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April 20, 2015

By Express Mail

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

Re: Office of the Commissioner of Baseball v.
Nakid Kickball and Social Club, Inc

- and-

Major League Baseball Properties, Inc. v.
Nakid Kickball and Social Club, Inc.

Combined Notice of Opposition and Petition for Cancellation
Against
Application to register WORLD SERIES OF FLIP CUP and
Supplemental Registration for MAJOR LEAGUE FLIP CUP
Ref. No. 21307.000

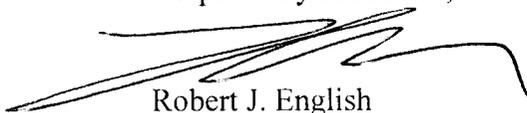
Dear Commissioner:

We enclose a Combined Notice of Opposition and Petition for Cancellation against Application Serial Number 85/928,396, published in the Official Gazette on October 21, 2014, and Supplemental Registration No. 4,626,437, issued October 21, 2014. Enclosed is a check in the amount of \$600 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

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. 85/928,396
Filed: May 10, 2013
For Mark: WORLD SERIES OF FLIP CUP
Published in the Official Gazette: October 21, 2014

-----X
OFFICE OF THE COMMISSIONER OF
BASEBALL,
Opposer,
v.
NAKID Kickball and Social Club, Inc.,
Applicant.
-----X

Opposition No.

In re Supplemental Registration No. 4,626,437
Issued: October 21, 2014
For Mark: MAJOR LEAGUE FLIP CUP

-----X
MAJOR LEAGUE BASEBALL PROPERTIES,
INC.
Opposer,
v.
NAKID Kickball and Social Club, Inc.,
Registrant.
-----X

Cancellation No.

04/22/2015 DJEFFCOA 00000012 85928396
EFFCOA
~~01 FC:6401 300.00 OP~~
02 FC:6402 300.00 OP

**COMBINED NOTICE OF OPPOSITION
AND PETITION FOR CANCELLATION**

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

04/23/2015 DJEFFCOA 00000001 4626437
01 FC:6401 300.00 OP

Opposer, the Office of the Commissioner of Baseball ("Opposer" or the "BOC"), a
New York unincorporated association located at 245 Park Avenue, New York, New York

~~EFFCOA 00000012 85928396~~

~~300.00 OP~~

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I hereby certify that this paper or fee is being deposited with the United States
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Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on

4-20-15
(Date of Deposit)

Colleen Regan
(Print name)

(Signature)

Colleen Regan



U.S. Patent & TMO/OTM Mail Rcpt Dt. #22

10167, believes that it will be damaged by registration of the standard character word mark WORLD SERIES OF FLIP CUP (“Applicant’s WORLD SERIES OF FLIP CUP Mark”) by NAKID Kickball and Social Club, Inc., (“Applicant” or “Registrant”) for “Entertainment and recreational services, namely, organizing and conducting amateur athletic, physical and social activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bar sports in the nature of bar crawls, parlor games designed to be played in a bar, bar drinking and skills competitions, bocce, cornhole, beer pong, flip cup, beer bingo, parties, beverage brewing parties, and field trips in the nature of social events in the fields of scavenger hunts, tubing trips, wine festivals, movie screenings, all for social entertainment purposes; Entertainment services, namely, participation in amateur athletic activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bocce, and cornhole” in International Class 41, as shown in Application Serial No. 85/928,396 (the “Application”).

Petitioner, Major League Baseball Properties, Inc. (“Petitioner” or “MLBP”), a New York corporation with offices at 245 Park Avenue, New York, NY 10167, believes it will be damaged by continued registration of the standard character word mark MAJOR LEAGUE FLIP CUP (“Registrant’s MAJOR LEAGUE FLIP CUP Mark”) (together with Applicant’s WORLD SERIES OF FLIP CUP Mark, “Applicant/Registrant’s Marks”) on the Supplemental Register for “Entertainment and recreational services, namely, organizing and conducting amateur athletic, physical and social activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bar sports in the nature of bar crawls, parlor games designed to be played in a bar, bar drinking and skills competitions, bocce, cornhole, beer pong, flip cup, beer bingo, parties, beverage brewing parties, and field

trips in the nature of social events in the fields of scavenger hunts, tubing trips, wine festivals, movie screenings, all for social entertainment purposes; Entertainment services, namely, participation in amateur athletic activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bocce, and cornhole” in International Class 41 as shown in Registration No. 4,626,437 (the “Supplemental Registration”), and having been granted extensions of time to oppose the Application up to and including April 19, 2015, Opposer hereby opposes the Application, and Petitioner hereby petitions to cancel the Supplemental Registration.

