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

Proceeding	92047757
Party	Plaintiff Karen B. Donovan
Correspondence Address	David H.E. Bursik 401 Hamburg Turnpike, Suite 210 Wayne, NJ 07470 UNITED STATES dheb@bursik.com
Submission	Rebuttal Brief
Filer's Name	David H.E. Bursik, Esq.
Filer's e-mail	dheb@bursik.com
Signature	/David H.E. Bursik, Esq./
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IN THE TRADEMARK TRIAL AND APPEAL BOARD

KAREN B. DONOVAN,	:	
Petitioner,	:	Cancellation No. 92047757
v.	:	Marks-2791896,2701247
	:	
COURTNEY L. BISHOP,	:	
Registrant.	:	

***REPLY BRIEF OF PETITIONER
IN SUPPORT OF CANCELLATION
WITH CERTIFICATE OF SERVICE***

David H.E. Bursik, Esq.
401 Hamburg Turnpike, Suite 210
Wayne, New Jersey 07470
Tel. 1-973-904-1040
Fax. 1-973-904-1050
Email-dheb@bursik.com
Attorney for Petitioner

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DESCRIPTION OF THE RECORD REFERRED TO HEREIN

The portion of the Record of the proceeding herein referred to in this reply brief consists of:

- 1) Transcript of Testimony of Courtney L. Bishop deposition taken on January 21, 2008 and served on Registrant and filed with the TTAB on April 18, 2008 during Petitioner's Testimony Period.
- 2) Application and registration files for Trademark Registrations No. 2791896 and No. 2701247 (hereinafter sometimes referred to as the "MAJOR TAYLOR trademarks").

STATEMENT OF THE ISSUES

- 1) Whether Karen B. Donovan has standing to bring this petition for cancellation.
- 2) Whether Courtney L. Bishop's declarations filed in support of his registrations were fraudulent.
- 3) Whether Courtney L. Bishop's conduct with and use of the trademarks was illegal under Indiana statutory law.

RECITATION OF THE REPLY FACTS

The Trademark Certificates and Registrant's application for Registration No. 2791896 and the testimony of Registrant Bishop taken in this proceeding are evidence that confirms that Major Taylor was a legendary bicycle champion who is now deceased.

(Bishop Dep. P14,L18 to 20 and P33,L12-24). Petitioner Karen B. Donovan is the great granddaughter of Major Taylor. (Bishop Dep.P38,L5 to 23 admitting that Karen is the granddaughter of Sydney and P19,L11 to 20 stating that Sydney is the daughter of Major Taylor)(Bishop Dep.P39,L14 to P40,L25 noting that Registrant wanted pictures of Karen's great grandfather Major Taylor). Registrant Bishop further admitted that he and Petitioner had been in contact about Major Taylor, and that Registrant contacted Petitioner about Major Taylor activities and that Registrant sought information and imagery from Petitioner about Major Taylor.(Bishop Dep.P38,L24 to P39,L4)(Bishop Dep.P39,L14 to P40,L7).

Registrant Bishop testified that he was not a blood relative of any Major Taylor family member.(Bishop Dep.P37,L24 to P38,L1). Registrant Bishop's claim of ownership and registration of the MAJOR TAYLOR trademarks falsely suggests a connection with Major Taylor and Karen B. Donovan.

Petitioner Karen B. Donovan is the only Major Taylor family member with whom Registrant Bishop has spoken. (Bishop Dep. P39,L11 to P40,L7). Petitioner Karen B. Donovan is the only Major Taylor family member that has sent correspondence to Registrant Bishop.(Bishop Dep. P39,L11 to P40,L7).

Registrant Bishop testified that he made a contract with Nike relating to the Major Taylor name and referred the Nike

marketing department to Petitioner Karen B. Donovan for imagery about Major Taylor.(Bishop Dep. P40,L8-23). Registrant Bishop further testified in his deposition and admitted that he and Petitioner Karen B. Donovan were each seeking to work with the Nike company relating to the Major Taylor name.(Bishop Dep.P40,L8-25).

