

ESTTA Tracking number: **ESTTA71119**

Filing date: **03/15/2006**

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 party opposes registration of the indicated application.

Opposer Information

Name	Major League Baseball Players Association
Granted to Date of previous extension	03/15/2006
Address	12 East 49th Street New York, NY 10017 UNITED STATES

Attorney information	Richard Stitt Shughart Thomson Kilroy, P.C. 120 West 12th Street Suite 1800 Kansas City, MO 64105 UNITED STATES officeactions@stklaw.com Phone:816-421-3355
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Applicant Information

Application No	78568141	Publication date	11/15/2005
Opposition Filing Date	03/15/2006	Opposition Period Ends	03/15/2006
Applicant	Miliante, James, F 37 gilroy street staten island, NY 10309 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and sevicees in the class are opposed, namely: fundraising for schools, churches and other organizations
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Attachments	Notice of Oppo. Players Edge.pdf (13 pages)
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Signature	/Richard P. Stitt/
Name	Richard Stitt
Date	03/15/2006

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

In re Application Serial No. 78/568,141
For the mark: PLAYERS EDGE
Published in the Official Gazette: November 15, 2005, at TM 841

Major League Baseball Players Association)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
James Miliante)	
)	
Applicant.)	

NOTICE OF OPPOSITION

The Major League Baseball Players Association ("Opposer"), an unincorporated association under the laws of the state of New York, located and doing business at 12 East 49th Street, New York, New York, 10017, believes it will be damaged by the registration of the mark shown in Application Serial No. 76/627,732 in International Class 36 and hereby opposes the same.

As grounds for this opposition, it is alleged that:

1. Opposer, Major League Baseball Players Association, is an unincorporated association under the laws of the state of New York, located and doing business at 12 East 49th Street, New York, New York, 10017.

2. Upon information and belief, Applicant James Miliante, ("Applicant") is an individual having an address of 37 Gilroy Street, Staten Island, New York., 10309.

3. Applicant seeks to register the mark PLAYERS EDGE in International Class 36, for at least, fundraising for schools, churches and other organizations as evidenced by the publication of said mark in the *Official Gazette* of November 15, 2005 at page TM 841.

4. Per a request for extension of time, the date by which a Notice of Opposition is permitted is March 15, 2006.

5. Opposer is the owner of a family of trademarks containing the PLAYERS formative with and without design, and Opposer has used its PLAYERS marks in connection with a variety of goods and services including the following goods and services:

- a. PLAYERS TRUST FOR CHILDREN, U.S. Reg. No. 2,489,636 registered September 11, 2001 for charitable fund-raising services to benefit children in Class 36 (Exhibit A).
- b. MLB PLAYERS CHOICE (and Design), U.S. Reg. No. 2,553,756 registered March 26, 2002 for trading cards, stickers, posters, decals, postcards, calendars, mounted and unmounted photos, book covers, paper pennants, stationery-type portfolios, magazines in the field of sports and sports trading cards in Class 16 and for T-shirts, sweatshirts, shorts, jerseys, caps, hats and sports shirts in Class 25 and for baseballs, video game cartridges, computer game programs, board games, action figures, dolls, stuffed toys, and hand-held units for playing video games in Class 28 (Exhibit B).
- c. THE PLAYERS CLUBHOUSE, U.S. Reg. No. 2,978,550 registered July 26, 2005 for retail outlets featuring trading cards, stickers, posters, decals, postcards, calendars, photographs, book covers, pennants, clothing, baseballs, action figures, dolls, stuffed toys, computer game programs, souvenirs items, collectables, metals and coins, in Class 35 (Exhibit C).

