


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. :  
-----X

Opposition No. 91156780

  
03-19-2004  
U.S. Patent & TMO/TM Mail Rcpt Dt

**STIPULATED PROTECTIVE ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, that:

1. Any party, or non-party, that produces information in connection with this case orally during testimony at depositions, in writing or through the production of documents or otherwise during the opposition proceeding which it reasonably believes in good faith to be confidential or highly confidential in nature may designate such information for protection under this order, and the information so designated ("Protected Material") shall thereafter be subject to the provisions of this Stipulated Protective Order.

2. Protected Material shall be designated by the party producing it as either "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEY’S EYES ONLY" at the time that a response to discovery is made by placing or affixing a "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEY’S EYES ONLY" notice in writing on documents containing such Protected

Material, except that in the case of depositions, the party's counsel wishing to designate portions of a deposition as containing Protected Material may do so by making an appropriate statement at the time of the giving of such testimony, or by notifying opposing counsel in writing upon subsequent review of the transcript. Any designation of Protected Material which is inadvertently omitted during document production may be corrected by written notification to opposing counsel, and such documents shall thereafter be treated as Protected Material in accordance with the provisions of this Stipulated Protective Order.

3. Protected Material classified CONFIDENTIAL under paragraph 2 may be disclosed only to the following persons, except upon the prior written consent of the designating party or upon order of the Trademark Trial and Appeal Board (the "Board").

(a) outside counsel of record and in-house counsel for New York Yankees Partnership and for Major League Baseball Properties, Inc., and the necessary clerical and legal support personnel employed by such counsel;

(b) the Board and its employees;

(c) Applicant Leon Hart and employees of Opposers and Major League Baseball Properties, Inc. who are participating in the opposition proceeding;

(d) witnesses during the course of their depositions, provided that the witness agrees in writing to be bound by this Stipulated Protective Order by executing a copy of the declaration attached hereto as Exhibit A. Such witness shall not be permitted to retain possession of any Protected Material following completion of his or her deposition; and

(e) independent consultants and experts retained by counsel of record to assist in connection with this action subject to the provisions contained in paragraph 6 of this Stipulated Protective Order.

4. Protected material classified CONFIDENTIAL – ATTORNEY’S EYES

ONLY under paragraph 2 may not be disclosed by any person to anyone other than:

(a) the Board and its employees; and

(b) outside counsel of record and in-house counsel for New York Yankees Partnership and for Major League Baseball Properties, Inc., and the necessary clerical and legal support personnel employed by such counsel.

5. Counsel of record for the receiving party shall provide to counsel of record for the producing party copies of all non-disclosure agreements (Exhibit A) executed pursuant to this Stipulated Protective Order.

6. All Protected Material disclosed in this case shall be used by the counsel, authorized retained outside experts or consultants, if any, and any other reviewing party only for the purposes of prosecuting or defending this opposition and not for any business or other purpose whatsoever, including for their own use or for the use of their clients. All transcripts or documents containing Protected Material shall be returned to the producing party promptly upon the conclusion of this litigation.

7. CONFIDENTIAL and CONFIDENTIAL – ATTORNEY’S EYES ONLY material shall be stored under the direct control of outside counsel for a party, who shall be responsible for preventing any disclosure thereof except in accordance with the terms of this Stipulation.

8. No CONFIDENTIAL or CONFIDENTIAL – ATTORNEY’S EYES ONLY material shall be filed in the public record of this matter. All information subject to CONFIDENTIAL or CONFIDENTIAL – ATTORNEY’S EYES ONLY treatment in accordance with the terms of this Stipulation and Order that is filed with the Board, and any

pleadings, motions or other papers filed with the Board disclosing any CONFIDENTIAL or CONFIDENTIAL – ATTORNEY’S EYES ONLY information, shall be filed under seal.

Where possible, only CONFIDENTIAL or CONFIDENTIAL – ATTORNEY’S EYES ONLY portions of filings with the Board shall be filed under seal.

9. A party which designates information as Protected Material shall have a reasonable basis for believing, in good faith, that the information requested is confidential, proprietary or commercial information upon which restrictions to access should be imposed before that party designates the information as Protected Material. In the event that a receiving party shall at any time disagree with the designation by the producing party of any information as Protected Material, then the parties will first try, in good faith, to resolve such dispute on an informal basis before presenting the dispute to the Board by motion or otherwise. The Board may then determine whether the information should be considered Protected Material and, if so, may rule on what restrictions to access or disclosure should be imposed, if any. No party shall be obligated to challenge the propriety of the designation of Protected Material at the time of production, and a failure to do so shall not preclude a subsequent challenge as to the propriety of such designation.

10. This Stipulated Protective Order is without prejudice to the right of any party to seek relief from or modification of any provision contained in it after notice to the other party. This Stipulated Protective Order is without prejudice to the right of any party to move for a separate protective order relating to any particular document or information, including restrictions different from those specified herein, and/or to present other appropriate motions.

11. The restrictions set forth in any of the preceding paragraphs shall not apply to information or material that:

(a) was, is or becomes public knowledge, not in violation of this Stipulated Protective Order;


(b) is acquired by the non-designating party from a third party having the right to disclose such information or material; or

(c) was lawfully possessed by the non-designating party prior to the entry by the Board of this Order.

12. The parties agree to submit this Stipulated Protective Order for entry by the Board and to be bound by its terms prior and subsequent to entry by the Board.

Dated: 3/17/04

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

By: 

Richard S. Mandel, Esq.  
1133 Avenue of the Americas  
New York, New York 10036-6799  
(212) 790-9200

Dated: 3/15/2004

NATTER & NATTER  
Attorneys for Applicant

By: 

Seth Natter  
25 West 43<sup>rd</sup> Street  
New York, New York 10036-7469  
(212) 840-8300

SO ORDERED this \_\_\_\_\_  
day of \_\_\_\_\_

\_\_\_\_\_  
T.T.A.B.

Ref. No. 21307-33

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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	:
Opposers,	:
v.	:
	:
LEON P. HART,	:
	:
Applicant.	:
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**NON-DISCLOSURE AGREEMENT**

I, \_\_\_\_\_, hereby acknowledge that I have read the Stipulated Protective Order entered in the above-entitled opposition and will not directly or indirectly, use or allow use for any purpose or disclose to any person for any purpose, any "CONFIDENTIAL" information or documents covered by the aforesaid Order except as provided in said Order and not for any business or other purpose whatsoever, and I hereby agree to be bound by the terms of said Order.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Firm or Affiliation:

ttab

# Cowan, Liebowitz & Latman, P.C.

LAW OFFICES

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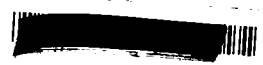
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March 19, 2004

## By Express Mail

Commissioner for Trademarks  
BOX TTAB NO FEE  
2900 Crystal Drive  
Arlington, VA 22202-3514



03-19-2004  
U.S. Patent & TMO/TM Mail Rpt Dt


Re: New York Yankees Partnership and Staten Island Minor League Holdings,  
L.L.C. v. Leon P. Hart, Opp. No. 91156780

Dear Sir/Madam:

We represent Opposers New York Yankees Partnership and Staten Island Minor League Holdings, L.L.C. ("Opposers").

We enclose for approval by the Board, an original Stipulated Protective Order, executed by counsel of record on behalf of the respective parties to the above-referenced opposition proceeding.

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

By:   
Richard S. Mandel

cc: Seth Natter, Esq. (w/ enc.) (by First Class Mail)  
NATTER & NATTER  
Attorneys for Applicant