According to the registration certificates, Courtney Bishop has used the MAJOR TAYLOR trademarks subject to Registrations No. 2791896 and No. 2701247 since 1992 and 2002, respectively. He has been a resident of the State of Indiana for that entire period of time.(Bishop Dep. P12,L17 to L21).

Registrant Bishop admits that he knew that Sydney Brown was Major Taylor's daughter and alive when he began to use the MAJOR TAYLOR trademark.(Bishop Dep.P19,L11 to L20 and P33,L12-24). Registrant Bishop also admitted that while he was using the Major Taylor name, he sent emails to Major Taylor's grandson, Dallas Brown, who was a General in the United States Army.(Bishop Dep. P38,L5 to L23). Registrant Bishop admitted that he had multiple contacts with Karen Brown Donovan after he tried to contact Dallas Brown,(Bishop Dep. P39,L14 to L24) and admits that Karen Brown Donovan is Major Taylor's great granddaughter (Bishop Dep. P38,L5 to L23).

According to Registrant's Brief, there is no dispute that Bishop knew of the other uses of the MAJOR TAYLOR trademark.

There is also no dispute, from the U.S. Trademark Office registration files at issue in this proceeding, which are also part of the record herein, that Bishop did not disclose any such uses in his declarations or applications that he filed. (See Application files for MAJOR TAYLOR trademarks.) Application declarations claimed exclusive use, not concurrent use.

Registrant's deposition testimony admits that Registrant had knowledge of prior uses of the MAJOR TAYLOR trademark by others for uses claimed by Registrant, as described in the argument below at length, and he fraudulently hid such uses from the Trademark Office. (Bishop Dep.P12,L25 to P13,L10)(Bishop Dep.P34,L25 to P35,L6)(Bishop Dep.P28,L13 to P29,L17)(Bishop Dep.P34,L19-24)(Bishop Dep.P50,L22-P51,L1). Registrant Bishop further admits that he knew Major Taylor's granddaughter Sydney Brown was living when he filed his application for registration, (Bishop Dep.P33,L1 to L24), but he hid such fact from the Trademark Office.

REPLY ARGUMENT

POINT ONE

**PETITIONER KAREN B. DONOVAN
HAS STANDING TO BRING
THIS CANCELLATION PROCEEDING**

Registrant Bishop contends that there is no evidence in the record to establish who Petitioner Karen B. Donovan is and why she has standing to bring this cancellation proceeding. The record in this proceeding indicates otherwise as described below.

Petitioners in proceedings to cancel trademark registrations must have standing to assert the claim. See Ritchie v. Simpson, 50 USPQ2d 1023, 1026(Fed.Cir. 1999); Lipton Industries, Inc. v. Ralston Purina Co., 670 F.2d 1024, 213 USPQ 185, 189(3rd Cir. 1982). The purpose of the standing requirement is to prevent litigation in which there is no real controversy between the parties. Id.

The Federal Circuit Court of Appeals notes that a liberal standard is adopted when evaluating the basis of standing. See Jewelers Vigilance Committee, Inc. v. Ullenberg Corp., 823 F.2d 490, 2 USPQ2d 2021, 2023(Fed. Cir. 1987). A party may prove its standing to cancel a trademark registration by showing that it has a real stake in the case. See Ritchie v. Simpson, 50 USPQ2d

1023, 1026(Fed.Cir. 1999); Lipton Industries, Inc. v. Ralston Purina Co., 670 F.2d 1024, 213 USPQ 185, 189(3rd Cir. 1982). Standing is shown by proof that Petitioner is not a mere intermeddler. See Cunningham v. Laser Golf Corp., 222 F.3rd 943, 55 USPQ3d 1842(Fed.Cir. 2000). When a Petitioner has a personal interest in the outcome of a cancellation proceeding beyond the interest of the public in general, the Petitioner has standing. See Books on Tape, Inc. v. The Booktape Corp., 5 USPQ2d 1301, 1302(Fed.Cir. 1987).

