

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

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NEW YORK YANKEES :
PARTNERSHIP and STATEN ISLAND :
MINOR LEAGUE HOLDINGS, L.L.C., :
:
Opposers, :
v. :
:
LEON P. HART, :
:
Applicant. :
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Opposition No. 91156780



05-13-2004

U.S. Patent & TMO/c/TM Mail Rpt Dt. #22

**OPPOSERS' SECOND NOTICE OF RELIANCE
PURSUANT TO TRADEMARK RULE 2.120(j)**

Pursuant to Trademark Rule 2.120(j), Opposers New York Yankees Partnership and
Staten Island Minor League Holdings, L.L.C. hereby give notice of their reliance upon
Applicant's Responses to Interrogatory Nos. 2, 3, 4, 5, 7 and 9 attached hereto.

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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
5-13-04 Siianne Pecha
(Date of Deposit) (Print name)
[Signature]
(Signature)

Dated: New York, New York
May 13, 2004

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

By: 

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(212) 840-8300

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**OPPOSERS' FIRST SET OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS AND THINGS**

Pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Opposers New York Yankees Partnership and Staten Island Minor League Holdings, L.L.C. ("Opposers") request that Applicant Leon P. Hart ("Applicant") answer under oath the following interrogatories and produce the following documents and things for inspection and copying at the offices of Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036 within 30 days after service hereof. These requests are deemed to be continuing, so as to require prompt production of additional documents and supplemental interrogatory answers should Applicant obtain additional responsive information or documents between the time the answers are served and the time of the final hearing of this opposition proceeding.

other person to whom the original or any copy of the document was sent or furnished; if you contend that an author or recipient of the document is an attorney for purposes of claiming privilege or immunity from discovery, identify the Bar of which he or she was a member at the time of the communication in question; the general subject matter of the information or document withheld; the basis for the claim of privilege or immunity from discovery; and the interrogatory or request to which the information or document is responsive.

O. In the event that any document called for by this request has been destroyed, lost, discarded or otherwise disposed of, identify any such document as completely as possible, including, without limitation, the date of disposal, manner of disposal, reason for disposal, person authorizing the disposal and person disposing of the document.

INTERROGATORIES

Interrogatory No. 2

Identify each product or service on or in connection with which Applicant (or any person or entity authorized by Applicant) has used, is using or intends to use Applicant's Mark or any other mark incorporating the term BOMBERS or BOMBER (hereinafter

"Subject Product/Service") in the United States or in commerce with the United States, and for each Subject Product/Service for which use has been made, identify:

- (a) The date of first use of such mark;
- (b) The date of first use of such mark in commerce;
- (c) The period of time during which such Subject Product/Service was or is being distributed or sold;
- (d) The geographic area(s) in which such Subject Product/Service was or is being distributed or sold;
- (e) The annual volume of sales for each year to the present, both by dollar amount and units, for such Subject Product/Service;
- (f) Any other revenues, including but not limited to any licensing revenues that Applicant has received in connection with such Subject Product/Service;
- (g) The retail and wholesale price for such Subject Product/Service for each year to the present; and
- (h) The channels of trade (e.g., types of retail stores, catalogs, mail order, Internet, promotional sales, private sales, etc.) through which such Subject Product/Service was or is being distributed or sold to the ultimate purchaser, consumer or user.

Interrogatory No. 3

State whether Applicant has ever displayed or offered Subject Products/Services at any trade shows, conventions, expositions or conferences, or circulated promotional materials (including, but not limited to, inventory lists, line lists, style sheets, price sheets and catalogs)

concerning Subject Products/Services to the public, retailers, distributors or wholesalers in the United States or in commerce with the United States, and, if so, identify:

- (a) The date and location of each such show; and
- (b) The recipients and date of receipt of such promotional materials.

Interrogatory No. 4

Identify any persons or entities that have ever authorized, licensed, granted or otherwise conveyed to Applicant the right to use Applicant's Mark or any other mark incorporating the word BOMBERS or BOMBER, or to sell Subject Products/Services in the United States or in commerce with the United States, and for each such person or entity, identify:

- (a) The date when such right was authorized, licensed, granted or otherwise conveyed;
- (b) Whether such authorization, license, grant or conveyance was in writing or oral; and
- (c) The material terms under which such authorization, license, grant or conveyance were made, including, but not limited to, the financial terms governing such transaction.

Interrogatory No. 5

Identify any persons or entities Applicant has authorized, licensed, granted or otherwise conveyed the right to use Applicant's Mark or any other mark incorporating the word BOMBERS or BOMBER, or to sell Subject Products/Services in the United States or in commerce with the United States, and for each such person or entity, identify:

- (a) The date when such right was authorized, licensed, granted or otherwise conveyed;
- (b) Whether such authorization, license, grant or conveyance was in writing or oral; and
- (c) The material terms under which such authorization, license, grant or conveyance were made, including, but not limited to, the financial terms governing such transaction.

