

# Cowan, Liebowitz & Latman, P.C.

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July 10, 2009

## **By Express Mail**

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Angels Baseball LP, Atlanta National League Baseball Club, Inc., Athletics  
Investment Group LLC d/b/a The Oakland Athletics Baseball Company, AZPB  
Limited Partnership and Houston McLane Company, Inc.'s  
Consolidated Notice of Opposition Against  
Accor's Application to Register A'CLUB  
Attorney Ref. No. 21307.024

Dear Commissioner:

We enclose a Consolidated Notice of Opposition against Application Serial Number 77/353,941 published in the Official Gazette on January 13, 2009. As set forth in the Consolidated Notice of Opposition:

Opposer Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company) is opposing just the Class 9 goods; and

Opposers Angels Baseball LP, Atlanta National League Baseball Club, Inc. and Houston McLane Company, Inc. are opposing just the Class 35 services; and

Opposer AZPB Limited Partnership is opposing just the Class 36 services.

Accordingly, kindly charge the fee of **\$1,500** to our Deposit Account No. 03-3415. If this amount is insufficient and additional fees are required, please also charge the additional fees to our Deposit Account No. 03-3415.

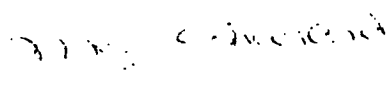


07-13-2009

**Cowan, Liebowitz & Latman, P.C.**  
Commissioner for Trademarks  
July 10, 2009  
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Please address all future correspondence to the attention of Mary L. Kevlin, Esq. of  
Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

  
Maryann E. Licciardi

Enclosures

cc: Diane Kovach (w/encs. -- by email)  
Mary L. Kevlin, Esq. (w/encs.)  
Richard S. Mandel, Esq. (w/encs.)

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

In re Application Serial No. 77/353,941  
Filed: December 17, 2007  
For Mark: A'CLUB  
Published in the Official Gazette: January 13, 2009

TTAB

-----X  
:

ANGELS BASEBALL LP, ATLANTA  
NATIONAL LEAGUE BASEBALL CLUB, INC., :  
ATHLETICS INVESTMENT GROUP LLC D/B/A :  
THE OAKLAND ATHLETICS BASEBALL :  
COMPANY, AZPB LIMITED PARTNERSHIP, :  
and HOUSTON MCLANE COMPANY, INC., :

**CONSOLIDATED  
NOTICE OF OPPOSITION**

Opposers,

v.

Opposition No.

ACCOR,

Applicant.

-----X  
Commissioner for Trademarks

Attn.: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

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Opposer Angels Baseball LP, a California limited partnership with offices at 2000 Gene  
Autry Way, Anaheim, California 92806, believes that it will be damaged by registration of the  
standard character word mark A'CLUB ("Applicant's Mark") in International Class 35, as shown  
in Application Serial No. 77/353,941 (the "Application"). Opposer Atlanta National League  
Baseball Club, Inc., a Georgia corporation with offices at 755 Hank Aaron Drive, Atlanta,



07-13-2009

U.S. Patent & Trademark Office Form 2101

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I hereby certify that this paper or fee is being deposited with the United States  
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C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner  
for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on

7-10-09  
(Date of Deposit)

James E. ...  
(Print name)

James E. ...  
(Signature)



Georgia 30315, believes that it will be damaged by registration of Applicant's Mark in International Class 35, as shown in the Application. Opposer Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company, a California limited liability company with offices at 7000 Coliseum Way, Second Floor, Oakland, California 94621, believes that it will be damaged by registration of Applicant's Mark in International Class 9, as shown in the Application. Opposer AZPB Limited Partnership, a Delaware limited partnership with offices at Chase Field, 401 East Jefferson Street, Phoenix, Arizona 85004, believes that it will be damaged by registration of Applicant's Mark in International Class 36, as shown in the Application. Opposer Houston McLane Company, Inc., a Texas corporation with offices at Union Station at Minute Maid Park, 501 Crawford, Suite 400, Houston, Texas 77002, believes that it will be damaged by registration of Applicant's Mark in International Class 35, as shown in the Application. Having been granted extensions of time to oppose the Application up to and including July 12, 2009, Opposers Angels Baseball LP, Atlanta National League Baseball Club, Inc., Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company, AZPB Limited Partnership, and Houston McLane Company, Inc. (hereinafter, each is individually an "Opposer" and collectively are the "Opposers") hereby oppose the Application for the classes set forth above for each Opposer.



