

ESTTA Tracking number: **ESTTA275473**

Filing date: **04/01/2009**

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	Banner Seventeen LLC
Granted to Date of previous extension	04/01/2009
Address	151 Merrimac Street Boston, MA 02114 UNITED STATES
Correspondence information	Anil V. George Attorney for Opposer NBA Properties, Inc. Olympic Tower - 645 Fifth Avenue New York, NY 10022 UNITED STATES ipgroup@nba.com Phone:212-407-8330

Applicant Information

Application No	76690268	Publication date	12/02/2008
Opposition Filing Date	04/01/2009	Opposition Period Ends	04/01/2009
Applicant	YVOPELE, S.A. De C.V. Av. Tamaulipas No. 36, Loc. A Colonia Condesa, Delegacion Cuauhtemoc C.P. 06140, MEXICO		

Goods/Services Affected by Opposition


Class 043. All goods and services in the class are opposed, namely: Bar and restaurant services
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2532515	Application Date	12/09/1998
Registration Date	01/22/2002	Foreign Priority Date	NONE
Word Mark	CELTICS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1999/02/00 First Use In Commerce: 1999/02/00 Entertainment and educational services in the nature of ongoing television and radio programs in the field of basketball, and rendering live basketball games and basketball exhibitions; the production and distribution of radio and television broadcasts of basketball games, basketball events and programs in the field of basketball; conducting and arranging basketball clinics and coaches clinics and basketball events


U.S. Application No.	77542337	Application Date	08/08/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CELTICS CLUB GREEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2007/12/05 First Use In Commerce: 2007/12/05 Fan club services; Fan club services for a basketball team in the nature of ticketing, merchandise, and discounts; providing a web site in the field of basketball; providing an online newsletter in the field of basketball		

U.S. Registration No.	970431	Application Date	11/08/1972
Registration Date	10/09/1973	Foreign Priority Date	NONE
Word Mark	CELTICS		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class U107 (International Class 041). First use: First Use: 1946/00/00 First Use In Commerce: 1946/00/00 ENTERTAINMENT SERVICES COMPRISING BASKETBALL GAMES AND EXHIBITIONS, RENDERED LIVE IN STADIA AND THROUGH THE MEDIA OF RADIO AND TELEVISION BROADCASTS
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U.S. Registration No.	2441327	Application Date	06/30/1998
Registration Date	04/03/2001	Foreign Priority Date	NONE

Word Mark	CELTICS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 028. First use: First Use: 2000/06/00 First Use In Commerce: 2000/06/00 Toys, games and sporting goods, namely, basketballs, golf balls, playground balls, sports balls, rubber action balls and foam action balls, basketball nets, basketball backboards, pumps for inflating basketballs, and needles therefor, golf clubs, golf bags, electronic basketball table top games, basketball board games, electronic video arcade game machines, stand alone video game machines, basketball kit comprised of a basketball net and whistle, dolls, stuffed toys, jigsaw puzzles and Christmas tree ornaments
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U.S. Registration No.	2643241	Application Date	12/09/1998
Registration Date	10/29/2002	Foreign Priority Date	NONE


Word Mark	CELTICS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 1999/02/00 First Use In Commerce: 1999/02/00
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	Publications and printed matter, namely, basketball trading cards, dance team trading cards, mascot trading cards, entertainment trading cards, stickers, decals, commemorative basketball stamps, collectible cardboard trading discs, memo boards, clipboards, coasters, post cards, place mats of paper and plastic, note cards, memo pads, ball point pens, pencils, 3-ring binders, stationery folders, wirebound notebooks, portfolio notebooks, unmounted and mounted photographs, posters, calendars, bumper stickers, book covers, wrapping paper, children's activity books, statistical books, guide books, and reference books for basketball, magazines in the field of basketball, commemorative game programs, paper pennants, stationery, stationery-type portfolios, and statistical sheets for basketball topics, newsletters and pamphlets in the field of basketball for distribution to the television and radio media
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U.S. Registration No.	2540918	Application Date	12/09/1998
Registration Date	02/19/2002	Foreign Priority Date	NONE
Word Mark	CELTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/02/00 First Use In Commerce: 1999/02/00 Clothing, namely, hosiery, footwear, t-shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, shirts, sweaters, belts, ties, nightshirts, hats, warm-up suits, jackets, parkas, coats, cloth bibs, head bands, wrist bands, aprons, boxer shorts, slacks, caps, ear muffs and gloves		

