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

Proceeding	92047757
Party	Defendant Courtney L. Bishop
Correspondence Address	CLIFFORD W. BROWNING KRIEG DEVAULT LLP ONE INDIAN SQUARE, SUITE 2800 Indianapolis, IN 46204 UNITED STATES cbrowning@kdlegal.com
Submission	Defendant's Notice of Reliance
Filer's Name	Clifford W. Browning
Filer's e-mail	cbrowning@kdlegal.com
Signature	/cwb/
Date	06/19/2008
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Karen B. Donovan,)
 Petitioner)
)
 vs.)
)
Courtney L. Bishop,)
 Registrant)

Cancellation No. 92047757

NOTICE OF RELIANCE UNDER 37 C.F.R. §2.120(j)(4)

Petitioner filed a Notice of Reliance upon selected parts of the discovery deposition transcript of Registrant, Courtney L. Bishop, that was taken on January 21, 2008; and pursuant to 37 C.F.R. §2.120(j)(4) Registrant hereby offers into evidence to be made part of the record additional selected parts of the discovery deposition transcript of Courtney L. Bishop that should in fairness be considered so as to make not misleading the selected parts that were offered by the Petitioner in her referenced Notice of Reliance. As required by 37 C.F.R. §2.120(j)(4), appearing seriatim, below, are written statements explaining why Registrant needs to rely upon 4 additional selected parts of the discovery deposition transcript of Courtney L. Bishop, which are being offered into evidence in this Notice of Reliance under 37 C.F.R. §2.120(j)(4).

1. Petitioner submitted a selected part of the discovery deposition transcript of Courtney L. Bishop that appears on page 13, lines 5-8, relating to a visit Courtney L. Bishop made to the Major Taylor Velodrome in Indianapolis, Indiana, in the summer of 1990, which Petitioner characterized as establishing that Courtney L. Bishop was aware of the use of Major Taylor in the title of the Velodrome in the summer of 1990. This is misleading, for at page 17, line 15, to page 18, line 1, of the discovery deposition transcript of Courtney L. Bishop, is Mr. Bishop's testimony that he could not specifically say whether or not he even knew the name of the Velodrome when he made his first visit to the Velodrome in the summer of 1990. Registrant therefore offers into evidence the selected part of the discovery deposition transcript of Courtney L. Bishop that appears on page 17, line 15, to page 18, line 1, which in fairness should be considered so as to make not misleading what was offered by the Petitioner. Attached hereto is a true and accurate copy of page 17, line 15, to page 18, line 1, of the discovery deposition transcript of Courtney L. Bishop.

- 1 A So really '91 was when we kind of came up with
2 the name, and I had done some reading and
3 research through the Andrew Ritchie book.
- 4 Q Did you tell your participants about him?
- 5 A Sure, sure. But basically the way we came upon
6 forming the team was I found the first three
7 African-American students at Indiana University
8 that thought it was an idea that had some merit,
9 and I was the fourth member of that team.
- 10 Q Oh, so you actually rode, then, with them?
- 11 A Yes.
- 12 Q Did you yourself, then, participate in the 1992
13 Little 500?
- 14 A Little 500, uh-hum.
- 15 Q When you went to -- you mentioned earlier that
16 you had visited the Major Taylor Velodrome
17 sometime in 1990. Did you learn about that from
18 reading the book or did someone else mention
19 that to you?
- 20 A You know what, to be honest with you, I don't
21 even know that I made the connection between the
22 name of the velodrome and Major Taylor at the
23 time. You know, I can't even say specifically
24 whether or not I even knew the name of the
25 velodrome when I went out there. I was just

1 there to see a bike race.

2 Q Now, when you formed your team in 1991 --

3 A '91, uh-hum.

4 Q -- apart from -- you called yourself, as you

5 mentioned, IMO --

6 A Major Taylor.

7 Q -- Major Taylor, and you entered the race. Did

8 you do anything else -- or when was the next

9 time you did anything else beyond just forming

10 the team and entering the race using the name

11 Major Taylor?

12 A I don't understand that question.

13 Q As I understand it, the first use by you of the

14 Major Taylor name was in forming this team, you

15 used it as part of the name?

16 A Right.

17 Q Apart from participating in the race and giving

18 the team that name, did you do anything else at

19 that time to use the Major Taylor name?

20 A Sure.

21 Q What did you do?

22 A We sold T-shirts, we looked for sponsors. We

23 obtained a sponsor, actually, at the time for

24 this team. Sponsors were -- it was a sporting

25 good store called AT Sports.