- d. PLAYERS CHOICE, U.S. Reg. No. 2,847,672 registered June 1, 2004 for clothes, namely, T-shirts, sweatshirts, sweatpants, pants, tank tops, shorts, jerseys, warm-up suits, jackets and sports shirts; namely, shoes; and head gear, namely, caps and hats in Class 25 (Exhibit D).
- e. PLAYERS CHOICE, U.S. Reg. No. 2,537,150 registered February 5, 2002 for trading cards, stickers, posters, decals, postcards, calendars, mounted and unmounted photographs, book covers, paper pennants, stationery-type portfolios, magazines in the field of sports, and sports trading cards in Class 16 (Exhibit E).
- f. PLAYERS CHOICE, U.S. Reg. No. 2,929,068 registered March 1, 2005 for video game programs related to baseball, computer game programs related to baseball, in class 9 and for baseballs, hand-held units for playing video games related to baseball, hand-held units for playing electronic games related to baseball, card games related to baseball, board games related to baseball, action figures, dolls, stuffed toys, and jigsaw puzzles in Class 28 (Exhibit F)
- g. MLB PLAYERS CHOICE (and Design), U.S. Reg. No. 2,573,984 registered May 28, 2002 for jackets, tank tops and wrist bands, in Class 25. (Exhibit G)

6. Due to Opposer's extensive promotion, advertising and sale of goods and services under the marks identified in paragraphs 5a thru 5g , Opposer's marks have become well known and are closely and uniquely associated with Opposer and the goods and services it offers.

7. By virtue of Opposer's efforts and expenditures, and by virtue of the quality of the Opposer's goods, Opposer's PLAYERS Marks have valuable reputations and considerable goodwill.

8. Opposer's use of its PLAYERS Marks pre-dates Applicant's filing of PLAYERS EDGE application Serial No. 78/567,141 or Applicant's use of PLAYERS EDGE mark.

9. Opposer believes that use and registration of Applicant's PLAYERS EDGE mark in the manner suggested would damage Opposer for the following reasons:

- a. Persons would be confused into believing that the mark is used in reference to Opposer's services and goods rather than those of Applicant;
- b. Applicant's use and registration of PLAYERS EDGE mark in the manner suggested would misrepresent the source of the services;
- c. Granting of the registration to Applicant will cause confusion and mistake, and deceive consumers as to the source or association of PLAYERS EDGE mark;
- d. Applicant's mark is confusingly similar to Opposer's use of its PLAYERS Marks and in particular with Opposer's PLAYERS TRUST FOR CHILDREN mark and the services provided thereunder; and
- e. Registration of Applicant's mark will dilute the distinctive quality of Opposer's PLAYERS Marks and in particular Opposer's PLAYERS TRUST FOR CHILDREN mark.

10. By reason of the foregoing, Applicant is not entitled to registration under Sections 2 and 13 of the Lanham Act, 15 U.S.C. §§ 1052 and 1063, and Opposer would be damaged by said registration.

WHEREFORE, Opposer believes that it would be seriously damaged by said registration and respectfully request that the Trademark Trial and Appeal Board sustain this Notice of Opposition to Application Serial No. 78/568,141 and deny registration of the mark PLAYERS EDGE for the following reasons:

- a. Persons would be confused into believing that the mark is used in reference to Opposer's goods and services rather than those of applicant;

- b. Applicant's use and registration of the mark in the manner suggested misrepresents the source of the goods;
- c. Granting of the registration to applicant will cause confusion, mistake and deceive consumers as to the source or association of the marks;
- d. Granting of the registration to applicant will be confusingly similar to Opposer's use of its PLAYERS Marks in connection with its baseball goods and services; and
- e. Granting of the registration to applicant will result in applicant taking advantage of the false association with opposer.


Respectfully submitted,

MAJOR LEAGUE BASEBALL PLAYERS ASSN.
Opposer

By: SHUGHART, THOMSON & KILROY, P.C.

Dated: March 15, 2006


By:


Richard P. Stitt
Jason Parks
Twelve Wyandotte Plaza
120 W. 12th Street
Kansas City, Missouri 64105
(816) 421-3355 Telephone
(816) 374-0509 Facsimile

ATTORNEYS FOR OPPOSER

CERTIFICATE OF ESTTA FILING

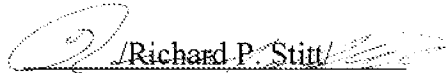
I hereby certify that a copy of the foregoing paper was filed electronically with the Trademark Trial and Appeal Board via the ESTTA on March 15, 2006.