As grounds for opposition/petition to cancel, it is alleged that:

1. Petitioner Major League Baseball Properties, Inc. (“MLBP”) is the licensee of and licensing agent for the marks of all of the thirty Major League Baseball clubs and their affiliated and related entities, including Opposer, the Office of the Commissioner of Baseball. As such, Opposer and Petitioner are in privity with each other.

2. Since long prior to May 10, 2013, Applicant’s constructive first use date of Applicant’s WORLD SERIES OF FLIP CUP Mark, Opposer and its predecessors, and their affiliated and related entities, including MLBP, the Major League Baseball clubs and/or their respective Minor League Baseball affiliates, MLB Advanced Media, L.P., MLB Network Holdings, LLC and their respective predecessors and affiliated and related entities (collectively, the “Major League Baseball Entities”), and/or each of their respective licensees and/or sponsors, have used various marks that comprise or contain the mark WORLD SERIES, alone or with other word, letter and/or design elements (collectively, “Opposer’s WORLD SERIES Marks”) on or in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, organizing and conducting amateur athletic, physical and

social activities, apparel, novelty items, toys and sporting goods, jewelry, and paper goods and printed matter.

3. Opposer owns United States federal registrations for Opposer's WORLD SERIES Marks in International Classes 9, 14, 16, 18, 20, 21, 24, 25, 28, 35 and 41, namely Registration Nos. 1,178,547; 1,478,631; 1,478,775; 1,479,756; 1,542,959; 1,559,036; 1,615,625; 1,648,385; 1,825,850; 1,844,979; 1,861,888; 2,700,976; 2,709,813; 2,709,814; 3,410,585; 3,424,320; 3,438,400; 3,443,094; 3,455,863; 3,624,727; 3,624,728; 3,628,858; 4,373,051, 4,380,650 and 4,649,491 for said trademarks and service marks. Registration Nos. 1,178,547; 1,478,631; 1,478,775; 1,479,756; 1,542,959; 1,559,036; 1,615,625; 1,648,385; 1,825,850; 1,844,979; 1,861,888; 2,709,813; 2,709,814; 3,410,585; 3,424,320; 3,443,094 and 3,455,863 are incontestable. Registration No. 3,438,400 is partially incontestable.

4. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Opposer's WORLD SERIES Marks, Opposer has built up highly valuable goodwill in Opposer's WORLD SERIES Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

5. Since long prior to May 2, 2008, Registrant's claimed first use date, Petitioner and its predecessors, and their affiliated and related entities, licensees and/or sponsors, including, the BOC, have used marks comprising or containing the words MAJOR LEAGUE, MAJOR LEAGUES and MAJOR LEAGUE BASEBALL as well as their foreign equivalents, the abbreviation MLB, and/or various silhouetted batter designs (the graphic equivalent of MAJOR LEAGUE BASEBALL and MLB), which are often depicted with a rectangular design with the words MAJOR LEAGUE BASEBALL appearing beneath the rectangular design and/or in the

trade dress colors of red, white and blue (collectively, “Petitioner’s Trade Dress”), alone or with other word, letter and/or design elements, including, without limitation, the following:



, all either alone or with other word, letter and/or design elements (collectively, “Petitioner’s MAJOR LEAGUE Marks”), in connection with baseball games and exhibition services and a wide variety of goods and other services, including, but not limited to, organizing and conducting amateur athletic, physical and social activities, apparel, novelty items, toys and sporting goods, jewelry, and paper goods and printed matter.

6. Petitioner owns United States federal registrations and applications for Petitioner’s MAJOR LEAGUE Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 31, 34, 35, 38, 41, 42 and 45; namely, Application Nos. 955,967, 1,055,313, 1,055,317, 1,055,318, 1,055,319, 1,055,322, 1,057,260, 1,057,264, 1,057,265, 1,528,807, 1,617,698, 1,620,020, 1,625,617, 1,648,643, 1,719,587, 1,741,015, 1,745,625, 1,799,433, 1,822,830, 1,988,066, 2,068,319, 2,188,192, 2,226,926, 2,569,970, 2,569,971, 2,573,096, 2,573,503, 2,586,893, 2,604,417, 2,609,504, 2,612,388, 2,666,228, 2,669,860, 2,675,477, 2,680,015, 2,697,473, 2,705,130, 2,776,186, 2,779,958, 2,800,750, 2,800,751, 2,800,752, 2,802,812, 2,802,813, 2,802,814, 2,806,937, 2,806,938, 2,832,358, 2,832,359, 2,845,335, 2,847,892, 2,847,893, 2,847,894, 2,851,208, 2,863,102, 2,879,840, 2,971,015, 2,976,531, 2,976,538, 3,150,381, 3,206,580, 3,299,532, 3,304,100, 3,304,101, 3,304,102, 3,326,191, 3,337,072, 3,337,073, 3,396,067, 3,399,695, 3,428,556, 3,437,492, 3,456,907, 3,538,655,

