interrogatory No. 5:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, request irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since this proceeding relates solely to the phrase MARATHON MONDAY.

**Interrogatory No. 6:**

Describe what factors are used to identify a marathon race as a "major marathon" as set forth in Paragraph 6 of the Notice of Opposition.

**Response to Interrogatory No. 6:**

Opposer incorporates all of its General Objections and, specifically, General Objection 2. In particular, Opposer objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Subject to, and without waiving this objection, Opposer responds as follows:

Among marathon running enthusiasts, the term "major marathons" refers to the Boston Marathon, London Marathon, Berlin Marathon, Chicago Marathon, and the New York Marathon.

**Interrogatory No. 7:**

Identify all "major marathons" that are run in the United States.

**Response to Interrogatory No. 7:**

Opposer incorporates all of its General Objections and, specifically, General Objection 2. In particular, Opposer objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Subject to, and without waiving this objection, Opposer responds as follows: The major marathons that are run in the United States are the Boston Marathon, Chicago Marathon, and New York Marathon.

**Interrogatory No. 8:**

Describe all market research that Opposer has conducted relating to Applicant's Mark from January 1, 2010 until the present, including the dates that such research was conducted and providing the names of any third party firms that provided or assisted with such research.

**Response to Interrogatory No. 8:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 3. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not conducted any market research relating to Applicant's Mark from January 1, 2010 to the present.

**Interrogatory No. 9:**

For the period of time from January 1, 2010, identify all trademarks or service marks, whether federally registered or under common law, which contain MARATHON MONDAY or any portion thereof, alone or in connection with other terms or with images, that Opposer has researched, investigated or sought opinion of counsel; identify all documents relating to such research, investigation or opinion of counsel, and identify each person having knowledge of the results of such research, investigation or opinion of counsel.

**Response to Interrogatory No. 9:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client

privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer further objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, to the extent that the Applicant has asked about marks that include the term MARATHON without the term MONDAY and vice versa. Subject to, and without waiving these objections, Opposer responds as follows: As far as Opposer is aware, the only party seeking a federal trademark registration in the phrase MARATHON MONDAY is Applicant. Accordingly, Opposer has not researched, investigated or sought opinion of counsel regarding the use of the phrase MARATHON MONDAY, or the terms MARATHON or MONDAY, as a trademark or service mark in association with goods or services by any other party.

**Interrogatory No. 10:**

If the mark MARATHON MONDAY has been used any time in the past as a brand for goods or services offered by someone other than Opposer under license or otherwise permitted by Opposer, identify such third party(ies) so licensed or permitted to use the mark MARATHON MONDAY, identify any agreements in relation to such license(s) or permission(s) to use and identify the dates of each such license or permission to use.

**Response to Interrogatory No. 10:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which

the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not granted any party the right to use the mark MARATHON MONDAY as a brand for goods or services.

**Interrogatory No. 11:**

State the total sales of goods (number of units per type of article) sold under the MARATHON MONDAY trademark by Opposer in each year from 2000 to the present.

**Response to Interrogatory No. 11:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: The Opposer has never used the phrase MARATHON MONDAY as a trademark and therefore has not sold any goods under this mark.

**Interrogatory No. 12:**

Describe the channels of trade in which Opposer has marketed and sold its goods or services under the phrase MARATHON MONDAY from 2000 to the present.

**Response to Interrogatory No. 12:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that

constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: The Opposer has never used the phrase MARATHON MONDAY as a trademark or service mark and therefore has not marketed or provided any goods or services under this mark.

**Interrogatory No. 13:**

State the total sales of goods (indicating nature of services and number of sales) sold under mark BOSTON MARATHON and/or the trade name Boston Athletic Association by Opposer in each year from 2000 to the present.

**Response to Interrogatory No. 13:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, request irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since this proceeding relates solely to the phrase MARATHON MONDAY.

**Interrogatory No. 14:**

Describe all enforcement efforts undertaken by Opposer to limit or prohibit third parties from using the term MARATHON MONDAY.

