

ESTTA Tracking number: **ESTTA115308**

Filing date: **12/18/2006**

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	Indianapolis Colts, Inc.
Granted to Date of previous extension	12/17/2006
Address	7001 W. 56th Street Indianapolis, IN 46254 UNITED STATES

Name	NFL Properties LLC
Granted to Date of previous extension	12/17/2006
Address	280 Park Avenue New York, NY 10017 UNITED STATES

Attorney information	Andrea J. Chiller Quinn Emanuel Urquhart Oliver & Hedges LLP 51 Madison Avenue New York, NY 10010 UNITED STATES andreachiller@quinnemanuel.com, claudiabogdanos@quinnemanuel.com Phone:(212) 849-7000
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Applicant Information

Application No	78598384	Publication date	06/20/2006
Opposition Filing Date	12/18/2006	Opposition Period Ends	12/17/2006
Applicant	Skidmore College 815 North Broadway Saratoga Springs, NY 12866 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing for men, women and children, namely, t-shirts, golf shirts, polo shirts, shorts, sweatshirts, sweat pants, pants, sweaters, jackets, ponchos, rain jackets, track suits, underwear, socks, belts, hats, caps; cloth bibs, sleepers and rompers for infants
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Related Proceedings	91/173,891; 91/174,122
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Attachments	colts opp.pdf (6 pages)(107291 bytes)
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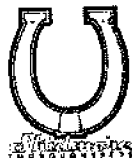
Signature	/Andrea J. Chiller/
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Name	Andrea J. Chiller
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Date	12/18/2006
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/598,384
Published in the Official Gazette on June 20, 2006



Mark:

INDIANAPOLIS COLTS, INC. and NFL
PROPERTIES LLC,

Opposers,

Opposition No. _____

-against-

NOTICE OF OPPOSITION


SKIDMORE COLLEGE,

Applicant.

TO THE COMMISSIONER FOR TRADEMARKS:

Opposers Indianapolis Colts, Inc. and NFL Properties LLC believe they will be



damaged by registration of the  designation (the “SKIDMORE HORSESHOE Design”) 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 the opposition, Opposers allege that:

1. Opposer Indianapolis Colts, Inc. (the “Colts” or the “Colts Club”), a corporation organized and existing under the laws of Delaware with its principal place of business at 7001 W. 56th Street, Indianapolis, Indiana 46254, owns and operates a professional

football team, providing entertainment services to the public in the form of competitive professional football games. The Colts 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 Delaware with its principal place of business at 280 Park Avenue, New York, New York 10017, has been authorized by the NFL and the Colts 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 March 30, 2005, the filing date of the intent to use application herein opposed, Opposers have used the mark



and variations thereof (the “COLTS Horseshoe Design Marks”) in connection with their business of organizing, conducting, and promoting the Colts Club.

4. For many years and long before March 30, 2005, the filing date of the intent to use application herein opposed, Opposers and their authorized business partners, sponsors, and/or licensees have used the COLTS Horseshoe Design Marks on or in connection with the sale of a wide variety of goods and services.

5. Opposers actively seek to identify and stop perceived infringers of the COLTS Horseshoe Design Marks.

6. During their long, widespread, and continuous use of the COLTS Horseshoe Design Marks, 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 COLTS Horseshoe Design Marks.

7. Opposers and their licensees and sponsors have sold, and offered for sale, a variety of goods and services bearing the COLTS Horseshoe Design Marks in a trading area of broad geographical scope encompassing, inter alia, all of the states and territories of the United States.

8. Opposers and their licensees and sponsors have sold, and offered for sale, a variety of goods and services bearing the COLTS Horseshoe Design Marks in numerous channels of trade.


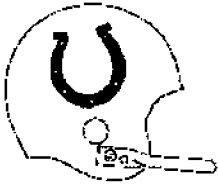

9. The on-field success of the Colts Club, along with the marketing efforts of the NFL, has led to nationwide coverage of the Colts and to many thousands of references to the COLTS Horseshoe Design Marks in the print, broadcast, and Internet media. The widespread use by the media of the COLTS Horseshoe Design Marks when referring to the Colts, for many years and long before March 30, 2005, the filing date of the intent to use application herein opposed, has contributed to the strong public association of the COLTS Horseshoe Design Marks with the Colts Club. Such use by the media inures exclusively to the benefit of Opposers.

10. Opposers' widespread use of the COLTS Horseshoe Design Marks 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 COLTS Horseshoe Design Marks when referring to the Colts Club have contributed to the powerful consumer association between the COLTS Horseshoe Design Marks and Opposers and have made the COLTS Horseshoe Design Marks famous.

11. The COLTS Horseshoe Design Marks have a high degree of distinctiveness due to the duration and extent of Opposers' use, advertising, and publicity of the COLTS Horseshoe Design Marks.

12. In addition to Opposers' common law rights in the COLTS Horseshoe Design

Marks, the Colts own, inter alia, the following federal trademark registrations:

Registration Number	Mark	International Class	Date of First Use
0934700		41	1954
0943028		41	1957
1810715		16 25	1963

All of the above-listed registrations have become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065.

13. By the application herein opposed, Applicant seeks to register its SKIDMORE HORSESHOE Design in International Class 25 for “[c]lothing for men, women and children, namely, t-shirts, golf shirts, polo shirts, shorts, sweatshirts, sweat pants, pants, sweaters, jackets, ponchos, rain jackets, track suits, underwear, socks, belts, hats, caps; cloth bibs, sleepers and rompers for infants.”

14. The goods for which Applicant seeks registration are related to goods in connection with which the COLTS Horseshoe Design Marks have been and are in use.

15. Applicant's intended use of the SKIDMORE HORSESHOE Design would commence many years after Opposers started using the COLTS Horseshoe Design Marks, and after these marks had become famous.

16. 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 designation 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.

17. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that the SKIDMORE HORSESHOE Design so resembles the COLTS Horseshoe Design Marks, 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 consequent injury to Opposers and to the public.

18. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant's use of the SKIDMORE HORSESHOE Design will falsely suggest a connection between Applicant and Opposers named herein, to the damage of Opposers.

19. Registration should be refused pursuant to Sections 2(f) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1052(f) and 1125(c), on the grounds that Opposers will be damaged by the registration sought by Applicant, because the registration will dilute the distinctive and famous quality of the COLTS Horseshoe Design Marks.

20. WHEREFORE, Opposers believe they will be damaged by the registration of Applicant's SKIDMORE HORSESHOE Design for the goods identified in Application Serial

Number 78/598,384 and respectfully request that the opposition be sustained and registration of said designation be denied.

Pursuant to 37 C.F.R. §2.6(a)(17), Opposers respectfully request that the \$600.00 statutory filing fee and any additional amount be charged to Deposit Account No. 50-3778.

All communication should be addressed to Opposers' counsel, Quinn Emanuel Urquhart Oliver & Hedges, LLP, at the below stated address.

Dated: New York, New York
December 18, 2006

Respectfully submitted,
Quinn Emanuel Urquhart Oliver & Hedges, LLP

By: 

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NFL PROPERTIES LLC