Richard P. Stitt
Richard P. Stitt

CERTIFICATE OF MAIL SERVICE

I hereby certify that the foregoing pleading is being deposited with the U.S. Postal Service by First Class Mail on March 15, 2006 in an envelope addressed to:

Mr. James Miliante,
37 Gilroy Street,
Staten Island, New York., 10309
Applicant


Richard P. Stitt
Richard P. Stitt

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,489,636

Registered Sep. 11, 2001

**SERVICE MARK
SUPPLEMENTAL REGISTER**

PLAYERS TRUST FOR CHILDREN

MAJOR LEAGUE BASEBALL PLAYERS ASSO-
CIATION (NEW YORK UNINCORPORATED
ASSOCIATION)
12 EAST 49TH STREET
NEW YORK, NY 10017

FOR: CHARITABLE FUND-RAISING SERVICES
TO BENEFIT CHILDREN, IN CLASS 36 (U.S. CLS.
100, 101 AND 102).

FIRST USE 10-15-1996; IN COMMERCE 10-15-1996.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "TRUST", APART FROM THE
MARK AS SHOWN.

SER. NO. 75-919,395, FILED P.R. 2-15-2000; AM. S.R.
2-6-2001.

DOUGLAS LEE, EXAMINING ATTORNEY

Int. Cls.: 16, 25 and 28

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, 39 and 50

Reg. No. 2,553,756

United States Patent and Trademark Office

Registered Mar. 26, 2002

Corrected

OG Date Feb. 25, 2003

TRADEMARK
PRINCIPAL REGISTER



MAJOR LEAGUE BASEBALL PLAYERS
ASSOCIATION (NEW YORK UNINC.
ASSOCIATION)
12 EAST 49TH STREET
NEW YORK, NY 10017

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "MLB", APART
FROM THE MARK AS SHOWN.

FOR: TRADING CARDS, STICKERS,
POSTERS, DECALS, POST CARDS, CA-
LENDARS, MOUNTED AND UN-
MOUNTED PHOTOS, BOOK COVERS,
PAPER PENNANTS, STATIONERY-TYPE
PORTFOLIOS, MAGAZINES IN THE
FIELD OF SPORTS AND SPORTS TRAD-
ING CARDS, IN CLASS 16 (U.S. CLS. 2, 5,
22, 23, 29, 37, 38 AND 50).

FIRST USE 12-0-1996; IN COMMERCE
12-0-1996.

FOR: T-SHIRTS, SWEATSHIRTS,
SHORTS, JERSEYS, CAPS, HATS AND
SPORT SHIRTS, IN CLASS 25 (U.S. CLS.
22 AND 39).

FIRST USE 2-14-1997; IN COMMERCE
2-14-1997.

FOR: BASEBALLS, VIDEO GAME
CARTRIDGES, COMPUTER GAME PRO-
GRAMS, BOARD GAMES, ACTIONS FIG-
URES, DOLLS, STUFFED TOYS, AND
HAND HELD UNIT FOR PLAYING VI-
DEO GAMES, IN CLASS 28 (U.S. CLS. 22,
23, 38 AND 50).

FIRST USE 9-9-1996; IN COMMERCE
9-9-1996.

SER. NO. 75-981,305, FILED 7-3-1996.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Feb. 25, 2003.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Exhibit B

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,978,550

Registered July 26, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

THE PLAYERS CLUBHOUSE

MAJOR LEAGUE BASEBALL PLAYERS ASSO-
CIATION (NEW YORK UNINCORPORATED
ASSOCIATION)

12 EAST 49TH STREET
NEW YORK, NY 10017

FOR: RETAIL OUTLETS FEATURING TRADING
CARDS, STICKERS, POSTERS, DECALS, POST
CARDS, CALENDARS, PHOTOGRAPHS, BOOK
COVERS, PENNANTS, CLOTHING, BASEBALLS,
ACTION FIGURES, DOLLS, STUFFED TOYS, COM-
PUTER GAME PROGRAMS, SOUVENIR ITEMS,

COLLECTABLES, MEDALS AND COINS, IN CLASS
35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-19-2005; IN COMMERCE 5-19-2005.

OWNER OF U.S. REG. NOS. 2,501,504, 2,573,984,
AND OTHERS.

SN 78-217,031, FILED 2-20-2003.

