

ESTTA Tracking number: **ESTTA69927**

Filing date: **03/08/2006**

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

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	NFL Properties LLC
Granted to Date of previous extension	03/12/2006
Address	280 Park Avenue New York, NY 10017 UNITED STATES

Name	Dallas Cowboys Football Club, Ltd.
Granted to Date of previous extension	03/12/2006
Address	One Cowboys Parkway Irving, TX 75063 UNITED STATES

Attorney information	Kevin G. Smith Sughrue Mion, PLLC 2100 Pennsylvania Avenue Suite 800 Washington, DC 20037-3213 UNITED STATES ksmith@sughrue.com, vmullineaux@sughrue.com, hchae@sughrue.com Phone:202-293-7060
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Applicant Information

Application No	78362837	Publication date	09/13/2005
Opposition Filing Date	03/08/2006	Opposition Period Ends	03/12/2006
Applicant	America's Team Properties, Inc. 20855 Kensington Boulevard Lakeville, MN 55044 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Dairy-based beverages and milk

Related Proceedings	U.S. Opposition No. 91164925 and U.S. Opposition No. 91169546
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Attachments	78362837 opposition.pdf (5 pages)
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Signature	/Kevin G. Smith/
Name	Kevin G. Smith
Date	03/08/2006

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

In re Application Serial No. 78/362,837
Mark: AMERICA'S TEAM
Filed: February 5, 2004
Published in the Official Gazette of September 13, 2005

Dallas Cowboys Football Club, Ltd.
and NFL Properties LLC,

Opposers,

v.

America's Team Properties, Inc.,

Applicant.

Opposition No.: _____

Commissioner for Trademarks
P. O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposers, Dallas Cowboys Football Club, Ltd. and NFL Properties LLC, believe they will be damaged by registration of the mark AMERICA'S TEAM as shown in the above identified application and hereby oppose the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for this opposition, Opposers allege that:

1. Opposer Dallas Cowboys Football Club, Ltd. (the "Cowboys" or "Cowboys Club"), a limited partnership organized and existing under the laws of the State of Texas, with its principal place of business located at One Cowboys Parkway, Irving, Texas 75063, owns and operates a professional football team, the Dallas Cowboys, providing entertainment services to the public in the form of competitive professional football games. The

Cowboys Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”), a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 280 Park Avenue, New York, New York 10017, has been licensed by the NFL and the Cowboys Club to use their respective trademarks for commercial purposes, to promote the NFL and its Member Clubs, and to protect their trademarks.
3. For many years, and long before February 5, 2004, the filing date of the intent to use application herein opposed, Opposers have adopted and used the mark AMERICA’S TEAM in connection with their business of organizing, conducting and promoting the activities of the Cowboys professional football franchise.
4. For many years, and long before February 5, 2004, the filing of the intent to use application herein opposed, Opposers and their authorized business partners, sponsors and/or licensees have used the mark AMERICA’S TEAM on or in connection with the sale of a wide variety of goods and services.
5. During their long, widespread and continuous use of the mark AMERICA’S TEAM, Opposers and their authorized business partners, sponsors and licensees have expended considerable time, effort and money in advertising and publicizing the sale of goods and services bearing the AMERICA’S TEAM trademark.
6. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the AMERICA’S TEAM trademark in a trading area of broad geographical scope encompassing, inter alia, all of the states and territories of the United States.
7. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the AMERICA’S TEAM trademark in numerous channels of trade.

8. For many years, and long before February 5, 2004, the filing date of the intent to use application herein opposed, the print and broadcast media and the general public have used the AMERICA'S TEAM mark in connection with the Cowboys Club. Such use by the media and the public inures exclusively to the benefit of Opposers.
9. Opposers' widespread use of the AMERICA'S TEAM trademark on a variety of goods and services, Opposers' extensive advertising and publicity of such goods and services and the use by the media of the mark AMERICA'S TEAM when referring to the Cowboys Club have contributed to the powerful consumer association between the AMERICA'S TEAM trademark and Opposers.
10. Opposers' mark AMERICA'S TEAM has a high degree of distinctiveness due to the duration and extent of Opposers' use, advertising and publicity.
11. Opposer's widespread use of the AMERICA'S TEAM mark on a variety of goods and services, Opposer's extensive advertising and publicity of such goods and services and the use by the media of Opposers' AMERICA'S TEAM mark when referring the Cowboys Club have created and established significant common law rights. Such rights inure exclusively to the benefit of Opposers by virtue of the consumer association between Opposers and the AMERICA'S TEAM trademark.
12. By the application herein opposed, Applicant seeks to register the AMERICA'S TEAM trademark. The application was filed on the basis of Applicant's alleged intent to use the AMERICA'S TEAM trademark on or in association with dairy-based beverages and milk, in International Class 29.
13. Opposers have ongoing business arrangements, sponsorship arrangements and/or licenses in the fields related to the goods of Applicant.
14. Applicant filed the intent to use application for Applicant's alleged AMERICA'S TEAM trademark on February 5, 2004, decades after Opposers started using the

AMERICA'S TEAM trademark and long after Opposer had acquired significant fame, recognition and common law rights for a variety of goods and services.

15. Opposers will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposers.
16. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. Section 1052(a), on the grounds that Applicant's use of its alleged AMERICA'S TEAM mark will false suggest a connection between Applicant and Opposers named herein to the damage of Opposers.
17. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. Section 1052(d), on the grounds that Applicant's alleged AMERICA'S TEAM mark so closely resembles Opposers' AMERICA'S TEAM trademark used consistently by Opposers in the United States, as to be likely, when used on or in connection with the goods identified in the application, to cause confusion, or to cause mistake, or to deceive with subsequent injury to Opposers and to the public.
18. Registration should be refused on the grounds that Applicant had no bona fide intent to use the mark AMERICA'S TEAM on or in association with dairy-based beverages and milk as of February 5, 2004, the filing date of the intent to use application herein opposed.
19. Registration should be refused on the grounds that the application was void *ab initio* based on applicant's lack of bona fide intent to use the AMERICA'S TEAM mark on or in association with dairy-based beverages and milk as of February 5, 2004 (the filing date of the application herein opposed).

WHEREFORE, Opposers believe they will be damaged by the registration of Applicant's alleged AMERICA'S TEAM mark for the goods identified in Application Serial No. 78/362,837 and respectfully request that the opposition be sustained and registration of said mark be denied.

CORRESPONDENCE ADDRESS

Please recognize the firm of SUGHRUE MION, PLLC, at 2100 Pennsylvania Avenue, N.W., Washington, D.C. 20037-3213, Telephone No. (202) 293-7060, and Kevin G. Smith, Jody H. Drake, and Gary D. Krugman of that firm, as attorneys for opposer in all matters related to the above proceeding. All correspondence should be directed to the attention of the undersigned at the above address.

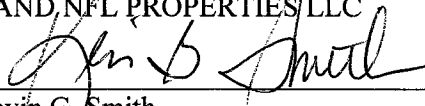
PAYMENT OF FILING FEE

Submitted with this e-filing is authorization to debit the Deposit Acct. of the undersigned, No. 19-4880, in the amount of the government filing fee for this Notice of Opposition, believed to be \$600.00.

Respectfully submitted,

DALLAS COWBOYS FOOTBALL CLUB, LTD.
AND NFL PROPERTIES LLC

By:



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Attorneys for Opposers

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Dated: March 8, 2006