**Response to Interrogatory No. 14:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, Opposer responds as follows:

Opposer has filed the present proceeding to stop the applicant from claiming exclusive rights in the phrase MARATHON MONDAY, which phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. The phrase MARATHON MONDAY is descriptive of the day of the week in April on which the Boston Marathon is held. Opposer has not tried to limit or prohibit third parties from using the term MARATHON MONDAY as Opposer has not found any party, other than Opposer, who seeks to gain exclusive rights to the term for goods or services.

**Interrogatory No. 15:**

Describe how Opposer determined that the term MARATHON MONDAY is associated with the Boston Marathon and the Opposer.

**Response to Interrogatory No. 15:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information

that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, Opposer responds as follows: The term MARATHON MONDAY has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. The Boston Marathon is the only major marathon that is held on a Monday, and accordingly, the phrase MARATHON MONDAY is generally associated with the Boston Marathon.

**Interrogatory No. 16:**

Describe how the Opposer uses and has used the term MARATHON MONDAY to communicate and promote its services to participants, fans and the general public.

**Response to Interrogatory No. 16:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information or is overly broad, unduly burdensome, oppressive, request irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: Opposer

will produce non-privileged and otherwise non-objectionable documents, if any, responsive to this Interrogatory.

**Interrogatory No. 17:**

Describe how the Opposer uses and has used the term MARATHON MONDAY to identify goods to participants, fans and the general public.

**Response to Interrogatory No. 17:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information or is overly broad, unduly burdensome, oppressive, request irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: The Opposer does not use and has not used the term MARATHON MONDAY to identify its goods to participants, fans and the general public.

**Interrogatory No. 18:**

Identify each use of MARATHON MONDAY which was made by Opposer in the web search results attached as Exhibit A to the Notice of Opposition.

**Response to Interrogatory No. 18:**

Opposer incorporates all of its General Objections and, specifically, General Objections 3 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information protected by attorney client privilege, attorney work-product doctrine, or any other applicable privilege. Opposer also objects to this interrogatory to the extent it requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence,

since the phrase has been used extensively during the more than 40 year time in which the Boston Marathon has been held on a Monday and the phrase is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Subject to, and without waiving these objections, Opposer responds as follows: Opposer used the phrase MARATHON MONDAY in the web search results attached as Exhibit A to the Notice of Opposition when the results were from the sites, <baa.org> or <bostonmarathon.org>. Other search results identified showed use of the phrase by different parties.

**Interrogatory No. 19:**

Identify Jack Fleming, including his title with Opposer, how many years he has worked for Opposer and his job description.

**Response to Interrogatory No. 19:**

Opposer incorporates all of its General Objections. Subject to, and without waiving these objections, Opposer responds as follows: Jack Fleming is the current Director of Marketing and Communications for the Boston Athletic Association ("B.A.A."), organizer of the Boston Marathon, the Opposer. He has held the positions of assistant media coordinator, media coordinator, media manager, media and promotions manager, communications director and (now) marketing and communications director for the Opposer. He has worked for the Opposer from December 29, 1991 through present. As Director of Marketing and Communication, he is responsible for all media, advertising, sponsorship, licensing, contributions, brand management and promotions for the Opposer.

**Interrogatory No. 20:**

Describe the call that Jack Fleming received from the United States Patent and Trademark Office referenced in his email to Applicant of November 7, 2011, including the date and time of the call, the name of the individual from the United States Patent and Trademark Office with whom the conversation took place, as well as the topics discussed.

**Response to Interrogatory No. 20:**

Opposer incorporates all of its General Objections. Subject to, and without waiving these objections, Opposer responds as follows: Opposer, and Mr. Fleming, have no knowledge of a call received from the United States Patent and Trademark Office on or around November 7, 2011.

**Interrogatory No. 21:**

Describe the relationship between Opposer and Dennis M. Daly, owner of record of the domain names marathonmoday.com and marathonmonday.net.

**Response to Interrogatory No. 21:**

Opposer incorporates all of its General Objections and, specifically, General Objection 1. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information. Subject to, and without waiving these objections, Opposer responds as follows: As far as the Opposer is aware, there is no relationship between Opposer and Dennis M. Daly, owner of record of the domain names marathonmoday.com and marathonmonday.net.

