

ESTTA Tracking number: **ESTTA609270**

Filing date: **06/11/2014**

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	New York Yankees Partnership
Granted to Date of previous extension	06/15/2014
Address	Executive Offices, Yankee Stadium One East 161st Street Bronx, NY 10451 UNITED STATES
Attorney information	Don M. Obert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES mlk@cll.com, dmo@cll.com, trademark@cll.com, jmn@cll.com Phone:212-790-9200

Applicant Information

Application No	86019604	Publication date	12/17/2013
Opposition Filing Date	06/11/2014	Opposition Period Ends	06/15/2014
Applicants	Newcomb, Willie 3517 S. Austin Blvd. Cicero, IL 60804 UNITED STATES Newcomb, Holly 3517 S. Austin Blvd. Cicero, IL 60804 UNITED STATES		

Goods/Services Affected by Opposition

Class 024. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Towels

Applicant Information

Application No	86019614	Publication date	12/17/2013
Opposition Filing Date	06/11/2014	Opposition Period Ends	
Applicants	Newcomb, Willie 3517 S. Austin Blvd. Cicero, IL 60804 UNITED STATES		

	Holly Newcomb 3517 S. Austin Blvd. Cicero, IL 60804 UNITED STATES
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Goods/Services Affected by Opposition

<p>Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing, namely, short-sleeved or longsleeved t-shirts, golf shirts, button-down shirts, dress shirts, turtle neck shirts, tank-tops, a-shirts, sweatshirts and hooded sweatshirts, casual pants, dress pants, denim pants, athletic pants, sweat pants, shorts, dresses, skirts, socks, underwear, lingerie, hats and headwear, swim and beach wear, footwear, gloves, and jackets</p>
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Grounds for Opposition

Other	Please see attached pleading.
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Attachments	YANKEE BUILT Ser Nos 86019604 and 86019614 COMM LET 06112014.pdf(50873 bytes) YANKEE BUILT Ser Nos 86019604 and 86019614 NOO 06112014.pdf(67777 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 First Class Mail on this date.

Signature	/Don M. Obert/
Name	Don M. Obert
Date	06/11/2014

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

In re Application Serial Nos. 86/019,604 and 86/019,614
Filed: July 25, 2013
For Marks: YANKEE BUILT and Design
Published in the Official Gazette: December 17, 2013

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NEW YORK YANKEES PARTNERSHIP,	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
WILLIE NEWCOMB AND HOLLY NEWCOMB,	:	<u>CONSOLIDATED NOTICE OF</u>
Applicants.	:	<u>OPPOSITION</u>
	:	
-----X	:	

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


Opposer, New York Yankees Partnership (“Opposer”), an Ohio limited partnership, with offices at Executive Offices, Yankee Stadium, One East 161st Street, Bronx, New York 10451, believes that it will be damaged by registration of the YANKEE BUILT and Design mark as shown below

 (“Applicants’ Mark”) in International Class 24 for “Towels” and in International Class 25 for “Clothing, namely, short-sleeved or long sleeved t-shirts, golf shirts,

button-down shirts, dress shirts, turtle neck shirts, tank-tops, a-shirts, sweatshirts and hooded sweatshirts, casual pants, dress pants, denim pants, athletic pants, sweat pants, shorts, dresses, skirts, socks, underwear, lingerie, hats and headwear, swim and beach wear, footwear, gloves, and jackets” as shown in Application Serial Nos. 86/019,604 and 86/019,614, respectively (together, the “Applications”), and having been granted extensions of time to oppose up to and including June 15, 2014, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned NEW YORK YANKEES MAJOR LEAGUE BASEBALL club.
2. Since long prior to July 25, 2013, Applicants’ constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names or marks YANKEES and/or YANKEE, including, without limitation, in the following

distinctive stylizations:  and



(“Opposer’s Stylized YANKEES Marks”), alone or with other word, letter and/or design elements (collectively, the “Opposer’s YANKEES Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, towels; apparel, including, without limitation, hats, shirts, T-shirts, sweatshirts, jackets, pants, sleepwear, gloves, swimwear, underwear and footwear; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items.

