

ESTTA Tracking number: **ESTTA769788**

Filing date: **09/09/2016**

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	Chicago Cubs Baseball Club, LLC
Granted to Date of previous extension	09/11/2016
Address	1060 West Addison Street Chicago, IL 60613 UNITED STATES
Attorney information	Mary L. Kevlin / Erika S. Krystian Cowan, Liebowitz & Latman, P.C. 114 West 47th Street New York, NY 10036 UNITED STATES mlk@cll.com, kam@cll.com, esk@cll.com, las@cll.com, njh@cll.com, trademark@cll.com Phone:(212) 790-9200

Applicant Information

Application No	86786029	Publication date	03/15/2016
Opposition Filing Date	09/09/2016	Opposition Period Ends	09/11/2016
Applicant	Evangelos Peter Marinis 2009 Franklin Drive Glenview, IL 60026 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: Clothing, namely, shirts and hats

Grounds for Opposition

Other	See attached pleading.
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Attachments	Letter to Commissioner re Notice of Opposition - W and Goat Design.pdf(65552 bytes) Notice of Opposition - W and Goat Design.pdf(53253 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	/Erika S. Krystian/
Name	Erika S. Krystian
Date	09/09/2016



Cowan, Liebowitz & Latman, P.C.
114 West 47th Street
New York, NY 10036
(212) 790-9200 Tel
(212) 575-0671 Fax
www.cll.com

Erika S. Krystian
(212) 790-9246
esk@cll.com

September 9, 2016

By Electronic Filing

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

Re: Chicago Cubs Baseball Club, LLC
Notice of Opposition Against
Peter Marinis Evangelos
Application to register
W and Goat Design
Ref. No. 21307.011

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/786,029, published in the Official Gazette on March 15, 2016. 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,

/Erika S. Krystian/
Erika S. Krystian

Enclosures

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

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

In re Application Serial No. 86/786,029
Filed: October 13, 2015
For Mark: W and Goat Design
Published in the Official Gazette: March 15, 2015

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CHICAGO CUBS BASEBALL CLUB, LLC,
:
Opposer,
:
v.
:
PETER MARINIS EVANGELOS,
:
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 Chicago Cubs Baseball Club, LLC (“Opposer”), a Delaware limited liability company with offices at 1060 West Addison Street, Chicago, Illinois 60613, believes that it will be damaged by registration of the mark W and Goat Design as shown here:



(“Applicant’s Mark”) and in Application Serial No. 86/786,029 (the “Application”) for “Clothing, namely, shirts and hats” in International Class 25, and having been granted extensions of time to oppose up to and including September 11, 2016, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CHICAGO CUBS MAJOR LEAGUE BASEBALL club (the “Club”).

2. Since long prior to October 13, 2015, Applicant’s constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used and/or have constructive prior use of the stylized letter mark W, including without

limitation, on a flag background as shown here:  ,  and  , alone or with

other word, letter and/or design elements (“Opposer’s W Marks”), as an iconic symbol of Opposer’s Club, in connection with baseball games and exhibition services and a variety of other goods and services, including, without limitation, apparel, including shirts and hats; flags and banners.

3. Opposer owns United States Registration Nos. 3,053,475, 4,951,429 and 5,001,872 and Application Serial Nos., 86/760,885, 86/760,879, 86/760,849 and 86/760,829 for Opposer’s W Marks in International Classes 14, 18, 25, 28 and 41. Registration No. 3,053,475 is incontestable.

4. Since long prior to October 13, 2015, 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 W Marks, including baseball games and exhibition services and a

variety of other goods and services, including, without limitation, flags and banners, and have sold or distributed 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 W Marks, Opposer has built up highly valuable goodwill in Opposer's W Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. The Club has long used Opposer's W Marks on a flag, displayed at the end of a ball game, to signal that the Club has won (the "Win Flag").

7. As one of the oldest active professional sports teams in the United States, the Club is one of the most well-known sports franchises in the country. In addition to its baseball entertainment services, which are frequently televised, the Club is now and has long been (since well before October 13, 2015, Applicant's constructive first use date), widely known in the United States for using its marks in connection with a wide variety of goods and services, including, without limitation, apparel, including, but not limited to, shirts and hats.

8. An integral part of the Club's identity involves the Club's history and the absence of a WORLD SERIES championship for over 100 years. The Club won its first WORLD SERIES championship in 1907 and its second – and last, to date - WORLD SERIES championship in 1908. The lack of WORLD SERIES championships after 1908, and particularly after 1945 (the last year the Club participated in a WORLD SERIES championship), has become a significant part of sports lore.

9. Specifically, the legend is that a man by the name of William "Billy Goat" Sianis attended the fourth game of the 1945 WORLD SERIES championship with his pet goat "Murphy." Mr. Sianis and his goat were ejected from the game held at WRIGLEY FIELD

ballpark in Chicago. In response, Mr. Sianis is said to have put a “curse” on the Club. The Club went on to lose the 1945 WORLD SERIES championship, and the Club has not participated in a WORLD SERIES championship since the incident with William “Billy Goat” Sianis and his pet goat, Murphy.

10. Due to this sports lore, for decades and since long prior to October 13, 2015, Applicant’s constructive first use date, the image or indicia of a goat has long been associated with the Club as an integral part of the Club’s identity and, moreover, the press, media, fans and public have widely referred to the Club as suffering under the “Curse of the Billy Goat” and fans root for the Club to overcome it.

11. On October 13, 2015, Applicant filed the Application for Applicant’s Mark for “Clothing, namely, shirts and hats” based on an intent to use.

12. Upon information and belief, Applicant did not use Applicant’s Mark for the goods covered in the Application in United States commerce prior to his constructive first use date of October 13, 2015.

13. The goods covered by the Application are identical and/or closely related to the goods offered and services rendered and/or applied for in connection with Opposer’s W Marks.

14. Applicant’s Mark, which contains a stylized W in a flag design, is virtually identical to Opposer’s W Marks and the Club’s Win Flag.

15. Upon information and belief, Applicant’s Mark, which contains an image of a goat carrying what looks like the Club’s Win Flag, is intended to, and will be perceived as, referring to and identifying the Club and its efforts to overcome the “curse.”

16. Applicant’s Mark, consisting of a W in a flag design so similar to the Club’s Win Flag being carried by a goat, an image so uniquely associated with the Club and its identity, so

resembles Opposer's W Marks and Win Flag 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.

17. Opposer would be further injured by the granting of a certificate of registration to Applicant because Applicant's Mark, which is a close approximation of the Club's identity symbolized by images of the Club's Win Flag and a goat, and which points uniquely to the Club, when used in connection with the applied-for goods, would falsely suggest a connection between Applicant, who has no connection with or authorization from Opposer, and Opposer.

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, Krystil McDowall and Erika S. Krystian (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 at the address listed below.

Dated: New York, New York
September 9, 2016

Respectfully submitted,

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

By: /Erika S. Krystian /

Mary L. Kevlin
Richard S. Mandel
Krystil McDowall
Erika S. Krystian
114 West 47th Street
New York, New York 10036
(212) 790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 9, 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's Attorney and Correspondent of Record:

J. Peter Paredes, Esq.
Rosenbaum IP PC
1480 Techny Road
Northbrook, Illinois 60062-5447

/Erika S. Krystian /
Erika S. Krystian