

ESTTA Tracking number: **ESTTA467096**

Filing date: **04/13/2012**

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	Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company
Granted to Date of previous extension	04/15/2012
Address	7000 Coliseum Way Second Floor Oakland, CA 94621 UNITED STATES

Attorney information	Aryn M. Emert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799 UNITED STATES ame@cll.com, jmn@cll.com, trademark@cll.com Phone:212-790-9200
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Applicant Information

Application No	85269917	Publication date	10/18/2011
Opposition Filing Date	04/13/2012	Opposition Period Ends	04/15/2012
Applicants	Stuart Adamson 5900 Cherry Creek Drive Austin, TX 78745 UNITED STATES Hilary Claire Adamson 5900 Cherry Creek Drive Austin, TX 78745 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2006/08/02 First Use In Commerce: 2006/08/03 All goods and services in the class are opposed, namely: Compact discs featuring music; Downloadable MP3 files and MP3 recordings featuring music
Class 041. First Use: 2006/03/12 First Use In Commerce: 2006/03/18 All goods and services in the class are opposed, namely: Entertainment services in the nature of live musical performances

Grounds for Opposition

Other	Please see attached pleading.
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Attachments	THE FLYIN A'S - Ltr to Commiss.pdf (1 page)(68826 bytes)
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	THE FLYIN AS NOO.pdf (5 pages)(18734 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	/Aryn M. Emert/
Name	Aryn M. Emert
Date	04/13/2012



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April 13, 2012

By Electronic Filing

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

Re: Athletics Investment Group LLC d/b/a The Oakland Athletics
Baseball Company
Notice of Opposition Against
Stuart Adamson and Hilary Claire Adamson
Application to register THE FLYIN' A'S
Ref. No. 21307.034

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/269,917 published in the Official Gazette on October 18, 2011. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$600.00 to cover the filing fee.

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

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

Respectfully submitted,

/Aryn M. Emert/

Aryn M. Emert

Enclosures

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

1. Opposer is the owner of the renowned OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL club.

2. Since long prior to March 12, 2006, Applicants' earliest claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the name or mark "A'S," alone or with other word, letter and/or design elements (the "Opposer's A'S Marks"), in connection with baseball games and exhibition services at which music is played or performed and a wide variety of goods and services, including, but not limited to, concerts; pre-recorded compact discs; downloadable MP3 files and MP3 recordings; pre-recorded video and audio discs; pre-recorded videotapes; apparel; jewelry; paper products and printed matter; toys and sporting goods; and novelty items.

3. Opposer owns United States federal registrations for Opposer's A'S Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,234,697; 1,257,146; 1,263,825; 1,267,687; 1,267,861; 1,523,854; 1,530,675; 1,560,962; 1,570,831; 2,573,396; 2,630,348; 2,759,932; 3,349,787 and 3,349,788. Opposer's Registration Nos. 1,234,697; 1,257,146; 1,263,825; 1,267,687; 1,267,861; 1,523,854; 1,530,675; 1,560,962 and 1,570,831 are incontestable.

4. Since long prior to March 12, 2006, Applicants' earliest claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's A'S Marks, including, but not limited to, baseball games and exhibition services at which music is played or performed and a wide variety of goods and services, including, but not limited to, concerts; pre-recorded compact discs; downloadable MP3 files and MP3 recordings; pre-recorded video and audio discs; pre-recorded videotapes; apparel;

jewelry; paper products and printed matter; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

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

6. On March 17, 2011, Applicants filed the Application for Applicants' Mark for "Compact discs featuring music; Downloadable MP3 files and MP3 recordings featuring music" in International Class 9, claiming a first use date of August 2, 2006, and a first use in commerce date of August 3, 2006, and for "Entertainment services in the nature of live musical performances" in International Class 41, claiming a first use date of March 12, 2006 and a first use in commerce date of March 18, 2006.

7. Upon information and belief, Applicants did not use Applicants' Mark for the goods or services covered in the Application in the United States prior to their earliest claimed first use date of March 12, 2006.

8. The goods and services covered by the Application are closely related to the goods offered and services rendered in connection with Opposer's A'S Marks.

9. Applicants' Mark so resembles Opposer's A'S Marks as to be likely, when used in connection with Applicants' goods and services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicants' goods and services have their origin with Opposer and/or that such goods and services are approved, endorsed or

sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicants of a certificate of registration for Applicants' Mark.

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

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

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

Dated: New York, New York
April 13, 2012

Respectfully submitted,

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

By: /Aryn M. Emert/

Mary L. Kevlin
Richard S. Mandel
Aryn M. Emert
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 13, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicants' Attorney and Correspondent of Record Lawrence A. Waks, Jackson Walker L.L.P., 100 Congress Ave., Ste 1100, Austin, Texas 78701-4042, with a courtesy copy to Raman N. Dewan at the same address.

/Aryn M. Emert/
Aryn M. Emert