Interrogatory No. 7

Identify each third party vendor or manufacturer who supplied Applicant with any of the Subject Products or their packaging, labels and hangtags, and for each such vendor or supplier, identify:

- (a) The type or nature of material provided; and
- (b) The dates on which such material was provided.

Interrogatory No. 9

Identify each advertisement or promotional piece concerning Applicant's Mark or any other mark incorporating the word BOMBERS or BOMBER, or Subject Products/Services, and for each such advertisement or promotional piece, identify:

- (a) The dates on which it was published, broadcast, distributed or displayed;
- (b) The geographic areas in which it was published, broadcast, distributed, or displayed;
- (c) The media, publication or other venue in which it was published, broadcast, distributed or displayed; and
- (d) Any outside companies or agencies involved in creating or distributing such advertising or promotional piece.

INTERROGATORIES

Interrogatory No. 2

Identify each product or service on or in connection with which Applicant (or any person or entity authorized by Applicant) has used, is using or intends to use Applicant's mark or any other mark incorporating the term BOMBERS or BOMBER (hereinafter "Subject Product/Service") in the United States or in commerce with the United States, and for each Subject Product/Service for which use has been made, identify:

- (a) The date of first use of such mark;
- (b) The date of first use of such mark in commerce;
- (c) The period of time during which such Subject Product/Service was or is being distributed or sold;

(d) The geographic area(s) in which such Subject Product/Service was or is being distributed or sold;

(e) The annual volume of sales for each year to the present, both by dollar amount and units, for such Subject Product/Service;

(f) Any other revenues, including but not limited to any licensing revenues that Applicant has received in connection with such Subject Product/Service;

(g) The retail and wholesale price for such Subject Product/Service for each year to the present; and

(h) The channels of trade (e.g., types of retail stores, catalogs, mail order, Internet, promotional sales, private sales, etc.) through which such Subject Product/Service was or is being distributed or sold to the ultimate purchaser, consumer or user.

Response:

The goods are set forth in the Application Serial No. 76/288,971; there has been no use.

Interrogatory No. 3

State whether Applicant has ever displayed or offered Subject Products/Services at any trade shows, conventions, expositions or conferences, or circulated promotional materials (including, but not limited to, inventory lists, line lists, style sheets, price sheets and catalogs concerning Subject Products/Services to the public, retailers, distributors or wholesalers in the United States or in commerce with the United States, and, if so, identify:

- (a) The date and location of each such show; and
- (b) The recipients and date of receipt of such promotional materials:

Response:

No.

Interrogatory No. 4

Identify any personas or entities that have ever authorized, licensed, granted or otherwise conveyed to Applicant the right to use Applicant's Mark or any other mark incorporating the word BOMBERS or BOMBER, or to sell Subject Products/Services in the United States or in commerce with the United States, and for each such person or entity, identify:

- (a) The date when such right was authorized, licensed, grant or otherwise conveyed;
- (b) Whether such authorization, license, grant or conveyance was in writing or oral; and
- (c) The material terms under which such authorization, license, grant or conveyance were made, including, but not limited to, the financial terms governing such transaction.

Response:

None.

Interrogatory No. 5

Identify any persons or entities Applicant has authorized, licensed, granted or otherwise conveyed the right to use Applicant's Mark or any other mark incorporating the word BOMBERS or BOMBER, or to sell Subject Products/Services in the United States or in commerce with the United States, and for each such person or entity, identify:

- (a) The date when such right was authorized, licensed, granted or otherwise conveyed;
- (b) Whether such authorization, license, grant or conveyance was in writing or oral; and
- (c) The material terms under which such authorization, license, grant or conveyance were made, including, but not limited to, the financial terms governing such transaction.

Response:

None.

Interrogatory No. 7

Identify each third party vendor or manufacturer who supplied Applicant with any of the Subject Products or their packaging, labels and hangtags, and for each such vendor or supplier, identify:

- (a) The type or nature of material provided; and
- (b) The dates on which such material was provided.

Response:

N/A.

Interrogatory No. 9

Identify each advertisement or promotional piece concerning Applicant's Mark or any other mark incorporating the word BOMBERS or BOMBER, or Subject Products/Services, and for each such advertisement or promotional piece, identify:

- (a) The dates on which it was published, broadcast, distributed or displayed;
- (b) The geographic areas in which it was published, broadcast, distributed, or displayed;
- (c) The media, publication or other venue in which it was published, broadcast, distributed or displayed; and
- (d) Any outside companies or agencies involved in creating or distributing such advertising or promotional piece.

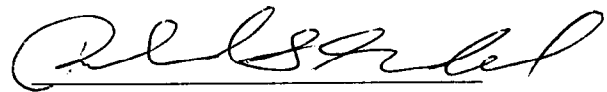
Response:

None.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing OPPOSERS' SECOND NOTICE OF RELIANCE PURSUANT TO TRADEMARK RULE 2.120(j) to be served on May 13, 2004 upon Applicant by first class mail, postage prepaid to Applicant's counsel of record at the following address:

Seth Natter, Esq.
Natter & Natter
25 West 43rd Street
New York, New York 10036



Richard S. Mandel