

ESTTA Tracking number: **ESTTA573419**

Filing date: **11/26/2013**

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	Chicago White Sox, Ltd.
Granted to Date of previous extension	12/01/2013
Address	333 West 35th Street Chicago, IL 60616 UNITED STATES
Attorney information	Bridget A. Crawford Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES bac@cll.com, mlk@cll.com, trademark@cll.com, jmn@cll.com Phone:212-790-9251

Applicant Information

Application No	85820454	Publication date	06/04/2013
Opposition Filing Date	11/26/2013	Opposition Period Ends	12/01/2013
Applicant	Baseball Performance Institute, LLC 1375 Paterson Plank Road Secaucus, NJ 07094 NJ		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hats; Shirts

Grounds for Opposition

Other	See attached pleading.
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Attachments	Ltr to Commissioner - Notice of Opposition for BPI.PDF(155635 bytes) Notice of Opposition - BPI.PDF(78064 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	/Bridget A. Crawford/
Name	Bridget A. Crawford
Date	11/26/2013



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November 26, 2013

By Electronic Filing

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

Re: Chicago White Sox, Ltd.
Notice of Opposition Against
Baseball Performance Institute, LLC
Application to Register **BPI and Design**
Ref. No. 21307.027

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/820,454 published in the Official Gazette on June 4, 2013. 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,

/Bridget A. Crawford/
Bridget A. Crawford

Enclosure

cc: Ms. Diane Kovach (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. 85/820,454
Filed: January 10, 2013
For Mark: BPI and Design
Published in the Official Gazette: June 4, 2013

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CHICAGO WHITE SOX, LTD.,	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
BASEBALL PERFORMANCE INSTITUTE, LLC,	:	<u>NOTICE OF OPPOSITION</u>
Applicant.	:	
-----X	:	

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

Opposer, Chicago White Sox, Ltd. (“Opposer”), an Illinois limited partnership, with offices at 333 West 35th Street, Chicago, Illinois 60616, believes that it will be damaged by registration of the mark BPI and silhouetted batter design as depicted below:



("Applicant's Mark") in International Class 25 for “Hats; Shirts” as shown in Application Serial No. 85/820,454 (the “Application”), and having been granted extensions of time to oppose up to and including December 1, 2013, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CHICAGO WHITE SOX MAJOR LEAGUE BASEBALL club.

2. Since long prior to January 10, 2013, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks comprising or containing a silhouetted batter design, including without limitation, those shown here:



("Opposer's Marks"), in connection with baseball games and exhibition services and a variety of goods and services, including, but not limited to, apparel, including, but not limited to, hats and shirts.

3. Opposer owns United States federal registrations for Opposer's Marks in International Classes 25 and 41; namely, Registration Nos. 1,054,855; 1,268,495 and 3,331,545. Registration Nos. 1,054,855 and 1,268,495 are incontestable.

4. Since long prior to January 10, 2013, Applicant's constructive 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 Marks, including, but not limited to, baseball games and exhibition

services and a variety of goods and services, including, but not limited to, apparel, including, but not limited to, hats and shirts 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 Marks, Opposer has built up highly valuable goodwill in Opposer's Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On January 10, 2013, Applicant filed the Application for Applicant's Mark for "Hats; Shirts" in International Class 25, based on an intent to 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 constructive first use date of January 10, 2013.

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 Marks.

9. The dominant element in Applicant's Mark is a silhouetted batter design that is virtually identical to the silhouetted batter design in Opposer's Marks, and the parties' marks have the same commercial impression.

Applicant's Mark



Opposer's Mark



10. Applicant's Mark so resembles Opposer's 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 Bridget A. Crawford (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
November 26, 2013

Respectfully submitted,

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

By: /Bridget A. Crawford/

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 26, 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 Correspondent of Record, Baseball Performance Institute, LLC, 1375 Paterson Plank Road, New Jersey 07094, Attn. Arthur Barone.

/Bridget A. Crawford/
Bridget A. Crawford