**Interrogatory No. 22:**

Describe all steps taken by Opposer to either effect a transfer of the domain names marathonmoday.com and marathonmonday.net to Opposer from Mr. Daly or to otherwise cause Mr. Daly to cease use of these domain names.

**Response to Interrogatory No. 22:**

Opposer incorporates all of its General Objections and, specifically, General Objection 1. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not taken any steps to either effect a

transfer of the domain names marathonmoday.com and marathonmonday.net to Opposer from Mr. Daly or to otherwise cause Mr. Daly to cease use of these domain names.

**Interrogatory No. 23:**

Identify all person(s) who are or have been employees, consultants or agents of Opposer who have worked with Applicant in Applicant's capacity as a provider of apparel to Opposer.

**Response to Interrogatory No. 23:**

Opposer incorporates all of its General Objections and, specifically, General Objection 1. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information. Subject to, and without waiving these objections, Opposer responds as follows: Applicant is not a provider of apparel to Opposer. Accordingly, there are no persons who are or have been employees, consultants or agents of Opposer who have worked with Applicant in Applicant's capacity as a provider of apparel to Opposer.

**Interrogatory No. 24:**

Describe all incidences of employees, consultants or agents of Opposer talking to or writing to Applicant regarding Applicant's use of names, marks or terms that Opposer has alleged are similar to names, marks or terms allegedly belonging to Opposer, including the names of the persons, dates of communications and the details of the communications.

**Response to Interrogatory No. 24:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information or is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since this proceeding relates solely to the use of the term MARATHON MONDAY. Subject to, and without waiving these objections, Opposer responds as follows: Within the last three years, Mr. Fleming of the Opposer has contacted Applicant

regarding Applicant's use of Opposer's trademark BOSTON MARATHON. One of the persons he spoke with was C. Tuite. Subsequently, Mr. Tuite arranged a meeting with Mr. Fleming to describe the Applicant's services to Opposer.

**Interrogatory No. 25:**

Identify all efforts undertaken by Opposer to cease use of the term MARATHON MONDAY by:

- i. Arizona State University
- ii. New York City / ING Marathon
- iii. Disney Marathon
- iv. Blue Mountain State
- v. Chicago Marathon
- vi. Charlottesville, VA Marathon
- vii. San Antonio, TX Marathon

**Response to Interrogatory No. 25:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, Opposer responds as follows:

Opposer has taken no efforts to cause the parties listed in this Interrogatory to stop use of the term MARATHON MONDAY as it was not aware that such parties used the term.

**Interrogatory No. 26:**

Identify the person(s) who provided information responsive to these Interrogatories.

**Response to Interrogatory No. 26:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, request irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, Opposer responds as follows: Jack Fleming has provided information responsive to these Interrogatories.

**Interrogatory No. 27:**

Identify any expert witnesses you intend to call to testify on your behalf in connection with this proceeding and state the facts or subject matter concerning which they are each expected to testify.

**Response to Interrogatory No. 26:**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 3. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the

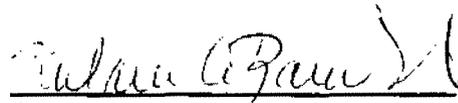
attorney work-product doctrine, or any other applicable privilege. Opposer also objects to this interrogatory as premature. Subject to, and without waiving these objections, Opposer responds as follows: At this time, Opposer has not identified any expert witnesses it intends to call to testify on its behalf in connection with this proceeding.

As to objections

BOSTON ATHLETIC ASSOCIATION

By its Attorneys,

Date: May 30, 2012



Michael J. Bevilacqua, Esq.

Barbra A. Barakat, Esq.

Wilmer Cutler Pickering Hale and Dorr

LLP

60 State Street

Boston, MA 02109

Phone No.: (617) 526-6000

Facsimile: (617) 526-5000

Verification

On behalf of Boston Athletic Association, and in my capacity as \_\_\_\_\_, I have read the foregoing responses to Applicant Velocity, LLC's First Set of Interrogatories. I do not necessarily have direct personal knowledge of every fact contained herein. The response was prepared with the assistance of Boston Athletic Association's employees and with the assistance and advice of counsel. The answers are based on records and information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available. To the extent I do not have personal knowledge, I have relied on others to gather the responsive information. I declare under penalty of perjury that the foregoing is true and correct.