3,538,735, 3,542,112, 3,581,756, 3,593,031, 3,593,032, 3,600,321, 3,641,257, 3,644,958, 3,644,959, 3,667,138, 3,680,207, 3,716,952, 3,750,187, 3,761,818, 3,862,153, 4,037,576, 4,084,490, 4,099,594, 4,294,588, 4,392,303, 4,658,380, 4,662,489 and 4,662,490, and Application Serial Nos. 86/263,376, 86/263,382, 86/263,386 and 86/263,390. Registration Nos. 955,967, 1,055,313, 1,055,317, 1,055,318, 1,055,319, 1,055,322, 1,057,260, 1,057,264, 1,057,265, 1,528,807, 1,617,698, 1,620,020, 1,625,617, 1,648,643, 1,719,587, 1,741,015, 1,745,625, 1,799,433, 1,822,830, 2,188,192, 2,226,926, 2,569,970, 2,569,971, 2,573,096, 2,573,503, 2,604,417, 2,609,504, 2,612,388, 2,669,860, 2,675,477, 2,680,015, 2,705,130, 2,776,186, 2,779,958, 2,800,750, 2,800,751, 2,800,752, 2,802,812, 2,802,813, 2,802,814, 2,845,335, 2,847,894 2,851,208, 2,863,102, 2,879,840, 2,971,015, 3,150,381, 3,206,580, 3,326,191, 3,299,532, 3,304,100, 3,304,101, 3,304,102, 3,337,072, 3,337,073, 3,396,067, 3,399,695, 3,428,556, 3,437,492 and 3,456,907 are incontestable. Application Nos. 2,666,228, 2,697,473, 2,832,358, 2,832,359, 2,847,892 and 2,847,893 are partially incontestable.

7. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Petitioner's MAJOR LEAGUE Marks, Petitioner has built up highly valuable goodwill in Petitioner's MAJOR LEAGUE Marks, including, without limitation, Petitioner's Trade Dress, and said goodwill has become closely and uniquely identified and associated with Petitioner.

8. Opposer's WORLD SERIES Marks and Petitioner's MAJOR LEAGUE Marks are often used together in connection with Opposer's and Petitioner's goods and services.

9. On May 10, 2013, Applicant/Registrant filed an application to register Applicant/Registrant's WORLD SERIES OF FLIP CUP Mark for "Entertainment and recreational services, namely, organizing and conducting amateur athletic, physical and social

activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bar sports in the nature of bar crawls, parlor games designed to be played in a bar, bar drinking and skills competitions, bocce, cornhole, beer pong, flip cup, beer bingo, parties, beverage brewing parties, and field trips in the nature of social events in the fields of scavenger hunts, tubing trips, wine festivals, movie screenings, all for social entertainment purposes; Entertainment services, namely, participation in amateur athletic activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bocce, and cornhole” in International Class 41 based on an intent to use.

10. Upon information and belief, Applicant did not use Applicant’s WORLD SERIES OF FLIP CUP Mark in commerce in connection with the services covered by the Application prior to May 10, 2013, Applicant’s constructive first use date.

11. On May 10, 2013, Registrant filed an application to register Registrant’s MAJOR LEAGUE FLIP CUP Mark for “Entertainment and recreational services, namely, organizing and conducting amateur athletic, physical and social activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bar sports in the nature of bar crawls, parlor games designed to be played in a bar, bar drinking and skills competitions, bocce, cornhole, beer pong, flip cup, beer bingo, parties, beverage brewing parties, and field trips in the nature of social events in the fields of scavenger hunts, tubing trips, wine festivals, movie screenings, all for social entertainment purposes; Entertainment services, namely, participation in amateur athletic activities, namely, kickball, indoor kickball, dodgeball, volleyball, basketball, bowling, flag football, bocce, and cornhole” in International Class 41 based on an intent to use. The application was later amended to the Supplemental Register, claiming a first

use date of May 2, 2008, and matured to Supplemental Registration No. 4,626,437 on October 21, 2014.