As grounds for opposition, it is alleged that:

1. Opposer Angels Baseball LP is the owner of the renowned LOS ANGELES ANGELS OF ANAHEIM MAJOR LEAGUE BASEBALL club (formerly known as the ANAHEIM ANGELS, CALIFORNIA ANGELS and LA ANGELS club) (often referred to by the press, media, fans and the public, and hereinafter referred to, as the "Angels Club"), Opposer Atlanta National League Baseball Club, Inc. is the owner of the renowned ATLANTA BRAVES

MAJOR LEAGUE BASEBALL club (often referred to by the press, media, fans and the public, and hereinafter referred to, as the "Atlanta Club"), Opposer Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company is the owner of the renowned OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL club (often referred to by the press, media, fans and the public, and hereinafter referred to, as the "Athletics Club"), Opposer AZPB Limited Partnership is the owner of the renowned ARIZONA DIAMONDBACKS MAJOR LEAGUE BASEBALL club (often referred to by the press, media, fans and the public, and hereinafter referred to, as the "Arizona Club"), and Opposer Houston McLane Company, Inc. is the owner of the renowned HOUSTON ASTROS MAJOR LEAGUE BASEBALL club (often referred to by the press, media, fans and the public, and hereinafter referred to, as the "Astros Club").

2. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Angels Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have

used the mark "A", including, without limitation, in the following stylizations:  ,  ,


 and/or  , either alone or with other word, letter and/or design elements, in connection with baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items (collectively the "Angels A Marks").




3. Opposer Angels Club owns United States federal registrations and applications for the Angels A Marks in International Classes 6, 11, 12, 14, 16, 20, 21, 24, 25, 26, 28, 35, 38 and 41; namely, Registration Nos. 1,232,818, 1,408,209, 1,576,459, 2,597,465, 2,600,653, 2,665,314,

2,824,312, 3,231,140, 3,238,174, 3,238,175, 3,238,176, 3,238,177 and 3,621,312, and Application Serial Nos. 76/692,655, 76/692,656, 76/692,657, 76/692,659 and 76/692,660. Registration Nos. 1,232,818, 1,408,209 and 1,576,459 are incontestable.

4. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Angels Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Angels A Marks, including, but not limited to, baseball game and exhibition services, and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items and have sold or distributed such goods and rendered such services in commerce.

5. As a result of the extensive sales, distribution and promotion of its goods and services bearing or offered in connection with the Angels A Marks, Opposer Angels Club has built up highly valuable goodwill in the Angels A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Angels Club.

6. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Atlanta Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have used the mark "A", including, without limitation, in the following stylizations:  ,

 ,  and/or  , either alone or with other word, letter and/or design elements,

in connection with baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards,

promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items (collectively, the "Atlanta A Marks").

7. Opposer Atlanta Club owns United States federal registrations and applications for the Atlanta A Marks in International Classes 6, 9, 14, 16, 18, 25, 28 and 41; namely, Registration Nos. 1,253,034, 1,560,470, 1,576,468, 2,657,980, 2,542,804, 2,573,347, 3,538,719, 3,438,423, 3,584,706 and 3,366,815, and Application Serial Nos. 78/736,925 and 78/749,017. Registration Nos. 1,253,034, 1,560,470, 1,576,468 and 2,657,980 are incontestable.

8. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Atlanta Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Atlanta A Marks, including, but not limited to, baseball game and exhibition services, and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items and have sold or distributed such goods and rendered such services in commerce.

9. As a result of the extensive sales, distribution and promotion of its goods and services bearing or offered in connection with the Atlanta A Marks, Opposer Atlanta Club has built up highly valuable goodwill in the Atlanta A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Atlanta Club.

10. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Athletics Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have used the marks "A" or "A'S" including, without limitation, in the following stylizations:



and/or

, either alone or with other word, letter and/or

design elements, in connection with baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items (collectively, the "Athletics A Marks").

11. Opposer Athletics Club owns United States federal registrations for the Athletics A Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,234,697, 1,257,146, 1,263,825, 1,267,687, 1,267,861, 1,523,854, 1,530,675, 1,560,962, 1,570,831, 2,417,758, 2,573,396, 2,630,348, 2,759,932, 3,349,787 and 3,349,788. Registration Nos. 1,234,697, 1,257,146, 1,263,825, 1,267,687, 1,267,861, 1,523,854, 1,530,675, 1,560,962, 1,570,831 and 2,417,758 are incontestable.

12. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Athletics Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Athletics A Marks, including, but not limited to, baseball game and exhibition services, and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items and have sold or distributed such goods and rendered such services in commerce.