Signed this \_\_\_\_ day of May, 2012

\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of May 2012, I served the foregoing Opposer's Response to Applicant's First Set of Interrogatories to Opposer by First Class Mail upon:

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

  
\_\_\_\_\_  
Barbara A. Barakat

Fleming  
EXHIBIT NO. 27  
DATE: 6/19/13  
RPTR: AYAKO ODANAKA

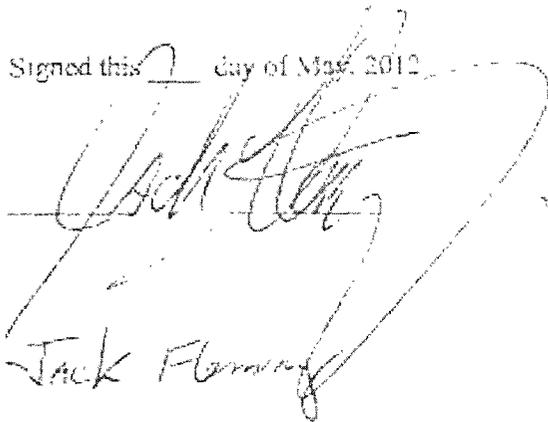
Verification

On behalf of Boston Athletic Association, and in my capacity as

Director, Mktg & Comm, I have read the foregoing responses to Applicant Velocity,

I.L.C.'s First Set of Interrogatories. I do not necessarily have direct personal knowledge of every fact contained herein. The response was prepared with the assistance of Boston Athletic Association's employees and with the assistance and advice of counsel. The answers are based on records and information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available. To the extent I do not have personal knowledge, I have relied on others to gather the responsive information. I declare under penalty of perjury that the foregoing is true and correct.

Signed this 7 day of May, 2012

  
Jack Fleming

JUNE 19, 2013



interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not conducted any market and/or survey research. Opposer has provided representative documents of the other evidence responsive to this Interrogatory after the service of these discovery requests.

**Interrogatory No.: 29**

Identify and describe any market and/or survey research or any other evidence that supports Opposer's contention that "others," who along with Opposer, use the phrase MARATHON MONDAY to describe the "Monday in April on which the Boston Marathon is held," as stated in Opposer's Responses to Applicant's First Set of Interrogatories, specifically in Opposer's Response to Interrogatory Nos. 1-3, 10-12, 14-18.

**Response to Interrogatory No.: 29**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 2. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not conducted any market and/or survey research. Opposer has provided representative documents of the other evidence responsive to this Interrogatory after the service of these discovery requests.

**Interrogatory No.: 30**

Identify and describe the "others," who along with Opposer, use the phrase MARATHON MONDAY to describe the "Monday in April on which the Boston Marathon is held," as stated in Opposer's Responses to Applicant's First Set of Interrogatories, specifically in Opposer's Response to Interrogatory Nos. 1-3, 10-12, 14-18.

**Response to Interrogatory No.: 30**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 2 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Opposer further objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, Opposer responds as follows: Among the “others,” who along with Opposer, use the phrase MARATHON MONDAY to describe the “Monday in April on which the Boston Marathon is held,” are the following: Massachusetts Bay Transit Authority, American Beverage Association, 360PRBlog.com, The Museum of Science, Boston, MA, UrbanDictionary.com, BostonBiker.org, CustomInk, WAAF, Examiner.com, Puma, Boston Magazine, DailyFreePress.com, WHDH, Runners World, and New England Sports News.

**Interrogatory No.: 31**

Identify and describe any market and/or survey research or any other evidence that supports Opposer’s contention that “the phrase MARATHON MONDAY is generally associated with the Boston Marathon,” as stated in Opposer’s Responses to Applicant’s First Set of Interrogatories, specifically in Opposer’s Response to Interrogatory No. 15.

**Response to Interrogatory No.: 31**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 2. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this

interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not conducted any market and/or survey research. Opposer has provided representative documents of the other evidence responsive to this Interrogatory after the service of these discovery requests.

**Interrogatory No.: 32**

Identify and describe any effort Opposer has made over the last forty years to ensure that the phrase MARATHON MONDAY was not used by any party other than Opposer.