On January 21, 2008, during Petitioner's testimony period, Petitioner's counsel took the deposition testimony of Registrant Bishop in connection with this proceeding. Petitioner served and filed the Transcript from this deposition on April 18, 2008 which is part of the record of evidence in this matter. The facts relating to standing and referred to herein are in evidence and in the record of this proceeding.

The testimony of Respondent obtained by Petitioner Karen B. Donovan during her testimony period and served and filed with TTAB as referenced below admits that Petitioner is the great granddaughter of Major Taylor and has a real interest in the case.

When determining whether the Petitioner has standing to bring this proceeding, it is important to first focus on the trademarks subject to the registrations in question. The

trademarks are not abstract or fanciful terms; The trademarks MAJOR TAYLOR are the name of a man. The Trademark Certificates and Registrant's application for Registration No. 2791896 and the testimony of Registrant Bishop taken in this proceeding are evidence that confirms that Major Taylor was a legendary bicycle champion who is now deceased. (Bishop Dep. P14,L18 to 20 and P33,L12-24). Registrant Bishop used the name of this man MAJOR TAYLOR as a trademark because of the greatness of this man. Id.

Registrant Bishop admitted in his deposition testimony that Petitioner Karen B. Donovan is the great granddaughter of Major Taylor.(Bishop Dep. P38,L5 to 23 admitting that Karen is the granddaughter of Sydney and P19,L11 to 20 stating that Sydney is the daughter of Major Taylor)(Bishop Dep.P39,L14 to P40,L25 noting that Registrant wanted pictures of Karen's great grandfather Major Taylor). Our society and legal system and culture places a very high value and interest in family relationships. Her status as the great granddaughter of Major Taylor gives Petitioner Karen B. Donovan a personal and familial interest and stake in the outcome of this proceeding and standing to seek to cancel trademark registrations which relate to the name of her great grandfather.

Registrant Bishop further admitted in his deposition testimony that Petitioner advised Mr. Bishop that she wanted to get a hold of the people that were working with Major

Taylor.(Bishop Dep. P38,L24 to P39,L4). Registrant Bishop further admitted in deposition testimony that he contacted Petitioner Karen B. Donovan about his MAJOR TAYLOR activities. (Bishop Dep. P39,L14 to 24). Registrant Bishop further admitted in deposition testimony that he had a telephone conversation with Petitioner Karen B. Donovan about the Registrant's activities involving MAJOR TAYLOR. (Bishop Dep. P39,L17 to 24).

Petitioner Karen B. Donovan is the only Major Taylor family member with whom Registrant Bishop has spoken. (Bishop Dep. P39,L11 to P40,L7). Petitioner Karen B. Donovan is the only Major Taylor family member that has sent correspondence to Registrant Bishop.(Bishop Dep. P39,L11 to P40,L7).

When Registrant Bishop wanted to obtain imagery for a project that he was doing with the Nike company, he inquired of Petitioner Karen B. Donovan about such imagery. (Bishop Dep.P39,L17 to P40,L7). Registrant Bishop testified that he made a contract with Nike relating to the Major Taylor name and referred the Nike marketing department to Petitioner Karen B. Donovan for imagery about Major Taylor.(Bishop Dep. P40,L8-18).

Registrant Bishop further testified in his deposition and admitted that he and Petitioner Karen B. Donovan were each seeking to work with the Nike company relating to the Major Taylor name.(Bishop Dep.P40,L8-25). The Federal Circuit Court stated in Books on Tape, Inc. v. The Booktape Corp., 5 USPQ2d

1301, 1302(Fed.Cir. 1987), that standing is shown by a "personal interest in the outcome of the proceeding". The Court further noted that if a Petitioner is in a position of competing with Registrant relating to the use of a trademark, the Petitioner has standing. Id.

