

ESTTA Tracking number: **ESTTA747705**

Filing date: **05/20/2016**

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	05/22/2016
Address	7000 Coliseum Way Second Floor Oakland, CA 94621 UNITED STATES

Attorney information	Ryan A. Ghiselli COWAN, LIEBOWITZ & LATMAN PC 114 WEST 47TH STREET NEW YORK, NY 10036-1525 UNITED STATES ryg@cll.com, mlk@cll.com, szl@cll.com, njh@cll.com, trademark@cll.com Phone:212-790-9200
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Applicant Information

Application No	86370036	Publication date	11/24/2015
Opposition Filing Date	05/20/2016	Opposition Period Ends	05/22/2016
Applicant	Poore, Wendy Po Box 7767 Tahoe City, CA 96145 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Educational and entertainment services, namely, a continuing program about homebuying and selling, real estate management, building repair, home improvement, building renovation and interior decorating accessible by means of radio, television, cable television, satellite, audio, video and computer networks; Entertainment services, namely, providing non-downloadable, prerecorded audio and visual recordings and articles featuring content on home buying and selling, real estate management, building repair, home improvement, building renovation and interior decorating, all on-line via a global computer network; Providing a website featuring blogs and non-downloadable publications in the nature of articles in the field of home buying and selling, real estate management, building repair, home improvement, building renovation and interior decorating; Entertainment services, namely, a multimedia program series featuring subjects of general human interest distributed via radio, television, cable television, satellite, audio, video and computer networks; Entertainment services, namely, an ongoing television series featuring subjects of general human interest

Grounds for Opposition

Other	Please see attached document
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Attachments	Notice of Opposition.pdf(26703 bytes) Letter to Commissioner.pdf(67563 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	/Ryan A. Ghiselli/
Name	Ryan A. Ghiselli
Date	05/20/2016

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

In re Application Serial No. 86/370,036
Filed: August 18, 2014
For Mark: FLIPPIN' A'S
Published in the Official Gazette: November 24, 2015

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ATHLETICS INVESTMENT GROUP LLC D/B/A :
THE OAKLAND ATHLETICS BASEBALL :
COMPANY, :
 :
Opposer, :
 :
v. :
 :
WENDY POORE., :
Applicant. :
 :
-----X

Opposition No.

NOTICE OF OPPOSITION

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, CA 94621, believes that it will be damaged by registration of the standard character word mark FLIPPIN' A'S (“Applicant’s Mark”) in International Class 41 for “Educational and entertainment services, namely, a continuing program about home buying and selling, real estate management, building repair, home improvement, building renovation and interior decorating accessible by means of radio, television, cable television, satellite, audio, video and computer networks; Entertainment services, namely, providing non-downloadable, prerecorded audio and visual recordings and articles featuring content on home buying and selling, real estate management, building repair, home improvement, building renovation and interior decorating, all on-line via a global computer network; Providing a website featuring

blogs and non-downloadable publications in the nature of articles in the field of home buying and selling, real estate management, building repair, home improvement, building renovation and interior decorating; Entertainment services, namely, a multimedia program series featuring subjects of general human interest distributed via radio, television, cable television, satellite, audio, video and computer networks; Entertainment services, namely, an ongoing television series featuring subjects of general human interest” (“Applicant’s Services”) as shown in Application Serial No. 86/370,036 (the “Application”), and having been granted extensions of time to oppose up to and including May 22, 2016, 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 August 18, 2014, Applicant’s constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the terms “A’S” or “A,” alone or with other word, letter and/or design elements in connection with baseball games and exhibition services rendered live and through television, radio, internet and other broadcast media, and a wide variety of goods and services, including, but not limited to, home building initiatives; providing a website with audio, video and multimedia material; apparel; jewelry; paper products and printed matter; toys and sporting goods; and novelty items, and the Opposer’s club has widely been referred to by fans, the public and the media as the “A’S” (collectively, “Opposer’s A’S Marks”).

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. 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; 2,630,348; 2,759,932 and 3,349,787 are incontestable.

4. Since long prior to August 18, 2014, Applicant's 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 A'S Marks, including, but not limited to, baseball games and exhibition services rendered live and through television, radio, internet and other broadcast media, and a wide variety of goods and services, including, but not limited to, home building initiatives; providing a website with audio, video and multimedia material; 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 August 18, 2014, Applicant filed the Application for Applicant's Mark for Applicant's Services, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant's Mark for Applicant's Services in United States commerce prior to her constructive first use date of August 18, 2014.

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

9. Applicant's Mark consists of the term "A'S", which is identical to Opposer's A'S Marks, and the word "FLIPPIN'", which has been disclaimed as descriptive.

10. Applicant's Mark so resembles Opposer's A'S Marks as to be likely, when used in connection with Applicant's Services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Services have their origin with Opposer and/or that such services 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 Ryan Ghiselli (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 114 West 47th Street, New York, New York 10036.

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

Dated: New York, New York
May 20, 2016

Respectfully submitted,

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

By: /Ryan Ghiselli /

Mary L. Kevlin
Richard S. Mandel
Ryan Ghiselli
114 West 47th Street
New York, New York 10036
(212) 790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 20, 2016, 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 Wendy Poore, PO Box 7767, Tahoe City, California 96145 with a courtesy copy to Applicant's Attorney Erik Reinertson, Esq., Law Offices Of Thomas M. Bruen, 1990 N. California Blvd., Suite 608, Walnut Creek, CA 94596.

/Ryan Ghiselli /
Ryan Ghiselli



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May 20, 2016

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 Wendy Poore
Application to register FLIPPIN' A'S
Ref. No. 21307.034

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/370,036 published in the Official Gazette on November 24, 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,

/Ryan A. Ghiselli/
Ryan A. Ghiselli

Enclosures

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