

ESTTA Tracking number: **ESTTA195640**

Filing date: **02/29/2008**

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

Proceeding	91182083
Party	Defendant Chaveriat, Harry F. III
Correspondence Address	HARRY F. CHAVERIAT III Law Offices of Blank & Solomon 11 Beacon Street, Suite 315 Boston, MA 02108 hchaveriat@post.harvard.edu
Submission	Answer
Filer's Name	Harry F. Chaveriat III, Esq.
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Date	02/29/2008
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Serial No. 77011977
Filed: October 2, 2006
For Mark: RAD SEX
Published in the Official Gazette: July 31, 2007

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BOSTON RED SOX BASEBALL :
CLUB LIMITED PARTNERSHIP, :
 :
Opposer, :
 :
v. : **Opposition No.: 91182083**
 :
HARRY F. CHAVERIAT III, ESQ. :
 :
Applicant. :
-----X

Commissioner of Trademarks
Attention: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, Harry F. Chaveriat III, Esq. (“Applicant”), hereby answers the Notice of Opposition, as follows:

1. As to paragraphs 1, 2, 3, 4 and 5, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.

2. As to paragraph 6, admitted.

3. As to paragraphs 7, 8, 9, 10, 11, 12, and 13, denied. Further answering,

Applicant alleges:

4. Applicant’s mark was first used on or about July 10, 2006.

5. There is no likelihood of confusion, mistake or deception because Applicant's mark and the pleaded marks of Opposer, Boston Red Sox Baseball Club Limited Partnership ("Opposer") are not confusingly similar.

6. Any similarity, if at all, between Applicant's mark and the pleaded marks of Opposer is in the use of four consonants: "R", "D", "S" and "X" which, upon information and belief, has been used and registered by third parties in similarly related fields.

7. Upon information and belief, numerous third parties have used and registered marks covering goods in the clothing and clothing-related fields similar to both Applicant's mark and Opposer's pleaded marks. Therefore, there is no unique relationship between Applicant's mark and Opposer's pleaded marks as to goods covered.

8. Opposer's pleaded marks have a "sports" connotation resulting, in large measure, from the association of Opposer's pleaded marks to a professional baseball team and there is no such connotation with Applicant's mark.

9. There is no likelihood of impact on the strength of Opposer's pleaded marks by Applicant's mark. Therefore, Applicant's mark does not lessen Opposer's pleaded marks' capacity to identify and distinguish goods or services sold by Opposer.

10. Applicant's mark does not disparage or falsely suggest a connection with Opposer's pleaded marks because Applicant's mark does not point uniquely and unmistakably to the identity or persona of the Opposer and/or Opposer's pleaded marks.

11. Applicant's mark does not consist of immoral or scandalous matter. It is Applicant's belief that a substantial composite of the general public would regard Applicant's mark as not connoting anything offensive or obscene.

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first-class mail, postage prepaid, to attorney for Opposer, Mary L. Kevlin, Esq., Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, NY 10036 on February 29, 2008.

/H. Chaveriat/
Harry F. Chaveriat III, Esq.