Registrant Bishop testified that he was not a blood relative of any Major Taylor family member.(Bishop Dep.P37,L24 to P38,L1). Registrant Bishop's claim of ownership and registration of the MAJOR TAYLOR trademarks falsely suggests a connection with Major Taylor and Karen B. Donovan in violation of 15 U.S.C. Sec. 1052(a). This statute prohibits trademarks which:

falsely suggest a connection with persons, living or dead. Id.

Accordingly, Petitioner has this additional basis of standing to cancel a registration which falsely suggests a connection with her great grandfather or with herself as a great granddaughter and family member.

In the case of Association Pour La Defense Et La Promotion De L'Oeuvre De Marc Chagall v. Bondarchuk, 82 USPQ2d 1838(TTAB March 8, 2007), the TTAB concluded that the Petitioner had standing and noted the relevance of the fact of Petitioner was the granddaughter of the individual whose name was claimed as a trademark. Courts have recognized that claiming an individual's

name as a trademark which falsely suggests a connection with the deceased individual is in violation with 15 U.S.C. Sec. 1052(a) and further supports a finding that the granddaughter petitioner has standing to seek to cancel the registration. Id.

Accordingly, Petitioner Karen B. Donovan has standing to bring this Petition for cancellation for the multiple reasons of 1) being the great granddaughter of the individual whose name Registrant Bishop seeks to exclusively claim as his trademark, 2) having a personal interest in the outcome of the litigation, 3) having a real stake in the outcome as a descendant of Major Taylor, 4) competing with Registrant Bishop in dealings for the use of the MAJOR TAYLOR trademark, and 5) having Registrant Bishop falsely suggest a connection between himself and Major Taylor and Karen B. Donovan by his claim of ownership and his registration of the MAJOR TAYLOR trademarks.

POINT TWO

REGISTRANT'S USE OF TRADEMARKS WAS AND IS ILLEGAL UNDER INDIANA RIGHTS OF PUBLICITY STATUTE

The use of the MAJOR TAYLOR trademarks by Registrant is illegal under the State of Indiana Rights Of Publicity Statute("IRPS"), Indiana Code Ann. 32-36-1 et seq., and therefore the Trademark Registrations No. 2791896 and No.

2701247 must be cancelled. Registrant contends that the Indiana Publicity Statute does not apply to his conduct.

IRPS Section 1 states, in relevant part, that:

Sec. 1. (a) This chapter applies to an act or event that occurs within Indiana, regardless of a personality's domicile, residence, or citizenship.

According to the registration certificates, Courtney Bishop has used the MAJOR TAYLOR trademarks subject to Registrations No. 2791896 and No. 2701247 since 1992 and 2002, respectively. He has been a resident of the State of Indiana for that entire period of time. (Bishop Dep. P12, L17 to L21).

Registrant Bishop contends that the IRPS is not applicable because Major Taylor died as a resident of Illinois. (Bishop Brief Pages 7 and 11). This contention is refuted by the plain language of the Indiana statute. As quoted above, the IRPS applies to Registrant's Indiana acts and events regardless of Major Taylor's "domicile, residence or citizenship".

Registrant Bishop states that he does not concede that Major Taylor was a "personality" within the meaning of the IRPS. (Bishop Brief at Page 12). Section 6 of the IRPS provides, in relevant part, that:

Sec. 6. As used in this chapter, "personality" means a living or deceased natural person whose:

(1) name; ***

has commercial value, whether or not the person uses or authorizes the use of the person's rights of publicity for a commercial purpose during the person's

lifetime.

The Registrant's adoption and use of the Major Taylor name as a trademark for commercial practices precludes Registrant from disputing that the Major Taylor name had commercial value or that Major Taylor was therefore a personality.

