

ESTTA Tracking number: **ESTTA565441**

Filing date: **10/16/2013**

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	San Francisco Baseball Associates LLC
Granted to Date of previous extension	10/16/2013
Address	AT&T Park 24 Willie Mays Plaza San Francisco, CA 94107 UNITED STATES
Attorney information	Maya L. Tarr Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES ame@cll.com, jmn@cll.com, trademark@cll.com, mxt@cll.com Phone:212-790-9200

Applicant Information

Application No	85851205	Publication date	06/18/2013
Opposition Filing Date	10/16/2013	Opposition Period Ends	10/16/2013
Applicant	Intellisphere, LLC 666 Plainsboro Road Plainsboro, NJ 08536 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Downloadable electronic publications in the nature of articles, newsletters, monographs, journals, magazines, books, and calendars in the field of medicine and healthcare</p>
<p>Class 016. All goods and services in the class are opposed, namely: Printed publications, namely, magazines, journals, books, articles, newsletters, supplements, and calendars in the fields of medicine and health care</p>
<p>Class 041. All goods and services in the class are opposed, namely: Providing on-line publications in the nature of articles, newsletters, monographs, magazines, journals, books, and calendars in the field of medicine and healthcare; providing a website featuring non-downloadable publications in the nature of articles, newsletters, monographs, magazines, journals, and calendars in the field of medicine and healthcare; Non-downloadable electronic publications in the nature of magazines, articles, newsletters, monographs, journals, and calendars in the field of medicine and healthcare; providing recognition and incentives by way of an annual award to demonstrate excellence in the field of medicine and oncology; providing recognition and incentives by the way of celebrations and awards</p>

to demonstrate excellence in the field of medicine and oncology; organizing and conducting awards ceremonies to recognize contributions in the field of medicine and oncology

Class 044.

All goods and services in the class are opposed, namely: providing an internet website portal featuring medical and healthcare information in the form of audio and video interviews
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Grounds for Opposition

Other

See attached pleading.

Attachments

GIANTS OF CANCER CARE Letter to the Commissioner.pdf(68873 bytes) GIANTS OF CANCER CARE NOO.pdf(31605 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Maya L. Tarr/
Name	Maya L. Tarr
Date	10/16/2013



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October 16, 2013

By Electronic Filing

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

Re: San Francisco Baseball Associates LLC
Notice of Opposition Against
Intellisphere, LLC
Application to register GIANTS OF CANCER CARE
Ref. No. 21307.023

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/851,205 published in the Official Gazette on June 18, 2013. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$1200 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Maya L. Tarr/
Maya L. Tarr

Enclosures

cc: Ms. Diane Kovach (w/encs. – by fax)
Mary L Kevlin, Esq. (w/encs.)
Richard S. Mandel, Esq. (w/encs.)

line publications in the nature of articles, newsletters, monographs, magazines, journals, books, and calendars in the field of medicine and healthcare; providing a website featuring non-downloadable publications in the nature of articles, newsletters, monographs, magazines, journals, and calendars in the field of medicine and healthcare; Non-downloadable electronic publications in the nature of magazines, articles, newsletters, monographs, journals, and calendars in the field of medicine and healthcare; providing recognition and incentives by way of an annual award to demonstrate excellence in the field of medicine and oncology; providing recognition and incentives by the way of celebrations and awards to demonstrate excellence in the field of medicine and oncology; organizing and conducting awards ceremonies to recognize contributions in the field of medicine and oncology,” in International Class 41, and for “providing an internet website portal featuring medical and healthcare information in the form of audio and video interviews,” in International Class 44, as shown in Application Serial No. 85/851,205 (the “Application”), and having been granted an extension of time to oppose up to and including October 16, 2013, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned SAN FRANCISCO GIANTS MAJOR LEAGUE BASEBALL club.