**Response to Interrogatory No.: 32**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 3. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Subject to, and without waiving these objections, Opposer responds as follows: As stated in Opposer's prior responses, the phrase MARATHON MONDAY is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held. Opposer had not made efforts to limit, prohibit or prevent third parties from using the term MARATHON MONDAY.

**Interrogatory No. : 33**

From April 7, 2011 to present, identify and describe any confusion that Opposer is aware of with respect to any person that has been confused as to the source of Applicant's goods.

**Response to Interrogatory No.: 33**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 2 and 3. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Subject to, and without waiving these objections, Opposer responds as follows:

Opposer has not experienced instances in which persons have been confused as to the source of Applicant's goods.

**Interrogatory No.: 34**

With the exception of Exhibit A to Opposer's Notice of Opposition, identify and describe any document or communication alleged to establish that the mark BOSTON MARATHON is of sufficient fame so that Applicant's Mark is presumed to be associated and/or connected with Opposer.

**Response to Interrogatory No.: :34**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 2 and 4. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of

Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Additionally, Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has provided representative documents responsive to this Interrogatory after the service of these discovery requests.

**Interrogatory No.: 35**

Identify and describe any document or communication alleged to establish that Applicant's Mark is "not unique," as averred in Opposer's Notice of Opposition, P. 12.

**Response to Interrogatory No.: 35**

Opposer incorporates all of its General Objections and, specifically, General Objections Nos. 2 and 3. In particular, Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer also objects to this interrogatory to the extent that it seeks information that is not within its possession, custody or control and/or is a matter of public record, is within the files and/or particular knowledge of Applicant, its counsel, or agents, or is otherwise equally available to Applicant. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has provided representative documents responsive to this Interrogatory after the service of these discovery requests.

**Interrogatory No.: 36**

Identify and describe any action that Opposer has taken in an attempt to secure any rights for Applicant's Mark.

**Response to Interrogatory No.: 36**

Opposer incorporates all of its General Objections and, specifically, General Objections 1, 3 and 7. In particular, Opposer objects to this interrogatory to the extent it seeks information

that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Opposer further objects to this interrogatory as the phrase “any rights” has an uncertain meaning. Subject to, and without waiving these objections, Opposer responds as follows: Opposer has not filed any applications to register the mark MARATHON MONDAY at the United States Patent and Trademark Office.

**Interrogatory No.: 37**

List the prices of all goods that Opposer currently sells with the BOSTON MARATHON mark and/or its trade name and referred to in Opposer’s Notice of Opposition, P. 10.

**Response to Interrogatory No.: 37**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Additionally, Opposer objects to this interrogatory to the extent it is overly broad, unduly burdensome, oppressive, requests irrelevant information, and/or is not reasonably calculated to lead to the discovery of admissible evidence, since Opposer’s Mark BOSTON MARATHON is associated with goods that beyond the scope of the goods in Applicant’s application. Subject to, and without waiving these objections, Opposer responds as follows: Opposer will produce non-privileged and otherwise non-objectionable documents in its possession, custody or control relating to sales by its licensees of clothing products, if any, responsive to this Request.

**Interrogatory No.: 38**

Describe all steps taken by Opposer since November 16, 2011 that relate to Opposer preventing any third party(ies) from using the MARATHON MONDAY mark.

**Response to Interrogatory No.: 38**

Opposer incorporates all of its General Objections and, specifically, General Objections 1 and 3. In particular, Opposer objects to this interrogatory to the extent it seeks information that constitutes confidential or private business information. Opposer also objects to this interrogatory to the extent it seeks information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege. Subject to, and without waiving these objections, Opposer responds as follows: As stated in Opposer's prior responses, the phrase MARATHON MONDAY is used by Opposer and by others to describe the Monday in April on which the Boston Marathon is held and Opposer has not tried to limit, prohibit or prevent third parties from using the term MARATHON MONDAY.

**Interrogatory No. 39**

Describe in detail how the words MARATHON MONDAY are associated with clothing.

**Response to Interrogatory No.: 39**

Opposer incorporates all of its General Objections and, specifically, General Objection 7. In particular, Opposer objects to this interrogatory as meaning of the term "associated" is uncertain.