2. Petitioner submitted a selected part of the discovery deposition transcript of Courtney L. Bishop that appears on page 29, lines 13-17, but those lines comprise an incomplete sentence that standing alone are nonsensical, but that are within a discovery deposition answer of Courtney L. Bishop to Petitioner's counsel's questions relating to Mr. Bishop's awareness of a Major Taylor Association. In fairness so as to make not misleading what was submitted by Petitioner on page 29, lines 13-17, the questions to and the full answers of Courtney L. Bishop relating to the Major Taylor Association should be considered, as well. Therefore, Registrant offers into evidence the questions to and full answers of Courtney L. Bishop relating to the Major Taylor Association appearing on page 28, line 13, to page 29, line 12, of the discovery deposition transcript of Courtney L. Bishop. Attached hereto are true and accurate copies of pages 28 and 29 of the discovery deposition transcript of Courtney L. Bishop that includes page 28, line 13, to page 29, line 12.

- 1 Q By "that," you mean the new logo?
- 2 A The new logo, yes.
- 3 Q What does it look like, if you could just
4 describe it?
- 5 A It's a -- it's the letters TMTC, for Team Major
6 Taylor Cycling, skewed to look like a cyclist.
- 7 Q Now, when did you first think about applying to
8 register the Major Taylor name as a trademark?
- 9 A Probably in 1999, 2000, in that range. As far
10 as a trademark goes?
- 11 Q Yes.
- 12 A Probably '99, 2000.
- 13 Q Now, prior to 1999, apart from what you had read
14 in the book by Mr. Ritchie, were you aware of
15 any other associations or groups or anybody else
16 using the Major Taylor name?
- 17 A I had heard of the Major Taylor Association.
- 18 Q When did you first hear about them?
- 19 A I think online on the internet.
- 20 Q What year would you estimate that was?
- 21 A Probably 2000, '99, 2000, in that range.
- 22 Q Prior to '99, had you heard of anybody using the
23 Major Taylor trademark?
- 24 A Prior to?
- 25 Q Yes.

1 A No.

2 Q How did you hear about the Major Taylor
3 Association?

4 A Just over the internet. Started doing research
5 on mostly internet based and pulled them up and
6 believe had had some contact with them at that
7 time.

8 Q What was the contact you had with them at that
9 time?

10 A Just kind of introducing myself and finding out
11 more about their organization. And from what I
12 understood was at the time, the primary goal of
13 that organization was to raise money for a
14 statue to be erected in Worcester,
15 Massachusetts, in honor of Major Taylor, and we
16 did whatever we could do to help them in that
17 goal.

18 Q Was a statue put up in Worcester?

19 A It's not up yet, but it has been sent for
20 casting, I believe. Like I said, we were trying
21 to do anything we could to help. What ended up
22 happening was one of our cyclists, Simean
23 Commissionong, which is commission with an I-N-G
24 at the end of it.

25 Q Commission, C-O-M-M-I-S-S-I-O-N-I-N-G?

3. Petitioner submitted a selected part of the discovery deposition transcript of Courtney L. Bishop that appears on page 30, line 23, to page 31, line 11, in which Courtney L. Bishop was explaining his desire to find out from whom he would need to get permission to register Major Taylor as a mark, but by ending the Petitioner's submission on page 3, line 11, Petitioner eliminated the balance of the answer of Courtney L. Bishop, which the Petitioner's counsel admitted in the record that he had interrupted (page 31, line 19), and in fairness so as not to make misleading Courtney L. Bishop's partial testimony about his search for someone to get permission to register Major Taylor as a mark, Courtney Bishop's entire answer to that question (that was interrupted by Petitioner's counsel) should be considered. Registrant therefore offers into evidence the remainder of the answer of Courtney L. Bishop from page 31, line 12, to page 32, line 4, of the discovery deposition transcript. Attached hereto are true and accurate copies of pages 31 and 32 of the Courtney L. Bishop discovery deposition transcript that includes page 31, line 12, to page 32, line 4.

1 several businesses. I know for a fact that if
2 you're looking to do something with a business
3 at that time, I had learned that you --
4 basically I wanted to find out whom I would need
5 to get permission from. So I spent the time and
6 spent the money to research who owned the rights
7 to the name. And I did an exhaustive trademark
8 search. I think that search probably cost me a
9 thousand dollars which at the time -- still --
10 is a lot of money, you know. So I did a
11 trademark search, extensive.

