

ESTTA Tracking number: **ESTTA532368**

Filing date: **04/15/2013**

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	The Cincinnati Reds LLC
Granted to Date of previous extension	04/14/2013
Address	Great American Ball Park 100 Joe Nuxhall Way Cincinnati, OH 45202 UNITED STATES

Attorney information	Lisa M. Willis Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES trademark@cll.com, jmn@cll.com, lmw@cll.com, kco@cll.com Phone:212-790-9200
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**Applicant Information**

Application No	85540275	Publication date	10/16/2012
Opposition Filing Date	04/15/2013	Opposition Period Ends	04/14/2013
Applicant	CornBorn, LLC 218 Shadow Valley Bend Dakota Dunes, SD 57049 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 025. First Use: 2011/05/25 First Use In Commerce: 2012/01/16 All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Babies' pants; Baby bodysuits; Baby bottoms; Baby tops; Boxer briefs; Boxer shorts; Button down shirts; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Children's headwear; Collared shirts; Creepers; Dress shirts; Golf shirts; Hats for infants, babies, toddlers and children; Hooded pullovers; Hooded sweat shirts; Infant and toddler one piece clothing; Infant sleepers; Knit shirts; Long-sleeved shirts; Lounge pants; Loungewear; Moisture-wicking sports shirts; Nightwear; Pajamas; Polo shirts; Shirts; Shirts for infants, babies, toddlers and children; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleepwear; Sport shirts; Sports jerseys; Sweat pants; Sweat shirts; T-shirts; Tank-tops; Tee shirts</p>
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**Grounds for Opposition**

Other	Please see attached pleading.
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Attachments	LOVE RED - Lt. to Commissioner re Notice of Opposition.pdf ( 1 page )(93638 bytes ) LOVE RED - Notice of Opposition.pdf ( 6 pages )(17363 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	/Lisa M. Willis/
Name	Lisa M. Willis
Date	04/15/2013



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**Lisa M. Willis**  
212-790-232  
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April 15, 2013

**By Electronic Filing**

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

Re: The Cincinnati Reds LLC  
Notice of Opposition Against  
CornBorn, LLC  
Application to register LOVE RED  
Ref. No. 21307.012

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/540,275 published in the Official Gazette on October 16, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$ 300.00 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,

/Lisa M. Willis/  
Lisa M. Willis

Enclosures

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



Sports jerseys; Sweat pants; Sweat shirts; T-shirts; Tank-tops; Tee shirts” as shown in Application Serial No. 85/540,275 (the “Application”), and having been granted extensions of time to oppose up to and including April 14, 2013, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CINCINNATI REDS MAJOR LEAGUE BASEBALL club.

2. Since long prior to May 25, 2011, Applicant’s earliest claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names or marks REDS or RED, alone or with other word, letter and/or design elements (the “Opposer’s REDS 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, shirts, t-shirts, pants, jackets, footwear, hats, caps, athletic uniforms, children’s and infant apparel, pullovers, sweat shirts, sports jerseys, tank tops, underwear and sleepwear; toys and sporting goods; paper goods and printed matter; and novelty items.

3. Opposer owns U.S. federal registrations for Opposer’s REDS Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 34, 36 and 41; namely, Registration Nos. 893,049, 1,121,465, 1,129,214, 1,143,424, 1,143,710, 1,144,130, 1,144,264, 1,144,467, 1,145,767, 1,149,866, 1,150,449, 1,150,777, 1,156,489, 1,188,127, 1,534,968, 1,543,239, 1,560,468, 1,569,789, 2,504,075, 2,533,903, 2,558,520, 2,948,016, 2,968,240, 3,295,173, 3,331,564, 3,385,818, 3,589,112, 3,598,827, 3,619,653, 3,747,846, 4,026,994 and 4,029,778. Opposer’s Registration Nos. 893,049, 1,121,465, 1,129,214, 1,143,424, 1,143,710, 1,144,130, 1,144,264, 1,144,467, 1,145,767, 1,149,866, 1,150,449, 1,150,777, 1,156,489,

1,188,127, 1,534,968, 1,543,239, 1,560,468, 1,569,789, 2,533,903, 2,558,520, 2,948,016 and 2,968,240 are incontestable. Registration No. 2,504,075 is partially incontestable.

4. Since long prior to May 25, 2011, Applicant's 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 REDS 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, shirts, t-shirts, pants, jackets, footwear, hats, caps, athletic uniforms, children's and infant apparel, pullovers, sweat shirts, sports jerseys, tank tops, underwear and sleepwear; toys and sporting goods; paper goods and printed matter; 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 REDS Marks, Opposer has built up highly valuable goodwill in Opposer's REDS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On February 11, 2012, Applicant filed the Application for Applicant's Mark for "Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Babies' pants; Baby bodysuits; Baby bottoms; Baby tops; Boxer briefs; Boxer shorts; Button down shirts; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Children's headwear; Collared shirts; Creepers; Dress shirts; Golf shirts; Hats for infants, babies, toddlers and children; Hooded pullovers; Hooded sweat shirts; Infant and toddler one piece clothing; Infant sleepers; Knit shirts; Long-sleeved shirts; Lounge pants; Loungewear; Moisture-wicking sports shirts; Nightwear; Pajamas; Polo shirts;

Shirts; Shirts for infants, babies, toddlers and children; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleepwear; Sport shirts; Sports jerseys; Sweat pants; Sweat shirts; T-shirts; Tank-tops; Tee shirts” in International Class 25, claiming a first use date as of May 25, 2011 as its earliest date of use.

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 earliest claimed first use date of May 25, 2011.

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 REDS Marks.

9. Applicant’s Mark so resembles Opposer’s REDS 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 Lisa M. Willis (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 15, 2013

Respectfully submitted,

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

By: /Lisa M. Willis/

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

CERTIFICATE OF SERVICE

I hereby certify that, on April 15, 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 and Correspondent of Record, CornBorn, LLC, 218 Shadow Valley Bend, Dakota Dunes, South Dakota 57049; Attn: Randy Farwell.

/Lisa M. Willis/  
Lisa M. Willis