2. Since long prior to February 15, 2013, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names or marks GIANTS, GIANT, GIGANTE or GIGANTES, alone or with other word, letter and/or design elements (“Opposer’s GIANTS Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, paper goods and printed matter; publications and charitable services relating to among

others, health, nutrition, medicine, cancer, organ donations, and HIV/AIDS; apparel; jewelry; toys and sporting goods; and novelty items.

3. Opposer owns U.S. federal registrations for Opposer's GIANTS Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28, 34 and 41, namely, Registration Nos. 1,010,059; 1,314,552; 1,340,707; 1,522,132; 1,527,781; 1,531,352; 1,532,656; 1,544,375; 1,544,379; 1,547,331; 1,661,650; 2,529,743; 2,600,709; 2,688,009; 3,313,920; 3,313,921; 3,320,531 and 3,797,622. Registration Nos. 1,010,059; 1,314,552; 1,340,707; 1,522,132; 1,527,781; 1,531,352; 1,532,656; 1,544,375; 1,544,379; 1,547,331; 1,661,650; 2,600,709 and 2,688,009 are incontestable.

4. Since long prior to February 15, 2013, Applicant's constructive first use date, Opposer, its predecessors, and 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 Opposer's GIANTS Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, paper goods and printed matter; publications and charitable services relating to among others, health, nutrition, medicine, cancer, organ donations, and HIV/AIDS; apparel; jewelry; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

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

6. On February 15, 2013, Applicant filed the Application for Applicant's Mark for "Downloadable electronic publications in the nature of articles, newsletters, monographs,

journals, magazines, books, and calendars in the field of medicine and healthcare,” in International Class 9, for “Printed publications, namely, magazines, journals, books, articles, newsletters, supplements, and calendars in the fields of medicine and health care,” in International Class 16, for “Providing on-line publications in the nature of articles, newsletters, monographs, magazines, journals, books, and calendars in the field of medicine and healthcare; providing a website featuring non-downloadable publications in the nature of articles, newsletters, monographs, magazines, journals, and calendars in the field of medicine and healthcare; Non-downloadable electronic publications in the nature of magazines, articles, newsletters, monographs, journals, and calendars in the field of medicine and healthcare; providing recognition and incentives by way of an annual award to demonstrate excellence in the field of medicine and oncology; providing recognition and incentives by the way of celebrations and awards to demonstrate excellence in the field of medicine and oncology; organizing and conducting awards ceremonies to recognize contributions in the field of medicine and oncology,” in International Class 41, and for “providing an internet website portal featuring medical and healthcare information in the form of audio and video interviews,” in International Class 44, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant’s Mark for the goods and services covered in the Application in United States commerce prior to its constructive first use date of February 15, 2013.

8. Applicant’s Mark consists of the word “GIANTS” followed by the word “OF” and the descriptive words “CANCER CARE,” wherein the words “OF CANCER CARE” are depicted in a significantly smaller size than the word “GIANTS,” making the word “GIANTS” the dominant feature of Applicant’s Mark.

9. The word “GIANTS” in Applicant’s Mark is identical to Opposer’s GIANTS Marks.

10. The words “CANCER CARE” in Applicant’s Mark are disclaimed and are merely descriptive terms that describe the types of goods and services offered by Applicant.

11. The goods and services covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer’s GIANTS Marks.

12. Applicant’s Mark so resembles Opposer’s GIANTS Marks as to be likely, when used in connection with Applicant’s goods and services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s goods and services have their origin with Opposer and/or that such goods and services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant’s Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant’s Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel, Aryn M. Emert and Maya L. Tarr (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
October 16, 2013

Respectfully submitted,

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

By: /Maya L. Tarr/

Mary L. Kevlin
Richard S. Mandel
Aryn M. Emert
Maya L. Tarr
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New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on October 16, 2013, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Shannon Hennessy Pulaski, The Law Office of Shannon Hennessy Pulaski, 14 Winding Creek Dr., Millstone Township, NJ 08535.

/Maya L. Tarr/
Maya L. Tarr