12 Q What year was that?

13 A I'd probably say that would be '99, 2000, you
14 know, maybe as early as '98.

15 Q Okay.

16 A But in that general range.

17 Q 1998, 1999.

18 A Right.

19 Q I interrupted you. Go ahead.

20 A Did an extensive search. Not just an internet
21 search, but I actually had a booklet produced
22 searching anything that had "Major" or "Taylor"
23 or anything closely related, and it came back
24 that no one had the trademark for Major Taylor.
25 And so while I'm looking for who owns the

- 1 trademark to Major Taylor so that I could
2 inquire as to whose permission I would need to
3 use that trademark, it came back that no one
4 owned the trademark to Major Taylor.
- 5 Q Who did you contact to do the search for you?
- 6 A I hired a service.
- 7 Q A search service, trademark search service?
- 8 A Yes.
- 9 Q Do you remember what company you used?
- 10 A No, I don't remember.
- 11 Q Do you still have the search?
- 12 A I'm sure I have it somewhere.
- 13 Q Apart from having a trademark search done, at
14 any time did you contact any attorney to inquire
15 about the legality of trademarking the Major
16 Taylor name?
- 17 A No. I didn't really feel that there would be a
18 higher authority to contact about trademarking
19 the Major Taylor name other than U.S. Patent and
20 Trademark Office.
- 21 Q Now, prior to -- now, you first applied for a
22 trademark in October of 2000; correct?
- 23 A That is correct.
- 24 Q I'm just referring to your cover letter.
- 25 A Sure.

4. Petitioner submitted a selected part of the discovery deposition transcript of Courtney L. Bishop that appears on page 41, lines 11-17, but line 17 contains only the first phrase of the complete answer of Courtney L. Bishop to the question appearing on lines 11-16, and in fairness so as to not make misleading the partial answer cited by the Petitioner, Registrant hereby offers into evidence the balance of the answer of Courtney L. Bishop that appears on page 41, lines 18-20, of the discovery deposition transcript. Attached hereto is a true and accurate copy of page 41 of the deposition of Courtney L. Bishop that includes lines 18-20.

1 Q Apart from Cannondale bike company and Nike,
2 have you entered into any kind of a license
3 agreement with any other company?

4 A No.

5 Q Is the agreement with Nike with you individually
6 or with your company?

7 A With me individually.

8 Q Was Nike paid anything pursuant to that
9 agreement?

10 A Not yet.

11 Q Now, I asked you before, and I understand you've
12 never requested permission from Sydney Brown
13 about Major Taylor usage. Have you ever
14 requested permission from any Major Taylor
15 family member about the use of the Major Taylor
16 name?

17 A No. And if I'm the registered trademark owner
18 of the name, there really would, in my mind, be
19 no reason for me to ask permission for a
20 trademark I already own.

21 Q In what year was your Major Taylor trademark
22 first actually used with any kind of bicycle
23 product?

24 A Are you talking about T-shirts?

25 Q Let's say bicycles themselves, actual bicycles.

Respectfully submitted.

By: Clifford W. Browning
Clifford W. Browning
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2079
Telephone: (317) 636-4341
Facsimile: (317) 636-1507

Counsel for Registrant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing, Notice of Reliance Under 37 C.F.R. §2.120(j)(4) was served upon counsel of record for the Petitioner, by first-class U.S. Mail, postage prepaid, addressed to David H.E. Bursik, 401 Hamburg Turnpike, Suite 210, Wayne, New Jersey 07470.

This 19th day of June, 2008.

Clifford W. Browning
Clifford W. Browning

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

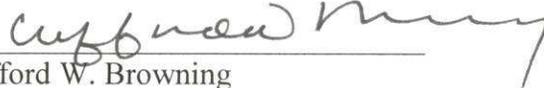
Karen B. Donovan,)
Petitioner)
vs.)
Courtney L. Bishop,)
Registrant)

Cancellation No. 92047757

NOTICE OF RELIANCE UNDER 37 C.F.R. §2.120(i)(5)

Registrant, Courtney L. Bishop, hereby offers into evidence to be made part of the record Petitioner's Response to Registrant's Requests for Admissions Nos. 2, 3, 4, 6 and 7. Attached hereto is a copy of Petitioner's Response to Registrant's Requests for Admissions, which was served in an improper format, and which required the submission of the attached copy of Registrant's First Requests for Admissions to Petitioner.

Respectfully submitted.