3. Opposer owns U.S. federal registrations and applications for Opposer's YANKEES Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 26, 28, 30, 34, 36 and 41; namely, Registration Nos. 1,032,767, 1,073,346, 1,161,865, 1,542,501, 1,550,798, 1,671,731, 2,575,644, 2,843,353, 2,858,237, 2,866,959, 2,867,047, 2,867,048, 2,886,760, 2,889,384, 2,940,306, 2,970,918, 2,994,114, 3,022,847, 3,022,848, 3,191,653, 3,320,068, 3,320,069, 3,320,070, 3,326,223, 3,326,224, 3,326,225, 3,331,059, 3,345,306, 3,718,515, 4,102,184, 4,189,215 and 4,210,824 for said trademarks and service marks. Registration Nos. 1,032,767, 1,073,346, 1,161,865, 1,542,501, 1,550,798, 1,671,731, 2,575,644, 2,843,353, 2,858,237, 2,867,047, 2,867,048, 2,886,760, 2,940,306, 2,970,918, 2,994,114, 3,022,847, 3,022,848, 3,191,653, 3,320,068, 3,320,069, 3,320,070, 3,326,223, 3,326,224, 3,326,225, 3,331,059 and 3,345,306 are incontestable.

4. Since long prior to July 25, 2013, Applicants' 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 YANKEES Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, towels; apparel, including, without limitation, hats, shirts, T-shirts, sweatshirts, jackets, pants, sleepwear, gloves, swimwear, underwear and footwear; jewelry; paper goods and printed matter; 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 YANKEES Marks, Opposer has built up highly valuable goodwill in Opposer's YANKEES Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.


6. On July 25, 2013, Applicants filed the Applications for Applicants' Mark for "Towels" in International Class 24 and "Clothing, namely, short-sleeved or long sleeved t-shirts, golf shirts, button-down shirts, dress shirts, turtle neck shirts, tank-tops, a-shirts, sweatshirts and hooded sweatshirts, casual pants, dress pants, denim pants, athletic pants, sweat pants, shorts, dresses, skirts, socks, underwear, lingerie, hats and headwear, swim and beach wear, footwear, gloves, and jackets" in International Class 25, based on an intent to use.

7. Upon information and belief, Applicants did not use Applicants' Mark for the goods covered in the Applications in United States commerce prior to his constructive first use date of July 25, 2013.

8. The goods covered by the Applications are identical and/or closely related to the goods offered and services rendered in connection with Opposer's YANKEES Marks.

9. Applicants' Mark contains the word YANKEE, which is identical and/or virtually identical to Opposer's YANKEES Marks.

10. Moreover, Applicants' Mark, including the word YANKEE portion thereof, is in a script stylization that closely resembles the distinctive script stylizations used in Opposer's YANKEES Marks, particularly, Opposer's Stylized YANKEES Marks, as shown below:

<u>Applicant's Mark</u>	<u>Opposer's Stylized YANKEES Marks</u>
	

11. Opposer would be further injured by the granting of certificates of registration to Applicants because Applicants' Mark, which is a close approximation of Opposer's YANKEES Marks, and which points uniquely to Opposer, when used in connection with the applied-for goods, would falsely suggest a connection between Applicants, which have no connection with or authorization from Opposer, and Opposer.

12. Opposer's YANKEES Marks are distinctive and famous and were so prior to July 25, 2013, Applicants' constructive first use date. Registration of Applicants' Mark will also injure Opposer by causing a likelihood of dilution by blurring of the distinctive quality of Opposer's YANKEES Marks.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicants' Mark and requests that the opposition be sustained and said registrations be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Don M. Obert (members of the bar of the State of New York) and the firm Cowan, Liebowitz and 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
June 11, 2014

Respectfully submitted,

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

By: /Don M. Obert/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 11, 2014, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicants' attorney and Correspondent of record, Natalie A. Remien, Esq., Remien Law, Inc., 55 W. Monroe Street, Ste. 1700, Chicago, IL 60603-5125.

/Don M. Obert/
Don M. Obert