ESTHER BELENKER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,847,672

Registered June 1, 2004

**TRADEMARK
PRINCIPAL REGISTER**

PLAYERS CHOICE

MAJOR LEAGUE BASEBALL PLAYERS ASSO-
CIATION (NEW YORK UNINC. ASSOCIA-
TION)
12 E. 49TH STREET
NEW YORK, NY 10017

FOR: CLOTHES; NAMELY, T-SHIRTS, SWEAT-
SHIRTS, SWEATPANTS, PANTS, TANK TOPS,
SHORTS, JERSEYS, WARM-UP SUITS, JACKETS,
AND SPORT SHIRTS; NAMELY, SHOES; AND

HEADGEAR; NAMELY CAPS AND HATS, IN
CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 7-1-2003; IN COMMERCE 7-1-2003.

SN 75-824,500, FILED 10-18-1999.

HENRY S. ZAK, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50

United States Patent and Trademark Office

Reg. No. 2,537,150

Registered Feb. 5, 2002

**TRADEMARK
PRINCIPAL REGISTER**

PLAYERS CHOICE

MAJOR LEAGUE BASEBALL PLAYERS ASSO-
CIATION (NEW YORK UNINCORPORATED
ASSOCIATION)
12 E. 49TH STREET
NEW YORK, NY 10017

FOR: TRADING CARDS, STICKERS, POSTERS,
DECALS, POST CARDS, CALENDARS, MOUNTED
AND UNMOUNTED PHOTOGRAPHS, BOOK COV-
ERS, PAPER PENNANTS, STATIONARY TYPE

PORTFOLIOS, MAGAZINES IN THE FIELD OF
SPORTS AND SPORTS TRADING CARDS, IN CLASS
16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 12-0-1996; IN COMMERCE 12-0-1996.

SN 75-824,489, FILED 10-18-1999.

BRETT TOLPIN, EXAMINING ATTORNEY

Int. Cls.: 9 and 28

Prior U.S. Cls.: 21, 22, 23, 26, 36, 38, and 50

Reg. No. 2,929,068

United States Patent and Trademark Office Registered Mar. 1, 2005

TRADEMARK
PRINCIPAL REGISTER

PLAYERS CHOICE

MAJOR LEAGUE BASEBALL PLAYERS ASSO-
CIATION (NEW YORK UNINC. ASSOCIA-
TION)
12 E. 49TH STREET
NEW YORK, NY 10017

FOR: VIDEO GAME PROGRAMS RELATED TO
BASEBALL, COMPUTER GAME PROGRAMS RE-
LATED TO BASEBALL, IN CLASS 9 (U.S. CLS. 21, 23,
26, 36 AND 38).

FIRST USE 8-1-2004; IN COMMERCE 8-1-2004.

FOR: BASEBALLS, HANDHELD UNITS FOR
PLAYING VIDEO GAMES RELATED TO BASE-

BALL, HANDHELD UNITS FOR PLAYING ELEC-
TRONIC GAMES RELATED TO BASEBALL, CARD
GAMES RELATED TO BASEBALL, BOARD GAMES
RELATED TO BASEBALL, ACTION FIGURES,
DOLLS, STUFFED TOYS, JIGSAW PUZZLES, IN
CLASS 28 (U.S. CLS. 22, 23, 36 AND 50).

FIRST USE 11-1-2004; IN COMMERCE 11-1-2004.

SN 75-825,894, FILED 10-18-1999.

HENRY S. ZAK, EXAMINING ATTORNEY

Exhibit F

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,573,984

United States Patent and Trademark Office

Registered May 28, 2002

**TRADEMARK
PRINCIPAL REGISTER**



MAJOR LEAGUE BASEBALL PLAYERS ASSO-
CIATION (NEW YORK UNINC. ASSOCIA-
TION)
12 EAST 49TH STREET
NEW YORK, NY 10017

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "MLB", APART FROM THE MARK
AS SHOWN.

FOR: JACKETS, TANK TOPS AND WRIST
BANDS, IN CLASS 25 (U.S. CLS. 22 AND 39).

SN 75-130,600, FILED 7-3-1996.

FIRST USE 12-0-1999; IN COMMERCE 12-0-1999.

BRETT TOLPIN, EXAMINING ATTORNEY