

ESTTA Tracking number: **ESTTA531103**

Filing date: **04/08/2013**

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	Milwaukee Brewers Baseball Club, Limited Partnership
Granted to Date of previous extension	04/07/2013
Address	Miller Park One Brewers Way Milwaukee, WI 53214 UNITED STATES

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

Application No	85603195	Publication date	10/09/2012
Opposition Filing Date	04/08/2013	Opposition Period Ends	04/07/2013
Applicant	Osterkamp, Ryan Anthony 1068 Law St. San Diego, CA 92109 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2012/04/19 First Use In Commerce: 2012/04/19 All goods and services in the class are opposed, namely: Apparel, namely, t-shirts, shirts, pants, sweatshirts, sweatpants, jackets, hats, shoes
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Grounds for Opposition

Other	Please see attached filing
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Attachments	MB3 Letter to Commr.pdf (1 page)(72714 bytes) MB3 NOO.pdf (5 pages)(46857 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	/Seth Shaifer/
Name	Seth Shaifer
Date	04/08/2013



Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
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April 8, 2013

By Electronic Filing

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

Re: Milwaukee Brewers Baseball Club, Limited Partnership
Notice of Opposition Against
Ryan Anthony Osterkamp
Application to register MB3
Ref. No. 21307.031

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/603,195 published in the Official Gazette on October 9, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 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,

/Seth Shaifer/
Seth Shaifer

Enclosures

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

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

In re Application Serial No. 85/603,195
Filed: April 19, 2012
For Mark: MB3
Published in the Official Gazette: October 9, 2012

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MILWAUKEE BREWERS BASEBALL CLUB,	:	
LIMITED PARTNERSHIP,	:	Opposition No.
Opposer,	:	
	:	
v.	:	<u>NOTICE OF OPPOSITION</u>
	:	
RYAN ANTHONY OSTERKAMP,	:	
Applicant.	:	
	:	
-----X	:	

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Milwaukee Brewers Baseball Club, Limited Partnership (“Opposer”), a Wisconsin limited partnership, with offices at Miller Park, One Brewers Way, Milwaukee, Wisconsin 53214, believes that it will be damaged by registration of the standard character mark MB3 (“Applicant’s Mark”) in International Class 25 for “apparel, namely, t-shirts, shirts, pants, sweatshirts, sweatpants, jackets, hats, shoes” as shown in Application Serial No. 85/603,195 (the “Application”), and having been granted extensions of time to oppose up to and including April 7, 2013, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned MILWAUKEE BREWERS MAJOR LEAGUE BASEBALL club.

2. Since long prior to April 19, 2012, Applicant's claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the name or mark MB, including in the following distinctive stylizations:



and , alone or with other word, letter and/or design elements (“Opposer’s MB Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including without limitation, t-shirts, shirts, sweatshirts, jackets, and hats; jewelry; paper goods and printed matter; and toys and sporting goods.

3. Opposer owns U.S. federal applications and registrations for Opposer’s MB Marks in International Classes 6, 14, 16, 18, 24, 25, 28 and 41, namely, namely, Registration Nos. 1,222,121, 1,243,706, 1,262,144, 1,543,238, and 2,136,439. Registration Nos. 1,222,121, 1,243,706, 1,262,144, 1,543,238, are incontestable.

4. Since long prior to April 19, 2012, Applicant’s 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 MB Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including without limitation, t-shirts, shirts, sweatshirts, jackets, and hats; jewelry; paper goods and printed matter; and toys and sporting goods, 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 MB Marks, Opposer has built up highly valuable goodwill in Opposer's MB Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On April 19, 2012, Applicant filed the Application for Applicant's Mark for "apparel, namely, t-shirts, shirts, pants, sweatshirts, sweatpants, jackets, hats, shoes" in International Class 25, claiming a first use date of April 19, 2012.

7. Upon information and belief, Applicant did not use Applicant's Mark for the goods covered in the Application in United States commerce prior to its claimed first use date of April 19, 2012.

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

9. As Applicant has claimed Applicant's Mark as a standard character mark, registration of such mark effectively would give Applicant rights to "MB3" in any stylization, including the stylizations of Opposer's MB Marks that have been duly registered and/or have priority of use over Applicant's Mark. Additionally, registration of Applicant's Mark effectively could prevent Opposer from developing other stylizations of MB marks in the future.

10. Applicant's Mark so resembles Opposer's MB Marks as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or associated in some

way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

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

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Seth Shaifer (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 8, 2013

Respectfully submitted,

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

By: /Seth Shaifer/

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 8, 2013, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Pollie Gautsch, Esq., G&A Legal, APC, 2033 San Elijo Avenue, #201, Cardiff, California 92007-1726.

/Seth Shaifer/
Seth Shaifer