

ESTTA Tracking number: **ESTTA778555**

Filing date: **10/24/2016**

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

Proceeding	91220749
Party	Defendant Class Act Sports, LLC
Correspondence Address	ROBERT B GOLDEN LACKENBACH SIEGEL LLP ONE CHASE ROAD LACKENBACH SIEGEL BLDG, PENTHOUSE FL SCARSDALE, NY 10583 UNITED STATES CShore@LSLLP.com, JRollings@LSLLP.com, EMenist@LSLLP.com, TMEFS@LSLLP.com
Submission	Answer
Filer's Name	Robert B. Golden
Filer's e-mail	RGolden@LSLLP.com, JRollings@LSLLP.com, CShore@LSLLP.com, EMenist@LSLLP.com, TMEFS@LSLLP.com
Signature	/Robert B. Golden/
Date	10/24/2016
Attachments	Answer.pdf(15441 bytes)

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

Application Ser. No.: 86/131,804
Mark: BRACK ATTACK
International Classes: 9,41, and 42
Applicant: Class Act Sports, LLC
Published in *OG*: August 26, 2014

Application Ser. No.: 86/242,813
Mark: BRACK ATTACK
International Classes: 25
Applicant: Class Act Sports, LLC
Published in *OG*: August 26, 2014

Application Ser. No.: 86/243,893
Mark: DON'T LET ONE TEAM BUST YOUR
BRACKET
International Classes: 41
Applicant: Class Act Sports, LLC
Published in *OG*: August 26, 2014

-----	X
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,	:
	:
Opposer,	:
	:
v.	:
	Opposition No. 91220749
	:
CLASS ACT SPORTS, LLC,	:
	:
Applicant.	:
-----	X

ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION

Applicant, Class Act Sports, LLC (“Class Act”), by and through its undersigned counsel, answers the First Amended Notice of Opposition (“Amended Notice”) filed by Opposer, National Collegiate Athletic Association’s (“NCAA”), as follows:

1. Class Act lacks information sufficient to admit or deny the allegations set forth in paragraph 1 of the Amended Notice, and on that ground denies same.
2. Class Act lacks information sufficient to admit or deny the allegations set forth in paragraph 2 of the Amended Notice, and on that ground denies same.
3. Admitted.
4. Admitted.
5. Admitted.

6. Denied.

7. Denied.

8. Class Act admits that if it were to be granted registration of its trademarks BRACK ATTACK and DON'T LET ONE TEAM BUST YOUR BRACKET, it would thereby acquire certain statutory rights, including the right to make exclusive use within the United States of those trademarks in connection with the services identified in its registrations for those marks, but Class Act otherwise denies the allegations set forth in paragraph 8 of the Amended Notice.

9. Denied.

10. Class Act restates and incorporates herein its responses to the allegations made in paragraphs 1 through 5 of the Amended Notice.

11. Class Act lacks information sufficient to admit or deny the allegations set forth in paragraph 11 of the Amended Notice, and on that ground denies same.

12. Class Act admits that the screenshot set forth in paragraph 12 of the Amended Notice accurately depicts a web page located at www.brackattack.us/dates/, but Class Act otherwise lacks information sufficient to admit or deny the allegations set forth in paragraph 12 of the Amended Notice, and on that ground denies same.

13. Denied.

14. Denied.

15. Class Act lacks information sufficient to admit or deny the allegations set forth in paragraph 15 of the Amended Notice, and on that ground denies same.

16. Denied.

AFFIRMATIVE DEFENSES

1. Applicant's BRACK ATTACK and DON'T LET ONE TEAM BUST YOUR BRACKET trademarks ("Applicant's Marks") are at a minimum suggestive, and thus inherently distinctive.
2. Applicant's Marks have acquired distinctiveness and a secondary meaning in the marketplace.
3. BRACK is not a recognized abbreviation for the word BRACKET.
4. Given that a significant number of entities and/or organizations use, or may be associated with the term BRACKET, or brackets generally, consumers neither uniquely nor unmistakably associate the term BRACKET with the NCAA.
5. The term BRACKET does not constitute an identity of any entity and/or organization, including the NCAA, for purposes of 15 U.S.C. 1052(a).

Respectfully submitted,

Dated: Scarsdale, New York
October 24, 2016

LACKENBACH SIEGEL LLP

By: /s/ Robert B. Golden
Robert B. Golden
Jeffrey M. Rollings
One Chase Road
Scarsdale, New York 10583
(914) 723-4300
RGolden@LSLLP.com
JRollings@LSLLP.com
Attorneys for Class Act Sports, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was served on Opposers on October 24, 2016 via first class mail, addressed to counsel for Opposer as follows:

Douglas N Masters
LOEB & LOEB LLP
321 North Clark Street, Suite 2300
Chicago, IL 60654

Dated: Scarsdale, New York
October 24, 2016

/s/ Eric A. Menist
Eric A. Menist