

Ref. No. 21307-33

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

In re Application Serial No. 76/288,971
Filed: July 23, 2001
For Mark: BABY BOMBERS
Published in the Official Gazette: February 11, 2003



06-11-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

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NEW YORK YANKEES :
PARTNERSHIP and STATEN ISLAND :
MINOR LEAGUE HOLDINGS, L.L.C., :
:
Opposers, :
v. :
LEON P. HART, :
:
Applicant. :
-----X

NOTICE OF OPPOSITION

Opposition No.

Commissioner for Trademarks
BOX TTAB FEE
2900 Crystal Drive
Arlington, VA 22202-3514

Opposers, New York Yankees Partnership, an Ohio limited partnership, located at Yankee Stadium, Bronx, New York 10451, and Staten Island Minor League Holdings, L.L.C., a New York limited liability company, located at 75 Richmond Terrace, Staten Island, New York 10301, believe that they will be damaged by registration of the mark BABY BOMBERS in Class 25 for "clothing and athletic wear, namely, shirts, shorts, pants

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on

6/11/03 SHARON LYNCH
(Date of Deposit) (Typed or printed name of person mailing paper or fee)
Sharon Lynch
(Signature)

and hats" shown in Application Serial No. 76/288,971, and having been granted extensions of time to oppose up to and including June 11, 2003, hereby oppose same.

As grounds for opposition, it is alleged that:

1. New York Yankees Partnership is the owner of the world-renowned NEW YORK YANKEES Major League Baseball club ("NEW YORK YANKEES"), and Staten Island Minor League Holdings, L.L.C. is the owner of the affiliated STATEN ISLAND YANKEES Minor League Baseball club ("STATEN ISLAND YANKEES").

2. The NEW YORK YANKEES club is one of the most successful sports franchises in the history of the United States with thirty-eight appearances in WORLD SERIES CHAMPIONSHIP annual games and twenty-six WORLD SERIES titles. In addition to its sports entertainment services, the NEW YORK YANKEES club is now and long has been widely known in the United States for its wide variety of merchandise, including, but not limited to, shirts, caps and other apparel.

3. Since long prior to July 23, 2001, Applicant's constructive first use date, as a result of its many successes, the NEW YORK YANKEES team has been commonly known and referred to by the press, media, fans and public by the names BRONX BOMBERS, BOMBERS and BABY BOMBERS, in addition to its names NEW YORK YANKEES and YANKEES.

4. The STATEN ISLAND YANKEES club is a Minor League team affiliated with the NEW YORK YANKEES club. In recognition of the relationship with the renowned NEW YORK YANKEES, the STATEN ISLAND YANKEES club has been known as and has adopted the name BABY BOMBERS.

5. Since prior to July 23, 2001, Applicant's constructive first use date, Opposers and/or their licensees have used the names and mark BOMBERS, in combination with other words or designs, including BRONX BOMBERS and/or BABY BOMBERS (the "BOMBERS Names and Marks"), in connection with and to identify Opposers' baseball game and exhibition services and a variety of goods and to distinguish them from the goods and services of others.

6. NEW YORK YANKEES club owns the following federal registration and application for the BOMBERS Names and Marks:

Mark	Reg. No./ Ser. No.	Reg. Date/ Filing Date	Goods/Services
BRONX BOMBERS	Reg. No. 2,595,266	Reg. Date: 7/16/02	--Class 14--Costume jewelry pins; lapel pins. --Class 20--Figurines made of porcelain. --Class 21--Decorative plates. --Class 28--Sporting goods, namely, baseball bats.
BRONX BOMBERS	Ser. No. 75/500,589	Filing Date: 6/11/98	--Class 16-- Paper goods and printed matter, namely, trading cards, bumper stickers, posters, laminated printed signs, stickers, blank and printed labels, decals, book marks, score books, scorecards, printed paper signs, writing pads, note paper, notebooks, coloring books, pre-printed personal organizers; magazines, books and booklets concerning baseball; autograph books; book covers; calendars; playing cards; gift wrapping paper; paper napkins; paper flags; paper coasters; paper tablecloths; paper placemats; greeting cards; postcards; lithographs; unmounted photographs; mounted photographs; photograph albums; baseball card albums and cases; checkbook covers; credit cards; paperweights; pencils; pens; pen and pencil holders; pencil sharpeners; erasers; commemorative stamps; decorative pencil top ornaments; letter openers; paper bibs; baseball cap replicas with pencil sharpeners. --Class 25 -- Clothing, namely, jerseys, jackets, sports shirts, sweaters, raincoats, ponchos, gloves and mittens, ties, caps, visors, headbands, knitted headwear, scarves, thermal loungewear, sweat pants, nightshirts, nightgowns, T-shirts, socks, boxer shorts,