Registrant Bishop contends that the IRPS does not apply because Karen Donovan has not proven that she is the particular heir who should file a claim pursuant to the IRPS. (Bishop Brief Page 11). This proceeding is not an Indiana State court claim being filed pursuant to the IRPS. The Trademark Trial And Appeal Board only has jurisdiction over four types of *inter party* proceedings, including oppositions, cancellations, interferences and concurrent use proceedings. See Lanham Act Sections 13, 14 and 24, 15 U.S.C. Sections 1063, 1064 and 1092.

Registrant Bishop admits that he knew that Sydney Brown was Major Taylor's daughter and alive when he began to use the MAJOR TAYLOR trademark. (Bishop Dep. P19, L11 to L20 and P33, L19 to L22). Registrant Bishop also admitted that while he was using the Major Taylor name, he sent emails to Major Taylor's grandson, Dallas Brown, who was a General in the United States Army. (Bishop Dep. P38, L5 to L23). Registrant Bishop admitted that he had multiple contacts with Karen Brown Donovan after he tried to contact Dallas Brown, (Bishop Dep. P39, L14 to L24) and

admits that Karen Brown Donovan is Major Taylor's great granddaughter (Bishop Dep. P38,L5 to L23).

The issue in this proceeding before the TTAB is not which heir is the correct heir to file an Indiana State court proceeding. The issue is whether Registrant Bishop obtained the consent of any heir of Major Taylor. Section 8 of the IRPS provides, in relevant part, that:

Sec. 8. (a) A person may not use an aspect of a personality's right of publicity for a commercial purpose during the personality's lifetime or for one hundred (100) years after the date of the personality's death without having obtained previous written consent from a person specified in section 17 of this chapter.

Registrant Bishop admits that he did not get consent or permission from any relative of Major Taylor. (Bishop Dep.P19, L11 to L18 and P41,L11-20). Accordingly, Registrant Bishop's use of the MAJOR TAYLOR trademark was illegal.

Registrant Bishop also argues that rights pursuant to the IRPS may have terminated under Section 19 if there is no proof of any of the persons or transfers described therein. Section 19 of the IRPS states, in relevant part, that:

Sec. 19. If:

(1) a deceased personality's recognized rights under this chapter were not transferred by:

- (A) contract;
- (B) license;
- (C) gift;
- (D) trust; or
- (E) testamentary document; and

(2) there are no surviving persons as described in section 17 of this chapter to whom the deceased personality's recognized rights pass by intestate succession;

the deceased personality's rights set forth in this chapter terminate.

Chapter 755, Section 5, Article II of the Illinois Intestacy Statute provides that at least one-half of an intestate estate of a resident decedent will pass to the descendants of the decedent per stirpes.

Registrant Bishop admits that Major Taylor was a resident of the State of Illinois at the time of his death. (Bishop Brief Page 7). Registrant Bishop also admits as described above in this argument point that descendants of Major Taylor were alive during the period that Registrant used the Major Taylor name. Accordingly, the proofs in the record establish that rights under the Indiana Rights of Publicity Statute had not terminated at the time that the use by Registrant Bishop of the Major Taylor name was unlawful under this Indiana statute.

POINT THREE

REGISTRANT'S APPLICATIONS FOR REGISTRATION OF THE MAJOR TAYLOR TRADEMARKS WERE FRAUDULENT

The Registrant's Brief states on Page 13, in relevant part, that:

"Yet, all that the Petitioner proved during her case-in-chief testimony period was Registrant's mere knowledge of the alleged "prior uses"... .

Accordingly, there is no dispute that Bishop knew of the other uses of the MAJOR TAYLOR trademark. There is also no dispute,

from the U.S. Trademark Office registration files at issue in this proceeding, which are also part of the record herein, that Bishop did not disclose any such uses in his declarations or applications that he filed. (See Application files for MAJOR TAYLOR trademarks.)

