

ESTTA Tracking number: **ESTTA720792**

Filing date: **01/15/2016**

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	Colorado Rockies Baseball Club, Ltd.
Granted to Date of previous extension	01/17/2016
Address	2001 Blake Street Denver, CO 80205 UNITED STATES

Attorney information	Robert J. English Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES rje@cll.com, mlk@cll.com, las@cll.com, trademark@cll.com Phone:212-790-9200
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Applicant Information

Application No	86548071	Publication date	07/21/2015
Opposition Filing Date	01/15/2016	Opposition Period Ends	01/17/2016
Applicant	Brandl Baseball, LLC 5001 Veterans Drive St. Cloud, MN 56303 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2012/02/28 First Use In Commerce: 2012/02/28 All goods and services in the class are opposed, namely: Entertainment in the nature of baseballgames

Applicant Information

Application No	86548141	Publication date	07/21/2015
Opposition Filing Date	01/15/2016	Opposition Period Ends	
Applicant	Brandl Baseball, LLC 5001 Veterans Drive St. Cloud, MN 56303 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2012/02/28 First Use In Commerce: 2012/02/28
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All goods and services in the class are opposed, namely: Entertainment in the nature of base-ballgames
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Grounds for Opposition

Other

see attached pleading

Attachments

ST. CLOUD ROX - Consolidated NOO.pdf(11269 bytes) ST. CLOUD ROX Ltr. to Comm.pdf(66909 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	/Robert J. English/
Name	Robert J. English
Date	01/15/2016

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

In re Application Serial Nos. 86/548,071 and 86/548,141
Filed: February 27, 2015
For Marks: ST. CLOUD ROX and ST. CLOUD ROX and Design
Published in the Official Gazette: July 21, 2015

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COLORADO ROCKIES BASEBALL CLUB, LTD.,:		
Opposer,		Opposition No.
	:	
v.	:	
	:	
BRANDL BASEBALL, LLC,	:	CONSOLIDATED
Applicant.	:	<u>NOTICE OF OPPOSITION</u>
	:	
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Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Colorado Rockies Baseball Club, Ltd. (“Opposer”), a Colorado limited partnership with offices at 2001 Blake Street, Denver, Colorado 80205, believes that it will be damaged by registration of the standard character word mark ST. CLOUD ROX and the mark ST. CLOUD ROX and Design (together, “Applicant’s Marks”), both for “Entertainment in the nature of baseball games” in International Class 41, as shown in Application Serial No. 86/548,071 and Application Serial No. 86/548,141 (together, the “Applications”), and having been granted extensions of time to oppose up to and including January 17, 2016, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned COLORADO ROCKIES MAJOR LEAGUE BASEBALL club.

2. Since long prior to February 28, 2012, Applicant's claimed first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks and names comprising or containing the words "ROCKIES" and "ROX," and/or other ROCK-formative marks, alone or with other word, letter and/or design elements, including, without limitation, geographical terms, in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items. In addition, the Opposer, the press, the media and the public have referred to Opposer as the "ROX" (collectively, "Opposer's Marks").

3. Opposer owns United States federal registrations and an application for Opposer's Marks in International Classes 6, 9, 14, 16, 18, 21, 25, 28 and 41, namely, Registration Nos. 1,812,473, 1,831,055, 1,831,056, 1,831,625, 1,839,084, 1,842,521, 1,913,394, 2,300,169, 2,736,019, 3,341,382, 3,616,855, 3,838,298, 4,246,184, 4,365,589, 4,369,556 and 4,478,579. Registration Nos. 1,812,473, 1,831,625, 1,839,084, 1,842,521, 2,300,169, 3,341,382 and 3,616,855 are incontestable and Registration Nos. 1,831,055, 1,831,056 and 1,913,394 are partially incontestable. Opposer also owns a Colorado state registration for its ROX mark in International Class 25.

4. Since long prior to February 28, 2012, Applicant's claimed 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 Opposer's Marks in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel; 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 Marks, Opposer has built up highly valuable goodwill in Opposer's Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On February 27, 2015, Applicant filed the Applications for Applicant's Marks for "Entertainment in the nature of baseball games" in International Class 41, claiming a first use date of February 28, 2012.

7. Upon information and belief, Applicant did not use either of Applicant's Marks for the services covered in the Applications prior to its claimed first use date of February 28, 2012.

8. Applicant's Marks consist of the term "ROX" preceded by the descriptive geographical term "ST. CLOUD," which is disclaimed, making ROX the dominant feature of Applicant's Marks.

9. The word "ROX" in Applicant's Marks is identical to certain of Opposer's Marks, namely, Opposer's ROX mark.

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

11. Applicant's Marks, which consist of the term ROX preceded by a geographical term, so resemble Opposer's Marks, which often consist of the term ROCKIES or ROX preceded by a geographical term, as to be likely, when used in connection with Applicant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are

likely to believe that Applicant's services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Marks and requests that the consolidated opposition be sustained and said registrations be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Robert J. English (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
January 15, 2016

Respectfully submitted,

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

By: /Robert J. English /

Mary L. Kevlin
Richard S. Mandel
Robert J. English
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 15, 2016, I caused a true and correct copy of the foregoing Consolidated Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Gregory J. Hauptert, Rajkowski Hansmeier Ltd., PO Box 1433, Saint Cloud, Minnesota 56302-1433.

/Robert J. English /
Robert J. English



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January 15, 2016

By Electronic Filing

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

Re: Colorado Rockies Baseball Club, Ltd.
Consolidated Notice of Opposition Against
Brandl Baseball, LLC's
Applications to register
ST CLOUD ROX and ST CLOUD ROX and Design
Ref. No. 21307.013

Dear Commissioner:

We enclose a Consolidated Notice of Opposition against Application Serial Numbers 86/548,071 and 86/548,141, published in the Official Gazette on July 21, 2015. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$600 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,

/Robert J. English/
Robert J. English

Enclosures

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