12. Upon information and belief, Registrant did not use Registrant's MAJOR LEAGUE FLIP CUP Mark in commerce in connection with the services covered by the Supplemental Registration prior to May 2, 2008, Registrant's claimed first use date.

13. Upon information and belief, Applicant/Registrant promotes its Class 41 services using Applicant/Registrant's Marks and advertises and offers for sale apparel and other merchandise bearing Applicant/Registrant's Marks on Applicant/Registrant's websites, accessible at <http://worldseriesofflipcup.net/> and <http://www.majorleagueflipcup.com/> ("Applicant/Registrant's Websites").

14. The services covered by the Application and Supplemental Registration are identical and/or closely related to the goods offered and services rendered in connection with Opposer's WORLD SERIES Marks and Petitioner's MAJOR LEAGUE Marks.

15. Upon information and belief, Applicant is using Applicant's WORLD SERIES OF FLIP CUP Mark in a stylized format with other word and/or design elements, including in the form shown below, which closely resembles the distinctive stylizations and designs of one or more of Opposer's WORLD SERIES Marks, as also show below:

Applicant's Use:



One of Opposer's WORLD SERIES Marks:



16. Upon information and belief, Registrant is using a silhouetted cup design, including with other word and/or design elements and featuring Petitioner's Trade Dress colors of red, white and blue, including, but not limited to, the designs as shown below:



in connection with Registrant's MAJOR LEAGUE FLIP CUP Mark for Registrant's Class 41 services and related apparel and merchandise currently offered for sale on Applicant/Registrant's Websites, as shown below:



17. Upon information and belief, Applicant/Registrant adopted Applicant/Registrant's Marks with an intent to trade on the valuable goodwill of Opposer/Petitioner as demonstrated by Applicant/Registrant's use of both of the terms "WORLD SERIES" and "MAJOR LEAGUE" to refer to Applicant/Registrant, Applicant/Registrant's use of Applicant/Registrant's Marks in Petitioner's Trade Dress colors, Applicant/Registrant's use of a silhouetted cup design that closely resembles Petitioner's silhouetted batter design, and Applicant/Registrant's use of

Applicant/Registrant's WORLD SERIES OF FLIP CUP Mark in a design and stylized format that closely resembles one or more of Opposer's WORLD SERIES Marks.

18. Applicant's WORLD SERIES OF FLIP CUP Mark, which contains the identical terms WORLD SERIES, so resembles Opposer's WORLD SERIES 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.

19. Registrant's MAJOR LEAGUE FLIP CUP Mark, which contains the identical terms MAJOR LEAGUE, so closely resembles Petitioner's MAJOR LEAGUE Marks, and as used in the Petitioner's Trade Dress colors, so resembles Petitioner's MAJOR LEAGUE Marks as to be likely, when used in connection with Registrant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Registrant's services have their origin with Petitioner and/or that such services are approved, endorsed or sponsored by Petitioner or associated in some way with Petitioner. Petitioner would thereby be injured by allowing the continued registration of the Supplemental Registration for Registrant's MAJOR LEAGUE FLIP CUP Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's WORLD SERIES OF FLIP CUP Mark and requests that the opposition be sustained and said registration be denied.

WHEREFORE, Petitioner believes that it is being damaged by registration of the Supplemental Registration for Registrant's MAJOR LEAGUE FLIP CUP Mark and requests that the cancellation be sustained and the Supplemental Registration be cancelled.

Ref No. 21307.000

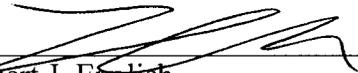
Please recognize as attorneys for Opposer/Petitioner in this proceeding Mary L. Kevlin, Richard S. Mandel and Robert J. English (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

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

Dated: New York, New York
April 20, 2015

Respectfully submitted,

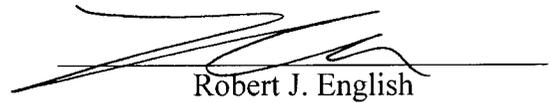
COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer/Petitioner

By: 

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 20, 2015, I caused a true and correct copy of the foregoing Combined Notice of Opposition and Petition for Cancellation to be sent via First Class Mail, postage prepaid, to Applicant/Registrant's Correspondent of Record, Adam Bruno, Esq., Bay State IP, LLC, One Boston Place, 201 Washington Street, Suite 2600, Boston, Massachusetts 02108-4420.


Robert J. English