Registrant Bishop was statutorily required to verify his applications for registration with his statement that:

"to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive". 15 U.S.C. Sec. 1051(a)(3)(D)

Registrant Bishop filed declarations in connection with each of the applications for the MAJOR TAYLOR trademarks which stated, in relevant part, that:

"to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive". (Bishop Declaration dated October 25, 2000);(Bishop Declaration dated August 9, 2001).

The application files of record confirm that Registrant Bishop did not file his applications for concurrent use of the trademark. He filed his applications with declarations claiming exclusive use. These declarations were fraudulent for the

reasons described below based upon evidence in the record of this proceeding as noted below.

Registrant Bishop argues that he did not have an obligation to disclose any use of the Major Taylor name by others because he contends that none of the uses by others had anything in common with his uses of the MAJOR TAYLOR trademark. The evidence in the record proves that Registrant Bishop knew this to be false and proves the similar uses which Registrant Bishop fraudulently hid from the U.S. Trademark Office.

According to the U.S. Trademark Office registration certificates for the MAJOR TAYLOR trademarks registered by Bishop, his uses of the MAJOR TAYLOR trademark which is subject to such registrations include "promoting bicycle sports, bicycle competitions and/or events of other" and "charitable not for profit organizations covering activities held within the normal scope of operations for these organizations". (See Trademark Registration Certificates 2,791,896 and 2,701,247 of record in this action). The deposition testimony admissions of Registrant Bishop evidence that the Major Taylor Velodrome bicycle racing track in Indianapolis has a use which falls within the description of uses claimed by Registrant Bishop. Registrant Bishop personally visited the Major Taylor Velodrome in 1990 and knew about its existence and watched bicycle racing at the Major Taylor Velodrome.(Bishop Dep.P12,L25 to P13,L10). Additionally,

Registrant Bishop testified that prior to submitting his trademark application in 2000, he knew that the velodrome had the name Major Taylor on it.(Bishop Dep.P34,L25 to P35,L6). Registrant Bishop hid its existence from the Trademark Office.

Registrant Bishop also testified at his deposition, in evidence and of record in this proceeding, that he was aware of the Major Taylor Association in the 1999-2000 time range.(Bishop Dep.P28,L13 to P29,L17). Registrant Bishop testified that he was aware of the charitable not-for-profit activities of this association in raising money for a statue to be erected of Major Taylor.(Bishop Dep.P28,L13 to P29,L17). Registrant Bishop further testified that prior to October 2000 he was aware that there were one or more associations using the Major Taylor name for civic association work.(Bishop Dep.P34,L19-24). Registrant Bishop also testified that he was aware of the Major Taylor Society in 1999-2000. (Bishop Dep.P50,L22-P51,L1). Accordingly, Registrant Bishop had knowledge of the Major Taylor Association's (or other civic associations') prior use of the Major Taylor name for charitable activities before he filed his application on August 10, 2001 for a registration which included charitable activities. Registrant Bishop hid the existence of this Association from the Trademark office.

Counsel for Registrant Bishop also argues that Mr. Bishop did not mean to say what he said during his deposition testimony

when he admitted that he knew that Major Taylor's daughter was living at the time when he submitted his application for trademark registration.(Bishop Dep.P33,L1 to L24). Registrant's deposition testimony taken and served and filed of record in this matter stands as conclusive evidentiary admissions. Counsel for Registrant Bishop seeks, without any factual or legal basis, to change the deposition testimony of Registrant Bishop.

Registrant Bishop also argues that he did not have an obligation to disclose to the Trademark Offices the use of the Major Taylor name by others if he did not consider such persons to have superior rights to register the name as a trademark. The evidence in the record proves that Registrant Bishop knew that others had priority of use of the Major Taylor name before him with the same types of uses he claimed, and Registrant Bishop fraudulently hid such facts from the U.S. Trademark Office.