**Interrogatory No.: 40**

List and describe any and all retailers that Opposer permits and/or authorizes to sell clothing with the BOSTON MARATHON mark.

**Response to Interrogatory No.: 40**

Opposer incorporates all of its General Objections and, specifically, General Objection 1. In particular, Opposer objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Subject to, and without waiving this objection, Opposer responds as follows: Opposer currently permits and/or authorizes Addidas to sell clothing with the BOSTON MARATHON mark.

**Interrogatory No.: 41**

From January 1, 2010 until the present, identify and describe any reference to the words MARATHON MONDAY that were made by Opposer on any of its social media web-based technology, including but not limited to Facebook and Twitter.

**Response to Interrogatory No.: 41**

Opposer incorporates all of its General Objections and specifically, General Objection Nos. 1 and 7. Opposer objects to this Interrogatory to the extent it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. Opposer also objects to this Request to the extent it contains words or phrases that lack an apparent meaning or have an uncertain meaning, as to the phrase "any of its social media web-based technology." Subject to and without waiving the foregoing General Objections and Specific Objections, Opposer responds as follows: Opposer used the words MARATHON MONDAY on its Twitter feed and Facebook page on April 18, 2011.

As to objections

Date: August 23, 2012

BOSTON ATHLETIC ASSOCIATION

By its Attorneys,



Michael J. Bevilacqua, Esq.

Barbra A. Barakat, Esq.

Wilmer Cutler Pickering Hale and Dorr LLP

60 State Street

Boston, MA 02109

Phone No.: (617) 526-6000

Facsimile: (617) 526-5000

Verification

On behalf of Boston Athletic Association, and in my capacity as \_\_\_\_\_, I have read the foregoing responses to Applicant Velocity, LLC's Second Set of Interrogatories. I do not necessarily have direct personal knowledge of every fact contained herein. The response was prepared with the assistance of Boston Athletic Association's employees and with the assistance and advice of counsel. The answers are based on records and information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available. To the extent I do not have personal knowledge, I have relied on others to gather the responsive information. I declare under penalty of perjury that the foregoing is true and correct.

Signed this \_\_\_\_ day of August, 2012

\_\_\_\_\_  
Jack Fleming

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of August 2012, I served the foregoing Opposer's Response to Applicant's Second Set of Interrogatories to Opposer by First Class Mail upon:

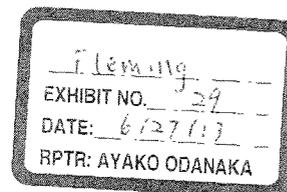
Andrea J. Mealey  
Tanya M. Curcio  
Hinckley Allen & Snyder LLP  
28 State Street  
Boston, MA 02109-1775



---

Barbara A. Barakat

Verification



On behalf of Boston Athletic Association, and in my capacity as Director, MKtg & Comm, I have read the foregoing responses to Applicant Velocity, LLC's Second Set of Interrogatories. I do not necessarily have direct personal knowledge of every fact contained herein. The response was prepared with the assistance of Boston Athletic Association's employees and with the assistance and advice of counsel. The answers are based on records and information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available. To the extent I do not have personal knowledge, I have relied on others to gather the responsive information. I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of June, 2013

A large, stylized handwritten signature in black ink, appearing to read "Jack Fleming".

Jack Fleming

JUNE 19, 2013

A small, handwritten mark in the bottom right corner of the page, resembling a four-pointed star or asterisk.

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			

Fleming  
EXHIBIT NO. 30  
DATE: 6/27/17  
RPTR: AYAKO ODANAKA

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
-----------	-----------------

Design Mark	
-------------	--

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>
----------------	---

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.

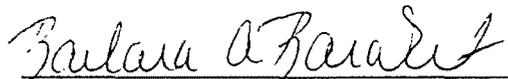
14. Applicant's registration of the mark "MARATHON MONDAY" on the Principal Register of the United States Patent and Trademark Office will prevent Opposer from communicating with participants, fans and the general public to a significant degree.