U.S. Registration No.	2832204	Application Date	12/08/1998
Registration Date	04/13/2004	Foreign Priority Date	NONE
Word Mark	CELTICS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 Audio, video, computer and laser discs; pre-recorded audio and video cassettes; pre-recorded audio and Video tapes, pre-recorded compact discs, pre-recorded Computer discs, all relate to basketball; computer accessories, namely mouse pads, mice, disc cases, computer carry-on cases, keyboard wrist pads, computer monitor cardboard frames, all related to basketball; computer programs featuring information, statistics and/or trivia about basketball; downloadable computer programs featuring information, statistics and/or trivia about basketball; computer operating systems; computer software for use as a screen saver featuring basketball themes; downloadable computer software for use as a screen saver featuring basketball themes; video game software; downloadable video game software; video game cartridges and video game machines for use with televisions; radios and telephones; binoculars; sunglasses and eyeglass cases; magnets

U.S. Registration No.	2525562	Application Date	12/09/1998
Registration Date	01/01/2002	Foreign Priority Date	NONE

Word Mark	CELTICS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 028. First use: First Use: 2000/06/00 First Use In Commerce: 2000/06/00 Toys, games and sporting goods, namely, basketballs, golf balls, playground balls, sports balls, rubber action balls and foam action balls, basketball nets, basketball backboards, pumps for inflating basketballs, and needles therefor, golf clubs, golf bags, electronic basketball table top games, basketball table top games, basketball board games, electronic video arcade game machines, basketball kit comprised of a basketball net and whistle, dolls, stuffed toys, jigsaw puzzles and Christmas tree ornaments
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U.S. Registration No.	2325752	Application Date	10/21/1998
Registration Date	03/07/2000	Foreign Priority Date	NONE


Word Mark	BOSTON CELTICS
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 Audio, video, computer and laser discs, pre-recorded audio and video cassettes, pre-recorded audio and video tapes, pre-recorded compact discs, pre-recorded computer discs, all related to basketball; computer accessories, namely, mouse pads, mice, disc cases, computer carry-on cases, keyboard wrist pads, all related to basketball; computer programs featuring information, statistics and/or trivia about basketball; computer operating systems; computer software for use as a screen saver featuring basketball themes; video game software; video game cartridges and video game machines for use with televisions; radios and telephones; binoculars; sunglasses and eyeglass cases

U.S. Registration No.	2593912	Application Date	10/04/2000
Registration Date	07/16/2002	Foreign Priority Date	NONE

Word Mark	BOSTON CELTICS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1995/10/28 First Use In Commerce: 1995/10/28 Computer services, namely, providing on-line magazines and newsletters, and coloring books in the nature of pictures and drawings in the field of basketball, providing on-line catalogs featuring an array of basketball-themed products; conducting public opinion poll surveys in the field of basketball over the Internet; computer services, namely providing databases featuring general and local news and information of interest to specific geographic areas; providing temporary use of non-line non-downloadable software containing television highlights, video recordings, video stream recordings, interactive video highlight selections, radio programs, radio highlights and audio recordings in the field of basketball

U.S. Registration No.	2606814	Application Date	10/04/2000
Registration Date	08/13/2002	Foreign Priority Date	NONE
Word Mark	BOSTON CELTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1995/10/28 First Use In Commerce: 1995/10/28</p> <p>Computerized on-line retail store services, computerized on-line ordering services, electronic retailing services, computerized catalog services and mail order catalog services, all featuring audio recordings; video recordings; computer accessories; computer games; computer software; computer databases; video games; telephones; binoculars; eyewear; magnets; collectible and novelty items; collectible coins; medallions; albums; scrapbooks; photo frames; sports memorabilia; timepieces; jewelry; jewelry boxes; credit cards; calling cards; publications; calendars; catalogs; organizers; directories; stationery; school supplies; giftware; gift sets; portfolios; posters; photos; trading cards; books; card holders; pamphlets; pennants; flags; banners; souvenirs; catalogs; bank checks; bags; travel bags; travel cases; sports bags; lunch boxes; wallets; umbrellas; clothing; toys; games; sporting goods; Christmas ornaments; decorations; house wares; lamps; lighting fixtures; beverage ware; kitchenware; household supplies; containers; boxes; bed, bath and table linens; furniture; office furniture and accessories;, lockers and footlockers</p>		

U.S. Registration No.	2503956	Application Date	10/04/2000
Registration Date	11/06/2001	Foreign Priority Date	NONE
Word Mark	BOSTON CELTICS		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 038. First use: First Use: 1995/10/28 First Use In Commerce: 1995/10/28 Cybercasting services in the nature of providing on-line chat rooms and on-line interactive chat rooms with guests for transmission of messages among computer users concerning the field of basketball; Broadcasting programs via a global computer network
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U.S. Registration No.	1003131	Application Date	11/08/1972
Registration Date	01/28/1975	Foreign Priority Date	NONE