According to the U.S. Trademark Office registration certificates for the MAJOR TAYLOR trademarks registered by Bishop, his first use in commerce of any type with a MAJOR TAYLOR trademark was on May 15, 1992. Trademark Certificate 2,701,247 proves that Registrant's first use of a MAJOR TAYLOR trademark in connection with any kind of non-profit activity or charity was not until June of 2000. The deposition testimony

admissions of Registrant Bishop evidence that Registrant Bishop personally visited the Major Taylor Velodrome bicycle racing track in 1990 and knew about its existence and watched bicycle racing at the Major Taylor Velodrome.(Bishop Dep.P12,L25 to P13,L10). Additionally, Registrant Bishop testified that prior to submitting his trademark application in 2000, he knew that the velodrome had the name Major Taylor on it.(Bishop Dep. P34,L25 to P35,L6). It is therefore proven that Registrant Bishop knew that the Major Taylor Velodrome had priority of use of the MAJOR TAYLOR trademark for bicycle competitions. Registrant Bishop hid the existence and use of the MAJOR TAYLOR trademark by the Velodrome from the Trademark Office.

The evidence also shows that Registrant Bishop knew that the Major Taylor Association had priority of use of the MAJOR TAYLOR trademark for charitable activities. Prior to Registrant Bishop using the trademark MAJOR TAYLOR for charitable activities in commerce on June 1, 2002(See Registration Certificate 2,701,247 of record in this proceeding), he was aware in the 1999-2000 time range that the Major Taylor Association used the name for charitable activities.(Bishop Dep.P28,L13 to P29,L17). Registrant Bishop further testified that prior to October 2000, when he submitted his first trademark application, he was aware that there were one or more associations using the Major Taylor name for civic association

work.(Bishop Dep.P34,L19-24). Registrant Bishop also testified that he was aware of the Major Taylor Society in 1999-2000.

(Bishop Dep.P50,L22-P51,L1). Registrant Bishop hid the existence of such prior use from the Trademark office.

Registrant Bishop knew that the family rights to the Major Taylor name were primary and superior to his own. That is why he contacted Major Taylor family members about the name. (Bishop Dep.P38,L5 to P39,L7). That is also why he admitted in his deposition testimony that he had to give something back to the family.Id. Registrant Bishop knew that Major Taylor's daughter, Sydney Brown, was living when he submitted his application for trademark registration. (Bishop Dep. P33,L12-24). Registrant Bishop hid from the Trademark Office all knowledge of living descendants of Major Taylor. (See Trademark Office Registrations Applications files of record).

It is in the public's interest to prohibit trademark registrations procured or maintained by fraud. See, e.g., Treadwell's Drifters Inc. v. Marshak, 18 USPQ2d 1318, 1320(TTAB 1990), recon.denied 18 USPQ2d 1322(TTAB 1990); Bausch & Lomb Inc. v. Leupold & Stevens Inc., 1 USPQ2d 1497, 1499(TTAB 1986). The public interest is served by cancelling the MAJOR TAYLOR trademark registrations of Registrant Bishop.

SUMMARY

Accordingly, Petitioner requests that the Trademark Trial and Appeal Board cancel the MAJOR TAYLOR trademark registrations No. 2791896 and No. 2701247 for the additional reasons set forth herein.

Respectfully submitted,

David H.E. Bursik

Date: November 15, 2008

David H.E. Bursik, Esq.
401 Hamburg Turnpike, Suite 210
Wayne, New Jersey 07470
Tel. 1-973-904-1040
Fax. 1-973-904-1050
Email-dheb@bursik.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that today I served a copy of the within document upon counsel for Registrant:

Clifford W. Browning, Esq.
Krieg DeVault
One Indiana Square
Suite 2800
Indianapolis, Indiana 46204-2079
Tel. 1-317-636-4341

by depositing same, postage fully pre-paid, for first class regular U.S. mail delivery of same, and by emailing a pdf copy of same to him.

I certify that the foregoing statements made by me are true. I am aware that if such statements are willfully false, I am subject to punishment.

David H.E. Bursik

David H.E. Bursik, Esq.

Executed on this
15th day of November, 2008
in Wayne, New Jersey.