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 16<sup>th</sup> day of November, 2011 upon:

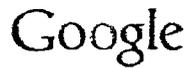
Deborah L. Benson, Esq.  
Hinckley, Allen & Snyder LLP  
28 State Street  
Boston, MA 02109-1775

  
Barbara A. Barakat

EXHIBIT A

Web Images Videos Maps News Shopping Gmail More -

Sign in



marathon monday

Search

About 38,900,000 results

Advanced search

- Everything
- Images
- Videos
- News
- Shopping
- More
- Any time
- Past hour
- Past 24 hours
- Past 2 days
- Past week
- Past month
- Past year
- More search tools

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Register Today for the 2012 Boston Marathon in Hopkinton on April 16  
determination.acsevents.org

**[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.ingnymarathon.org/mmn/index.shtml - 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**

[marathon monday drinking](#)      [disney marathon monday](#)

[marathon monday events](#)    [marathon monday 2010 date](#)  
[when is marathon monday 2011](#)    [marathon monday 2010 holiday](#)

1 2 3 4 5 6 7 8 9 10    [Next](#)

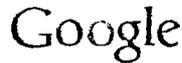
marathon monday  Search

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Any time

Past hour

Past 24 hours

Past 2 days

Past week

Past month

Past year

More search tools

**Boston marathon 2012 | determination.acsevents.org**  
Register Today for the 2012 Boston Marathon in Hopkinton on April 16  
determination.acsevents.org

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**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 ...  
marathon.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 xgodsmkfrx18 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

Searches related to: marathon monday

- marathon monday drinking
- disney marathon monday
- marathon monday events
- marathon monday 2010 date
- when is marathon monday 2011
- marathon monday 2010 holiday

Previous 1 2 3 4 5 6 7 8 9 10 11 Next

marathon monday

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marathon monday

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Page 3 of about 36,900,000 results

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- Images
- Videos
- News
- Shopping
- More
  
- Any time
- Past hour
- Past 24 hours
- Past 2 days
- Past week
- Past month
- Past year
- More search tools

**Boston marathon 2012 | determination.acsevents.org**  
 Register Today for the 2012 Boston Marathon in Hopkinton on April 16  
 determination.acsevents.org

Sponsored Links

**Marathon Monday !! Facebook**  
 Marathon Monday I - A page to promote Marathon Mondays as they appear in Blue Mountain State I You drink from sun rise to sun rise I | 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 ...  
 wcbstn.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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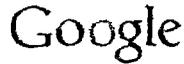
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**Blue Mountain State: Marathon Monday Episode Summary - TV.com**  
 Blue Mountain State season 1 episode 10 Marathon Monday recaps, reviews & episode guide.  
[www.tv.com/shows/blue-mountain.../marathon-monday-1332850/](http://www.tv.com/shows/blue-mountain.../marathon-monday-1332850/) - 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/](http://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](http://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?ccid=10723&pid=10310](http://www.wellesleypolice.com/index.cfm?ccid=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](http://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.nyrmmedia.org/Marathon.../historic-marathon-wraps-up-with-monday-press-conference.html](http://www.nyrmmedia.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](http://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](http://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/](http://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](http://bostonmarathon.runnersworld.com/.../nan-kennard-a-big-fan-of-marathon-monday.html) - Cached - Similar

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**Boston marathon 2012**  
 Register Today for the 2012 Boston Marathon in Hopkinton on April 16  
[determination.acsevents.org](http://determination.acsevents.org)

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**From:** Jack Fleming [<mailto:Fleming@baa.org>]  
**Sent:** Friday, November 11, 2011 9:20 AM  
**To:** Charles Tuite; Michael Pieroni  
**Cc:** Jack Fleming  
**Subject:** RE: BAA / Velocity Update

C.B.-  
Thanks for this update as it is timely because we have a couple of projects on the horizon and we have enjoyed working with Velocity over the years.

One question, however...  
The federal trademarks office called last and told us that the term "Marathon Monday" had been registered. I also saw the paperwork. Is it you who filed that paperwork for the term and are you intending to use it? I know that we had a conversation a couple of years ago touching on the subject of encroachment upon the B.A.A.'s names and marks (whether confusingly similar or otherwise).

Can you please clear up or clarify your intent on this subject if it is, indeed, you who filed the paperwork?

Thanks,  
Jack