


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

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NEW YORK YANKEES PARTNERSHIP
and STATEN ISLAND MINOR LEAGUE
HOLDINGS, L.L.C.,


01-22-2004

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

Opposers,

Opposition No. 91156780

v.

LEON P. HART,

Applicant.

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APPLICANT'S RESPONSE TO MOTION TO AMEND

Applicant, by his attorneys, hereby responds to Opposers' Motion to Amend.

The motion should be denied for the reason that it is tardy, dilatory in nature, and prejudicial.

Opposer had knowledge of the alleged lack of documentary evidence regarding Applicant's intent to use long prior to the December 18th deposition of Applicant.

See, for example, Applicant's response to the Opposers' Interrogatories and Production Requests, served August 8, 2003, a copy of which is attached to Opposers' Motion to Amend as Exhibit B.

Of salient significance are Production Requests Nos. 20, 21 and 22 and Applicant's Responses:

Request No. 20

All documents concerning or reflecting Applicant's bona fide intent to use Applicant's Mark prior to July 23, 2001, including but not limited to any business plans, marketing plans or other documents concerning the potential exploitation of Applicant's Mark.

Response:

Application Serial No. 76/288971.

Request No. 21

All documents concerning or reflecting Applicant's bona fide intent to use Applicant's Mark on or after July 23, 2001, including but not limited to any business plans, marketing plans or other documents concerning the potential exploitation of Applicant's Mark.

Response:

Application Serial No. 76/288,971.

Request No. 22

All documents concerning any steps or actions taken by or on

behalf of Applicant to use Applicant's Mark in the United States or
in commerce with the United States.

Response:

None.

Opposers' delay was greater than the five months between receipt of the foregoing responses and the present motion.

Indeed, Opposers' co-counsel, Deborah K. Squires, raised the question of Applicant's alleged apparent lack of bona fide intent-to-use during telephone discussions prior to filing the opposition, based upon our responses to her questions concerning Applicant's activities regarding the mark.


The delay in presenting the issue of bona fide intent-to-use was far more than the two weeks between December 18, 2003 and the January 2, 2004 service of the motion or the five months between Applicant's discovery Responses and the Motion, the allegations should have been presented in the original Notice of Opposition, filed June 11, 2003.

Applicant will be prejudiced if the present motion is granted. Discovery has closed, Opposers seek to have the testimony periods reset by virtue of their present motion; continued

delays in this Opposition serve only to further prolong issuance of a Notice of Allowance and eventual registration of Applicant's mark.

Dated: New York, New York
January 20, 2004

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By 
Seth Natter

CERTIFICATE OF SERVICE

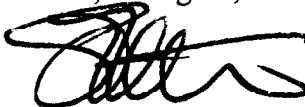
I hereby certify that the foregoing **APPLICANT'S OPPOSITION TO MOTION TO AMEND** is being mailed first-class mail, postage prepaid, to Richard S. Mandel, Esq., Attorney for Opposers, Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, NY 10036 on January 20, 2004.



Seth Natter

CERTIFICATE OF MAILING

It is hereby certified that a the foregoing paper is being deposited with the United States Postal Service in a post paid wrapper addressed as follows: BOX TTAB – NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on January 20, 2004.



Seth Natter