

ESTTA Tracking number: **ESTTA870185**

Filing date: **01/10/2018**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	NFL Properties LLC
Granted to Date of previous extension	01/10/2018
Address	345 Park Avenue New York, NY 10154 UNITED STATES

Name	The Oakland Raiders
Granted to Date of previous extension	01/10/2018
Address	1220 Harbor Bay Parkway Alameda, CA 94502 UNITED STATES

Attorney information	Kristin H. Altoff Morgan, Lewis & Bockius LLP 1111 Pennsylvania Ave. NW; Attn: TMSU Washington, DC 20004 UNITED STATES Email: trademarks@morganlewis.com, kristin.altoff@morganlewis.com, seth.rappaport@morganlewis.com, michelle.raynes@morganlewis.com Phone: 2027395093
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**Applicant Information**

Application No	87439181	Publication date	09/12/2017
Opposition Filing Date	01/10/2018	Opposition Period Ends	01/10/2018
Applicant	Joseph Hong 10781 W. Twain Ave. Las Vegas, NV 89135 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: Clothing, namely, short-sleeved shirts, long-sleeved shirts, sweatshirts, jackets, pants and shorts

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Dilution by blurring	Trademark Act Sections 2 and 43(c)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2716923	Application Date	04/27/2000
Registration Date	05/20/2003	Foreign Priority Date	NONE
Word Mark	RAIDER NATION		
Design Mark	<b>RAIDER NATION</b>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1995/06/01 First Use In Commerce: 1995/06/01 Clothing, namely, [ hats, jackets, and ] tee shirts		

U.S. Registration No.	2902616	Application Date	01/17/2001
Registration Date	11/16/2004	Foreign Priority Date	NONE
Word Mark	RAIDER NATION		
Design Mark	<b>RAIDER NATION</b>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1995/06/01 First Use In Commerce: 1995/06/01 ON LINE RETAIL STORE FEATURING SPORTS MEMORABILIA, CLOTHING AND SOUVENIRS ON A GLOBAL COMPUTER NETWORK Class 041. First use: First Use: 1995/06/01 First Use In Commerce: 1995/06/01 PROVIDING STATISTICAL INFORMATION IN THE FIELD OF SPORTS VIA A GLOBAL COMPUTER NETWORK		

U.S. Registration No.	2822131	Application Date	01/11/2002
Registration Date	03/16/2004	Foreign Priority Date	NONE
Word Mark	SILVER & BLACK CLUB		
Design Mark	<b>SILVER &amp; BLACK CLUB</b>		

Description of Mark	NONE
Goods/Services	<p>Class 014. First use: First Use: 2001/08/00 First Use In Commerce: 2001/08/00 [ Ornamental lapel pins, pendants, necklaces, earrings, charms, watches, rings;belt buckles of precious metal, for clothing ]</p> <p>Class 016. First use: First Use: 2001/08/00 First Use In Commerce: 2001/08/00 Paper, cardboard and goods made from these materials; namely, [ banners, books concerning football, posters, ] [ playing cards, trading cards, ] [ booklets concerning football, program guides, catalogues concerning football, notebooks, ] pencils, [ pens, ] stationery, [ photo albums, book covers, memo boards, ] [ subject folders, ] [ pencil sharpeners, erasers, pencil boxes, ] memo pads, [ theme books concerning football, stationery-type portfolios, 3-ring binders, calendars, poster cards, paper place mats, paper gift boxes, pennants, paper napkins, paper plates, ] paper stickers, [ crosswordpuzzles, bumper stickers, ] [ greeting cards, ] [ magazines concerning football, post cards, wrapping paper, paper giftboxes, paper towels, paper party hats ]</p> <p>Class 025. First use: First Use: 2001/08/00 First Use In Commerce: 2001/08/00 [ Men's women's and children's [ footwear, headwear and ] clothing, namely, shirts, t-shirts, [ tank tops, maternity tops, ] jackets, [ warm-up suits, down jackets, jeans, coats, ] sweatshirts, [ sweatpants, football jerseys, shorts, pull-over jackets, robes, pajamas, knickers, aprons, skirts, knit tops, scarves, longjohn, snow suits, dresses, jogging suits, bib overalls, polo shirts, sweaters, slacks, turtlenecks, fleece pullovers, jersey pants, shorts, neck gaiters, thermal shirts, gloves, parkas, stadium coats, ] wind resistant jackets, [ wraps, bathing suits, raincoats, ponchos, night shirts, leather jackets, leg warmers, leotards, cardigans, boxer shorts, neckties,suspenders, belts, rompers, mittens, wristbands, underwear, sneakers, socks, coaches' caps, wool and knit hats, beanies, visor, head gaiters, knit face masks, baseball caps, headbands, ear muffs painter's caps bandanas ] ]</p> <p>Class 041. First use: First Use: 2001/08/00 First Use In Commerce: 2001/08/00 Entertainment services in the nature of live football games; production of radio and television programs featuring live football games</p>