13. As a result of the extensive sales, distribution and promotion of its goods and services bearing or offered in connection with the Athletics A Marks, Opposer Athletics Club has built up highly valuable goodwill in the Athletics A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Athletics Club.

14. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Arizona Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have

used the mark "A", including, without limitation, in the following stylizations: 



, and/or , either alone or with other word, letter and/or design elements, in connection with baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items (collectively, the "Arizona A Marks").




15. Opposer Arizona Club owns United States federal registrations and applications for the Arizona A Marks in International Classes 9, 14, 16, 18, 25, 28, 36, 41 and 42; namely, Registration Nos. 243,911, 2,408,953, 2,825,804, 2,830,498, 2,962,569, 3,412,953, 3,303,988, 3,360,571 and 3,396,034, and Application Serial No. 76/692,228. Registration No. 2,408,953 is incontestable.

16. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Arizona Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Arizona A Marks, including, but not limited to, baseball game and exhibition

services, and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items and have sold or distributed such goods and rendered such services in commerce.

17. As a result of the extensive sales, distribution and promotion of its goods and services bearing or offered in connection with the Arizona A Marks, Opposer Arizona Club has built up highly valuable goodwill in the Arizona A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Arizona Club.

18. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Astros Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have used names and marks comprising or containing the mark "A" or distinctive stylizations of the

letter "A", including, without limitation, as shown here:  ,  ,  ,

 ,  ,  ,  ,  and/or  , either

alone or with other word, letter and/or design elements, in connection with baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items (collectively, the "Astros A Marks").

19. Opposer Astros Club owns United States federal registrations and applications for the Astros A Marks in International Classes 6, 9, 14, 16, 18, 21, 24, 25, 28 and 41; namely, Registration Nos. 805,802, 1,085,711, 1,114,369, 1,530,535, 1,748,631, 2,655,871, 2,703,751,

2,803,116, 3,231,199, 3,363,257, 3,363,259, 3,366,722 and 3,370,322, and Application Serial Nos. 76/159,421 and 74/553,819. Registration Nos. 805,802, 1,085,711, 1,114,369, 1,530,535 and 1,748,631 are incontestable.

20. Since long prior to June 21, 2007, Applicant's 44(e) priority filing date, Opposer Astros Club, its predecessors, their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Astros A Marks, including, but not limited to, baseball game and exhibition services, and a wide variety of goods and services, including, but not limited to, membership cards, loyalty cards, credit or debit cards, promotional services, apparel, toys and sporting goods, printed and paper matter and novelty items and have sold or distributed such goods and rendered such services in commerce.

21. As a result of the extensive sales, distribution and promotion of its goods and services bearing or offered in connection with the Astros A Marks, Opposer Astros Club has built up highly valuable goodwill in the Astros A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Astros Club.

22. On December 17, 2007, Applicant filed the Application, based on a French application that subsequently matured to registration, claiming a priority filing date of June 21, 2007 on the basis of Sections 44(d) and 44(e), to register Applicant's Mark for "Magnetic cards, optical cards, smart cards or integrated circuit cards with or without radio frequency or infrared contact, disposable or refillable, these cards being prepaid or postpaid, containing one or several electronic purses valid for physical access control, access control to computer systems or control of loyalty cards" in International Class 9, "Advertising; business management; business management assistance; business management and organization consultancy; bill- posting,

namely, bill payment services; direct mail advertising; business consultancy and information; sales promotion services by supplying privileged user cards; production of television commercial, promotion and advertising; organization of competitions for commercial and promotional purposes as well as for employee motivation, via a computer communication network; promotional offers, namely, sales promotion for others; arranging and management of commercial operations for building customer loyalty, namely, with the provision of customer loyalty cards; data management, namely, data collection, systemization and management in a computerized file; business administration and commercial management of the reality and quality of business services provided to others” in International Class 35, and “Arranging payment for the supply of presents and any good and service by issuing, distributing and compensating purchase vouchers, tickets, coupons, stubs, prepaid cards, credit or debit cards via a computer network; financial services relating to loyalty cards, namely, providing cash and other rebates for credit card use as part of a customer loyalty program; financial services relating to promotional fidelity coupons, namely, vouchers, tickets, coupons, stubs, prepaid cards, credit or debit cards; payment by promotional fidelity coupons, namely, vouchers, tickets, coupons, stubs, prepaid cards, credit or debit cards; issuing and financial management by means of payment, namely, of purchase vouchers; issuing of traveller's checks, value coupons” in International Class 36.

23. Upon information and belief, Applicant did not use Applicant's Mark in United States commerce in connection with the goods and/or services covered by the Application prior to its claimed priority filing date of June 21, 2007.

