

ESTTA Tracking number: **ESTTA708613**

Filing date: **11/13/2015**

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	Major League Baseball Properties, Inc.
Granted to Date of previous extension	11/15/2015
Address	245 Park Avenue New York, NY 10167 UNITED STATES
Attorney information	Aryn M. Emert 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 Phone:212-790-9200

**Applicant Information**

Application No	86480960	Publication date	05/19/2015
Opposition Filing Date	11/13/2015	Opposition Period Ends	11/15/2015
Applicant	Major League Texan 23906 Crooked Creek Hockley, TX 77447 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hats; Shirts; Sweatshirts
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**Grounds for Opposition**

Other	Please see attached pleading.
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Attachments	LETTER TO COMMISSIONER - MAJOR LEAGUE TEXAN.pdf(66407 bytes ) NOO - MAJOR LEAGUE TEXAN.pdf(65117 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	/Aryn M. Emert/
Name	Aryn M. Emert
Date	11/13/2015



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November 13, 2015

**By Electronic Filing**

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

Re: Major League Baseball Properties, Inc.  
Notice of Opposition against Major League Texan  
Application to register MAJOR LEAGUE TEXAN  
Ref. No. 21307.000

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Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/480,960 published in the Official Gazette on December 15, 2014. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300.00 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,

/Aryn M. Emert/  
Aryn M. Emert

Enclosures

cc: Ms. Diane Kovach (w/encs.)  
Mary L. Kevlin, Esq. (w/encs.)

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

In re Application Serial No. 86/480,960  
Filed: December 15, 2014  
For Mark: MAJOR LEAGUE TEXAN  
Published in the Official Gazette: May 19, 2015

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MAJOR LEAGUE BASEBALL PROPERTIES, :  
INC., :  
: Opposition No.  
:  
MAJOR LEAGUE TEXAN, : **NOTICE OF OPPOSITION**  
:  
-----X

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

Opposer, Major League Baseball Properties, Inc., a New York corporation, with offices at 245 Park Avenue, New York, New York 10167 (“Opposer”), believes that it will be damaged by registration of the standard character word mark MAJOR LEAGUE TEXAN (“Applicant’s Mark”) in International Class 25 for “hats; shirts; sweatshirts” as shown in Application Serial No. 86/480,960 (the “Application”), and having been granted extensions of time to oppose up to and including November 15, 2015, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. For decades prior to December 15, 2014, Applicant’s constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks comprising or containing the words MAJOR LEAGUE, MAJOR LEAGUES and MAJOR LEAGUE BASEBALL as well as their foreign equivalents, the abbreviation MLB,

and/or various silhouetted batter designs (the graphic equivalent of MAJOR LEAGUE BASEBALL and MLB) which are often depicted in the colors of red, white and blue, including

without limitation the following:  ,



and  (“MLB’s Silhouetted

Logos”), either alone or with other word, letter and/or design elements (collectively, the “MAJOR LEAGUE Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, hats, shirts, and sweatshirts; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items.

2. Opposer owns U.S. federal registrations for the MAJOR LEAGUE Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 31, 34, 35, 38 and 41, namely, Registration Nos. 955,967, 1,055,313, 1,055,317, 1,055,318, 1,055,319, 1,055,322, 1,057,260, 1,057,264, 1,057,265, 1,528,807, 1,617,698, 1,620,020, 1,625,617, 1,648,643, 1,719,587, 1,741,015, 1,745,625, 1,799,433, 1,822,830, 1,988,066, 2,068,319, 2,188,192, 2,226,926, 2,569,970, 2,569,971, 2,573,096, 2,573,503, 2,586,893, 2,604,417, 2,609,504, 2,612,388, 2,666,228, 2,669,860, 2,675,477, 2,680,015, 2,697,473, 2,705,130, 2,776,186, 2,779,958, 2,800,750, 2,800,751, 2,800,752, 2,802,812, 2,802,813, 2,802,814, 2,806,937, 2,806,938, 2,832,358, 2,832,359, 2,845,335, 2,847,892, 2,847,893, 2,847,894, 2,851,208, 2,863,102, 2,879,840, 2,971,015, 2,976,531, 2,976,538, 3,150,381, 3,206,580, 3,299,532, 3,304,100, 3,304,101, 3,304,102, 3,326,191, 3,337,072, 3,337,073, 3,396,067, 3,399,695, 3,428,556,