Mark	Reg. No./ Ser. No.	Reg. Date/ Filing Date	Goods/Services
			<p>robes, warm-up suits, sweatshirts, pajamas, underwear, aprons, shoes, cloth bibs, children's coveralls, children's infantwear, toddler anklets and baby booties.</p> <p>--Class 41--Entertainment services in the form of professional baseball games and organizing exhibitions for entertainment purposes; organizing community festivals featuring a variety of activities, namely, sporting events, art exhibitions, flea markets and the like; educational services, namely, conducting classes, seminars and workshops in the field of baseball; providing facilities for baseball events and recreational activities and events; sports camps; providing sports information by means of telephone and digital transmission; production of cable television programs; production of radio and television programs; distribution of television programming to cable television systems.</p>

7. Commencing prior to Applicant's constructive first use date of July 23, 2001, Opposers and/or their licensees have promoted and advertised the sale and distribution of a variety of goods and services bearing the BOMBERS Names and Marks, including, but not limited to, in connection with baseball game and exhibition services, apparel and other goods, and have sold or distributed such goods and rendered such services in commerce.

8. As a result of the sales and promotion of its goods and services bearing the BOMBERS Names and Marks and the use of the BOMBERS Names and Marks by the press, media, fans and public to refer to Opposers' baseball clubs, Opposers have built up a highly valuable goodwill in the BOMBERS Names and Marks.

9. On July 23, 2001, Applicant Leon P. Hart filed an intent-to-use application to register the BABY BOMBERS mark covered in Application Serial No. 76/288,971 for "clothing and athletic wear, namely, shirts, shorts, pants and hats" ("Applicant's BABY BOMBERS Mark").

10. Upon information and belief, Applicant did not use Applicant's BABY BOMBERS Mark prior to July 23, 2001.

11. The goods covered by Application No. 76/288,971 are identical and/or closely related to the goods offered and services rendered in connection with the BOMBERS Names and Marks.

12. Applicant's BABY BOMBERS Mark so resembles the BOMBERS Names and Marks so as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, which are likely to believe that Applicant's goods have their origin with Opposers and/or that such goods are approved, endorsed or sponsored by Opposers or associated in some way with Opposers. Opposers would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's BABY BOMBERS Mark.

WHEREFORE, Opposers believe that they will be damaged by registration of Applicant's BABY BOMBERS Mark and prays 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 Deborah K. Squiers (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
June 11, 2003

Respectfully submitted,

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

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June 11, 2003

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2900 Crystal Drive
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06-11-2003
U.S. Patent & TMOfo/TM Mail Rcpt Dt. #22

Attention: Trademark Trial and Appeal Board

Re: New York Yankees Partnership and
Staten Island Minor League Holdings, L.L.C.
Notice of Opposition Against BABY BOMBERS, Ser. No. 76/288,971
Attorney Ref. No. 21307.33

Dear Sir:

We enclose an original and duplicate copy of a Notice of Opposition against application Serial Number 76/288,971, published in the Official Gazette of February 11, 2003. We also enclose a check to cover filing fees.

If the enclosed check is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Kindly confirm receipt of this opposition by returning the attached postcard and address all future correspondence to the attention of Mary L. Kevlin, of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

Deborah K. Squiers

Enclosure

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EXHIBIT 101