24. The goods in International Class 9 covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with the Athletics A Marks. The services in International Class 35 covered by the Application are identical and/or

closely related to the goods offered and services rendered in connection with the Angels A Marks, Atlanta A Marks, and Astros A Marks. The services in International Class 36 covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with the Arizona A Marks.

25. As Applicant has claimed Applicant's Mark as a standard character mark, registration of such mark effectively would give Applicant rights to use of the letter "A" in connection with the word CLUB, a word that is widely used to refer to and identify Opposers and their respective MAJOR LEAGUE BASEBALL clubs, in any stylization, including the stylizations of the Angels A Marks, Atlanta A Marks, Athletics A Marks, Arizona A Marks and Astros A Marks (collectively, "Opposers' Marks") that have been duly registered and/or have priority of use over Applicant's Mark. Additionally, registration of such mark effectively would prevent Opposers from developing additional "A" marks in the future, either standing alone or with the word CLUB.

26. Applicant's Mark for the Class 9 goods so resembles the Athletics A Marks, particularly Applicant's use of the letter "A", which is also used by Opposer Athletics Club, and the word CLUB, which is widely used to refer to and identify Opposer Athletics Club, as to be likely, when applied to Applicant's Class 9 goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Class 9 goods have their origin with Opposer Athletics Club and/or that such goods are approved, endorsed or sponsored by Opposer Athletics Club or associated in some way with Opposer Athletics Club. Opposer Athletics Club would thereby be injured by the granting to Applicant of a certificate of registration in Class 9 for Applicant's Mark.

27. Applicant's Mark for the Class 35 services so resembles the Angels A Marks, the Atlanta A Marks, and the Astros A Marks, particularly Applicant's use of the letter "A", which is also used by Opposers Angels Club, Atlanta Club and Astros Club, and the word CLUB, which is widely used to refer to and identify Opposers Angels Club, Atlanta Club and Astros Club, as to be likely, when applied to Applicant's Class 35 services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Class 35 services have their origin with Opposers Angels Club, Atlanta Club and/or Astros Club and/or that such services are approved, endorsed or sponsored by Opposers Angels Club, Atlanta Club and/or Astros Club or associated in some way with Opposers Angels Club, Atlanta Club and/or Astros Club. Opposers Angels Club, Atlanta Club and Astros Club would thereby be injured by the granting to Applicant of a certificate of registration in Class 35 for Applicant's Mark.

28. Applicant's Mark for the Class 36 services so resembles the Arizona A Marks, particularly Applicant's use of the letter "A", which is also used by Opposer Arizona Club, and the word CLUB, which is widely used to refer to and identify Opposer Arizona Club, as to be likely, when applied to Applicant's Class 36 services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Class 36 services have their origin with Opposer Arizona Club and/or that such services are approved, endorsed or sponsored by Opposer Arizona Club or associated in some way with Opposer Arizona Club. Opposer Arizona Club would thereby be injured by the granting to Applicant of a certificate of registration in Class 36 for Applicant's Mark.

29. Opposers would be further injured by the granting of a certificate of registration to Applicant because Applicant's Mark: (i) for the Class 9 goods would falsely suggest a connection between Applicant and Opposer Athletics Club; (ii) for the Class 35 services would falsely

suggest a connection between Applicant and Opposers Angels Club, Atlanta Club and Astros Club; and (iii) for the Class 36 services would falsely suggest a connection between Applicant and Opposer Arizona Club.

WHEREFORE, Opposers believe that they will be damaged by registration of Applicant's Mark and request that the consolidated opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposers in this proceeding Mary L. Kevlin, Richard S. Mandel and Maryann E. Licciardi (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
July 10, 2009

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.  
*Attorneys for Opposer*

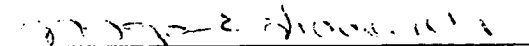
By: Mary L. Kevlin  
Mary L. Kevlin  
Richard S. Mandel  
Maryann E. Licciardi

1133 Avenue of the Americas  
New York, New York 10036  
(212) 790-9200

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on July 10, 2009, I caused a true copy of the foregoing CONSOLIDATED NOTICE OF OPPOSITION to be sent via First Class Mail, postage paid, to Applicant's Attorney of Record, Mary Margaret L. O'Donnell, Esq., Rader, Fishman & Grauer PLLC, 39533 Woodward Avenue, Suite 140, Bloomfield Hills, MI 48304-5098.

Dated: New York, New York  
July 10, 2009

  
\_\_\_\_\_  
Maryann E. Licciardi