

ESTTA Tracking number: **ESTTA713940**

Filing date: **12/10/2015**

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	12/13/2015
Address	7000 Coliseum Way Second Floor Oakland, CA 94621 UNITED STATES
Attorney information	Robert J. English Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES rje@cll.com, mlk@cll.com, las@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	86492358	Publication date	06/16/2015
Opposition Filing Date	12/10/2015	Opposition Period Ends	12/13/2015
Applicants	Fanale, Thomas J. P.O. Box 130325 Carlsbad, CA 92013 UNITED STATES Fanale, Rebekah L. P.O. Box 130325 Carlsbad, CA 92013 UNITED STATES		

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; Jerseys; Pants; Polo shirts; Shirts; Shorts; Skirts; Socks; T-shirts; Warm up outfits; Yoga pants; Yoga shirts

Grounds for Opposition

Other	see attached pleading
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Attachments	ABOVE ALL ATHLETICS - NOO.pdf(10667 bytes) ABOVE ALL ATHLETICS - Letter to Commissioner.pdf(49900 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	/Robert J. English/
Name	Robert J. English
Date	12/10/2015

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

In re Application Serial No. 86/492,358
Filed: December 30, 2014
For Marks: ABOVE ALL ATHLETICS
Published in the Official Gazette: June 16, 2015

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ATHLETICS INVESTMENT GROUP LLC D/B/A :
THE OAKLAND ATHLETICS BASEBALL :
COMPANY, :

Opposition No.

Opposer,

NOTICE OF OPPOSITION

v.

THOMAS J. FANALE and :
REBEKAH L. FANALE, :
Applicants. :

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

Opposer Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company (“Opposer”), a California limited liability company with offices at 7000 Coliseum Way, Second Floor, Oakland, California 94621, believes that it will be damaged by registration of the standard character word mark ABOVE ALL ATHLETICS (“Applicants’ Mark”) for “Hats; Jerseys; Pants; Polo shirts; Shirts; Shorts; Skirts; Socks; T-shirts; Warm up outfits; Yoga pants; Yoga shirts” in International Class 25, as shown in Application Serial No. 86/492,358 (the “Application”), and having been granted extensions of time to oppose up to and including December 13, 2015, hereby opposes the same.

As grounds for opposition, it is alleged that:

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

2. Since long prior to December 30, 2014, Applicants' constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks and names comprising or containing the words ATHLETICS and/or ATLETICOS, alone or with other word, letter and/or design elements ("Opposer's ATHLETICS Marks"), in connection with baseball and softball game and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, hats, shirts, T-shirts, shorts, socks, jackets, and sweaters; sporting goods and toys; paper goods and printed matter; and novelty items.

3. Opposer owns U.S. federal registrations for Opposer's ATHLETICS Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396; 2,630,348; 2,759,932; 3,349,789; 3,538,727; 3,633,242 and 3,633,243, all of which are incontestable..

4. Since long prior to December 30, 2014, Applicants' constructive first use date Opposer and 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 ATHLETICS Marks in connection with baseball and softball game and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, hats, shirts, T-shirts, shorts, socks, jackets, and sweaters; sporting goods and toys; 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 ATHLETICS Marks, Opposer has built up highly valuable

goodwill in Opposer's ATHLETICS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On December 30, 2014, Applicants filed the Application for Applicant's Mark for "Hats; Jerseys; Pants; Polo shirts; Shirts; Shorts; Skirts; Socks; T-shirts; Warm up outfits; Yoga pants; Yoga shirts" in International Class 25, based on an intent to use.

7. Upon information and belief, Applicants did not use Applicants' Mark for the goods covered in the Application in United States commerce prior to their constructive first use date of December 30, 2014.

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 ATHLETICS Marks.

9. The word ATHLETICS in Applicants' Mark is identical to certain of Opposer's ATHLETICS Marks.

10. Applicants' Mark, containing the identical word ATHLETICS as Opposer's ATHLETICS Marks, so resembles Opposer's ATHLETICS Marks as to be likely, when used in connection with Applicants' goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicants' 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.

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 Robert J. English (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
December 10, 2015

Respectfully submitted,

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

By: /Robert J. English /

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 10, 2015, 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, Thomas J. Fanale, P.O. Box 130325, Carlsbad, California 92013.

/Robert J. English /
Robert J. English



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December 10, 2015

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
Thomas J. Fanale and Rebekah L. Fanale,
Application to register ABOVE ALL ATHLETICS
Ref. No. 21307.034

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/492,358 published in the Official Gazette on June 16, 2015. 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,

/Robert J. English/
Robert J. English

Enclosures

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