3,437,492, 3,456,907, 3,538,655, 3,538,735, 3,542,112, 3,581,756, 3,593,031, 3,593,032, 3,600,321, 3,641,257, 3,644,958, 3,644,959, 3,667,138, 3,680,207, 3,716,952, 3,750,187, 3,761,818, 3,862,153, 4,037,576, 4,084,490, 4,099,594, 4,294,588, 4,392,303, 4,658,380, 4,758,577, 4,758,578, 4,758,579 and 4,758,580. Registration Nos. 955,967, 1,055,313, 1,055,317, 1,055,318, 1,055,319, 1,055,322, 1,057,260, 1,057,264, 1,057,265, 1,528,807, 1,617,698, 1,620,020, 1,625,617, 1,648,643, 1,719,587, 1,741,015, 1,745,625, 1,799,433, 1,822,830, 2,188,192, 2,226,926, 2,569,970, 2,569,971, 2,573,096, 2,573,503, 2,604,417, 2,609,504, 2,612,388, 2,669,860, 2,675,477, 2,680,015, 2,705,130, 2,776,186, 2,779,958, 2,800,750, 2,800,751, 2,800,752, 2,802,812, 2,802,813, 2,802,814, 2,845,335, 2,847,894, 2,851,208, 2,863,102, 2,879,840, 2,971,015, 3,150,381, 3,206,580, 3,326,191, 3,299,532, 3,304,100, 3,304,101, 3,304,102, 3,337,072, 3,337,073, 3,396,067, 3,399,695, 3,428,556, 3,437,492, 3,456,907, 3,538,655, 3,542,112, 3,593,031, 3,593,032, 3,641,257, 3,644,958, 3,644,959, 3,667,138 and 3,680,207 are incontestable. Registration Nos. 2,666,228, 2,697,473, 2,832,358, 2,832,359, 2,847,892 and 2,847,893 are partially incontestable.

3. For decades prior to December 15, 2014, Applicant's constructive first use date, Opposer and 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 the MAJOR LEAGUE Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, hats, shirts, and sweatshirts; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

4. As a result of the sales and promotion of its goods and services bearing or offered in connection with the MAJOR LEAGUE Marks, Opposer has built up extremely valuable goodwill in the MAJOR LEAGUE Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

5. Thirty (30) MAJOR LEAGUE BASEBALL professional baseball teams (the “MAJOR LEAGUE Clubs”) participate in baseball games and exhibition services identified by the MAJOR LEAGUE Marks.

6. Currently, two (2) of the MAJOR LEAGUE Clubs, the HOUSTON ASTROS and the TEXAS RANGERS (the “Texas MAJOR LEAGUE Clubs”), are located in the State of Texas.

7. On December 15, 2014, Applicant filed the Application for Applicant’s Mark for “hats; shirts; sweatshirts” in International Class 25, based on an intent to use.

8. Upon information and belief, Applicant did not use Applicant's Mark for the goods covered in the Application in United States commerce prior to its constructive first use date of December 15, 2014.

9. Upon information and belief, Applicant has offered for sale merchandise, including hats and shirts, bearing Applicant’s Mark, with a silhouetted design of the map of





Texas, including in the colors red, white and blue, as shown here:

(“Applicant’s Silhouetted Texas Design”).

10. Applicant's Silhouetted Texas Design features the silhouetted shape of the State of Texas just right off center in a rectangular shape, with the color blue filling the left space and the color red filling the right space around the outlined design.

11. Certain of MLB's Silhouetted Logos feature the silhouetted shape of a baseball player just right off center in a rectangular shape, with the color blue filling the left space and the color red filling the right space around the outlined design.

12. Applicant's Silhouetted Texas Design is similar to MLB's Silhouetted Logos, as shown below:

<u>Applicant's Silhouetted Texas Design</u>	<u>One of MLB's Silhouetted Logos</u>
	

13. Upon information and belief, Applicant's Texas Design suggests Applicant's intent to trade on Opposers' goodwill.

14. Upon information and believe, Applicant's Mark that combines the MAJOR LEAGUE portion of the MAJOR LEAGUE Marks with the word TEXAN, which means someone or something from the State of Texas, may be construed to be or understood as a reference to baseball players from the Texas MAJOR LEAGUE Clubs, particularly when used in connection with the goods covered by the Application.

15. The goods covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with the MAJOR LEAGUE Marks.

16. Applicant's Mark so resembles the MAJOR LEAGUE Marks as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, and to

deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods 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 believe that they will be damaged by registration of Applicant's Mark and request 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 and Aryn M. Emert (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  
November 13, 2015

Respectfully submitted,

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

By: /Aryn M. Emert/

Mary L. Kevlin  
Richard S. Mandel  
Aryn M. Emert  
1133 Avenue of the Americas  
New York, New York 10036  
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 13, 2015, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant and Correspondent of Record, Major League Texan, 23906 Crooked Creek, Hockley, Texas 77447, Attention: Brad and Grace French.

/Aryn M. Emert/  
Aryn M. Emert