Word Mark	BOSTON CELTICS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class U003 (International Class 018). First use: First Use: 1950/00/00 First Use In Commerce: 1950/00/00 LUGGAGE</p> <p>Class U013 (International Class 006). First use: First Use: 1946/00/00 First Use In Commerce: 1946/00/00 KEY CHAINS</p> <p>Class U022 (International Class 028). First use: First Use: 1964/12/00 First Use In Commerce: 1964/12/00 BASKETBALLS</p> <p>Class U037 (International Class 016). First use: First Use: 1960/09/00 First Use In Commerce: 1960/09/00 PENS</p> <p>Class U038 (International Class 016). First use: First Use: 1946/11/00 First Use In Commerce: 1946/11/00 PRINTED MATTER AND PUBLICATIONS, COMPRISING, PROGRAMS, YEARBOOKS, PHOTOGRAPHS OF BASKETBALL PLAYERS, BASKETBALL CALENDARS AND PRESS GUIDES</p> <p>Class U039 (International Class 025). First use: First Use: 1964/12/00 First Use In Commerce: 1964/12/00 SPORTS APPAREL, COMPRISING SWEATSHIRTS</p> <p>Class U107 (International Class 041). First use: First Use: 1946/00/00 First Use In Commerce: 1946/00/00 ENTERTAINMENT SERVICES, COMPRISING, BASKETBALL GAMES AND EXHIBITIONS, RENDERED LIVE IN STADIA AND THROUGH THE MEDIA OF RADIO AND TELEVISION BROADCASTS; AND INSTRUCTIONAL SERVICES IN CONDUCTING BASKETBALL CLINICS</p>
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U.S. Registration No.	1806185	Application Date	08/03/1992
Registration Date	11/23/1993	Foreign Priority Date	NONE


Word Mark	BOSTON CELTICS
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1967/12/00 First Use In Commerce: 1967/12/00 hosiery, footwear, T-shirts, sweat shirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, nightshirts, hats, warm-up suits, jackets, parkas, coats, cloth bibs, head bands and wrist bands Class 041. First use: First Use: 1967/12/00 First Use In Commerce: 1967/12/00 entertainment services; namely, basketball games and exhibitions rendered live in stadia and through the media of radio and television broadcasts

U.S. Registration No.	2001168	Application Date	08/15/1995
Registration Date	09/17/1996	Foreign Priority Date	NONE

Word Mark	BOSTON CELTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1967/12/00 First Use In Commerce: 1967/12/00 toys and sporting goods, namely basketballs, golf balls, playground balls, sports balls, rubber action balls and foam action balls, basketball nets, basketball backboards, pumps for inflating basketballs and needle therefor, golf clubs, golf bags, computerized basketball table game machines and computer basketball table game cartridges, video game cartridges, basketball table top games, basketball board games, electronic video arcade game machines and electronic video arcade game cartridges, basketball kit comprising of a basketball net and whistle, dolls, stuffed toys, toy trucks, jigsaw puzzles and Christmas tree ornaments		

U.S. Registration No.	2001169	Application Date	08/15/1995
Registration Date	09/17/1996	Foreign Priority	NONE

		Date	
Word Mark	BOSTON CELTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1967/10/00 First Use In Commerce: 1967/10/00 publications and printed matter, namely basketball trading cards, dance team trading cards, mascot trading cards, entertainment trading cards, stickers, decals, commemorative basketball stamps, post cards, place mats, note cards, memo pads, ball point pens, pencils, 3-ring binders, folders, wirebound notebooks, portfolio notebooks, unmounted and mounted photographs, posters, calendars, bumper stickers, book covers, wrapping paper, children's activity books, statistical books, guide books and reference books for basketball, magazines in the field of basketball, commemorative game programs, paper pennants, stationery, stationery-typed portfolios, and statistical sheets for basketball topics, newsletters and pamphlets for distribution to the television and radio media</p>		