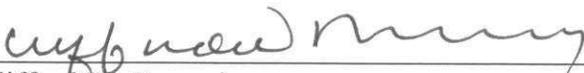
By: 
Clifford W. Browning
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2079
Telephone: (317) 636-4341
Facsimile: (317) 636-1507

Counsel for Registrant

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This 19th day of June, 2008.



Clifford W. Browning

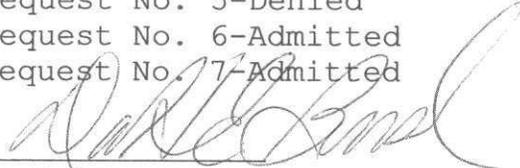
IN THE TRADEMARK TRIAL AND APPEAL BOARD

KAREN B. DONOVAN, :
Petitioner, : Cancellation No. 92047757
v. : Marks-2791896,2701247
: :
COURTNEY L. BISHOP, : PETITIONER'S RESPONSE TO
Registrant. : REGISTRANT'S REQUESTS FOR
: ADMISSIONS

TO:
Clifford W. Browning/cbrowning@kdlegal.com
Attorney for Registrant
Courtney L. Bishop
Krieg DeVault
Suite 2800, One Indiana Square
Indianapolis, IN 46204

Petitioner hereby responds to the Registrant's Requests For Admissions as follows:

Request No. 1-Admitted
Request No. 2-Admitted
Request No. 3-Denied to the extent that during the period between 1895 and 1930 Marshall W. Major Taylor spent one or more extended periods of time living away from Worcester, Massachusetts.
Request No. 4-Admitted with the qualification that the dates are approximates and the titles may not be exact
Request No. 5-Denied
Request No. 6-Admitted
Request No. 7-Admitted



David H.E. Bursik, Esq.
401 Hamburg Turnpike, Suite 210
Wayne, New Jersey 07470
Tel: 1-973-904-1040
Cell: 1-973-220-2803
Fax: 1-973-904-1050
E-Mail: dheb@bursik.com

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

KAREN B. DONOVAN

Petitioner

v.

Cancellation No. 92047757
Registration Nos. 2,791,896; 2,701,247

COURTNEY L. BISHOP

Registrant

REGISTRANT'S FIRST REQUESTS FOR ADMISSIONS TO PETITIONER

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Petitioner is requested to admit the truth of each of the following Requests for Admission, for the purposes of this proceeding only, within thirty-five (35) days of the date of service hereof. The Definitions and Instructions of Registrant's First Set of Interrogatories to Petitioner, are incorporated herein by reference.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that all the documents submitted by Petitioner in response to Registrant's First Set of Interrogatories to Petitioner, and Registrant's Request for Production of Documents and Things to Petitioner, are true and correct copies of authentic and genuine documents.

REQUEST FOR ADMISSION NO.2:

Admit that Marshall W. "Major" Taylor was born in Indianapolis, Indiana, on November 26, 1878.

REQUEST FOR ADMISSION NO. 3:

Admit that Marshall W. "Major" Taylor moved from Indianapolis, Indiana, to Worcester, Massachusetts, in 1895, and resided thereafter in Worcester, Massachusetts from 1895 until 1930.

REQUEST FOR ADMISSION NO. 4:

Admit that Marshall W. "Major" Taylor held seven world records in 1898, won the World 1-mile Championship in 1899, and was the American Sprint Champion in 1900.

REQUEST FOR ADMISSION NO. 5:

Admit that Marshall W. "Major" Taylor's wife and daughter left him in 1930.

REQUEST FOR ADMISSION NO. 6:

Admit that Marshall W. "Major" Taylor moved from Worcester, Massachusetts, to Chicago, Illinois, in 1930, and thereafter took up residence in Chicago, Illinois.

REQUEST FOR ADMISSION NO. 7:

Admit that Marshall W. "Major" Taylor died and was buried in 1932, in Chicago, Illinois.

Respectfully submitted.

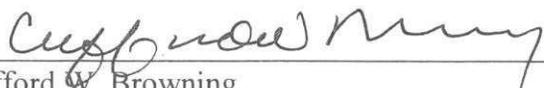
By: 
Clifford W. Browning
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2079
Telephone: (317) 636-4341
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Counsel for Registrant

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The undersigned hereby certifies that a copy of the foregoing, Registrant's First Requests for Admissions to Petitioner was served upon counsel of record for the Petitioner, by first-class U.S. Mail, postage prepaid, addressed to David H.E. Bursik, 401 Hamburg Turnpike, Suite 210, Wayne, New Jersey 07470.

This 3rd day of January, 2008.



Clifford W. Browning