U.S. Registration No.	2195362	Application Date	07/16/1997
Registration Date	10/13/1998	Foreign Priority Date	NONE
Word Mark	BOSTON CELTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 1967/00/00 First Use In Commerce: 1967/00/00 athletic bags, shoe bags for travel, overnight bags, umbrellas, backpacks, baby backpacks, duffel bags, tote bags, luggage, luggage tags, patio umbrellas, valises, attache cases, billfolds, wallets, briefcases, canes, business card cases, book bags, all purpose sports bags, golf umbrellas, gym bags, purses, fanny packs, waist packs, cosmetic cases sold empty, garment bags for travel, handbags, key cases, knapsacks, suitcases, toiletry cases sold empty and</p>		

	trunks for travelling
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Attachments	75603410#TMSN.gif (1 page)(bytes) 77542337#TMSN.jpeg (1 page)(bytes) 75511160#TMSN.gif (1 page)(bytes) 75602057#TMSN.gif (1 page)(bytes) 75602066#TMSN.gif (1 page)(bytes) 75602072#TMSN.gif (1 page)(bytes) 75602073#TMSN.gif (1 page)(bytes) 75574741#TMSN.gif (1 page)(bytes) 76147509#TMSN.gif (1 page)(bytes) 76147510#TMSN.gif (1 page)(bytes) 76147511#TMSN.gif (1 page)(bytes) 74301220#TMSN.gif (1 page)(bytes) 74715752#TMSN.gif (1 page)(bytes) 74715753#TMSN.gif (1 page)(bytes) 75325386#TMSN.gif (1 page)(bytes) Celtics Pub Irlandes - Yvopele SA De CV.pdf (3 pages)(75737 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/Anil V. George/
Name	Anil V. George
Date	04/01/2009

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

In re Application of Yvopele, S.A. De C.V.

SERIAL NO. : 76/690,268
MARK : CELTICS PUB IRLANDES & Design
FILING DATE : June 4, 2008

-----X
Banner Seventeen, LLC :
Petitioner :
v. : Opposition No. _____
Yvopele, S.A. De C.V. :
Applicant :
-----X

NOTICE OF OPPOSITION

Banner Seventeen, LLC (“Opposer”) believes that it will be damaged by the registration of the proposed mark, CELTICS PUB IRLANDES & Design (the “Mark”), identified in application serial number 76/690,268 and, hereby, opposes registration of the same in Class 43.

1. Opposer is a Delaware limited liability company having its principal office and place of business at 151 Merrimac Street, Boston, MA 02114.

2. Since long prior to June 4, 2008 the date of filing of the above identified Intent to Use application, Opposer has and now is engaged in the business of providing

assorted basketball entertainment services through the National Basketball Association (the "NBA").

3. The Opposer provides such basketball entertainment services and related, collateral goods utilizing its CELTICS and BOSTON CELTICS marks.

4. Opposer has used the CELTICS and BOSTON CELTICS marks extensively and continuously. In connection thereto, Opposer has engaged in wide ranging promotional efforts and generated substantial sales. As a result, the CELTICS and BOSTON CELTICS marks have become known to the public and are closely associated with American sports, the NBA and its goods and services. Thus, the CELTICS and BOSTON CELTICS marks are identified as a source of origin and have generated substantial goodwill.

5. Opposer owns several registrations for the CELTICS and BOSTON CELTICS marks, issued by the United States Patent and Trademark Office, which are validly subsisting and uncanceled, in International Classes 9, 16, 18, 25, 28, 35, 38 and 41.

6. Notwithstanding Opposer's rights, Applicant seeks registration of the Mark for services in Class 43 related to bar and restaurant services

7. The Mark contains the word "CELTICS" along with the design of a "clover."

8. Opposer has registrations dating back to 1946 that contain the word "CELTICS" along with a "Clover" design in Class 41 as well as pre-existing registrations for the words "BOSTON CELTICS." in Class 35.

9. Applicant's adoption and use of the Mark is without license or permission of Opposer.

10. Use of the Mark likely will cause people to believe that the relevant services are authorized, endorsed, or sponsored by Banner Seventeen, LLC and/or the NBA when that is not the case.

11. Registration of the Mark would be contrary to and violate Trademark Act Sections 2(a), 15 U.S.C. § 1052(a), and 2(d), 15 U.S.C. § 1052(d), and, therefore, violate and diminish the prior and superior rights of Opposer in its CELTICS and BOSTON CELTICS marks.

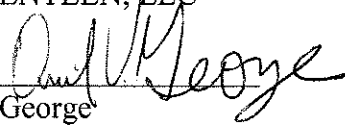
12. Opposer will be damaged if Application Serial No. 76/690,268 is granted registration because Applicant will obtain statutory rights in violation and derogation of the established prior and superior rights of Opposer.

13. WHEREFORE, Opposer prays that its opposition be sustained and that Application Serial No. 76/690,268 be refused and denied registration.

April 1, 2009

NBA PROPERTIES, INC.
Olympic Tower
645 Fifth Avenue
New York, New York 10022
(212) 407-8000

BANNER SEVENTEEN, LLC

By: 
Anil V. George
Attorney for Opposer