U.S. Registration No.	2683107	Application Date	02/06/2002
Registration Date	02/04/2003	Foreign Priority Date	NONE
Word Mark	SILVER & BLACK SHOW		
Design Mark	<b>SILVER &amp; BLACK SHOW</b>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2000/07/00 First Use In Commerce: 2000/07/00 ENTERTAINMENT SERVICES, NAMELY, PROVIDING A SYNDICATED TALK SHOW PROGRAM FEATURING PERSPECTIVES AND ANALYSIS OF THE OAKLAND RAIDERS FOOTBALL TEAM, RENDERED THROUGH THE MEDIUM OF [RADIO,] TELEVISION AND THE INTERNET		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	SILVER & BLACK
Goods/Services	Clothing, including t-shirts

Attachments	76035172#TMSN.png( bytes ) 76195179#TMSN.png( bytes ) 76357896#TMSN.png( bytes ) 76368318#TMSN.png( bytes ) SILVER BLACK NATION Notice of Opposition.pdf(1435002 bytes )
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Signature	/Kristin H. Altoff/
Name	Kristin H. Altoff
Date	01/10/2018

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

THE OAKLAND RAIDERS and NFL  
PROPERTIES LLC,

Opposers,

v.

JOSEPH HONG,

Applicant.

In re Application Serial No. 87/439,181  
Mark: SILVER & BLACK NATION

Published: September 12, 2017

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposers The Oakland Raiders and NFL Properties LLC (“Opposers”) believe they will be damaged by registration of the designation SILVER & BLACK NATION shown in Application Serial No. 87/439,181 (“Applicant’s SILVER & BLACK NATION Designation”), filed by Joseph Hong (“Applicant”), a Nevada resident, for use in connection with “Clothing, namely, short-sleeved shirts, long-sleeved shirts, sweatshirts, jackets, pants and shorts” in Class 25. Opposers hereby oppose registration of Applicant’s SILVER & BLACK NATION Designation under the provisions of Sections 2(d), 13, and 43(c) of the Trademark Act of July 5, 1946 (the “Lanham Act”), 15 U.S.C. §§ 1052(d), 1063, and 1125(c).

As grounds for opposition, Opposers allege that:

1. Opposer The Oakland Raiders (the “Raiders” or “Raiders Club”) is a California partnership, composed of General Partner-A.D. Football Inc., a California corporation, with its principal place of business at 1220 Harbor Bay Parkway, Alameda, California 94502. The Raiders Club owns and operates a professional football team and provides entertainment services to the public in the form of competitive professional football games. The Raiders Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 345 Park Avenue, New York, New York, 10154. NFLP represents the NFL and its thirty-two Member Clubs for the licensing and protection of their names, logos, symbols, and other identifying marks and is charged with protecting these marks and the rights of the NFL and the Member Clubs with respect thereto.

3. For many years, and long before the May 5, 2017, filing date of Applicant’s intent-to-use application, Opposers have used marks consisting of and containing the phrases SILVER & BLACK and RAIDER NATION (collectively, “Opposers’ SILVER & BLACK and RAIDER NATION Marks”) in connection with their business of organizing, conducting, and promoting the Raiders football franchise.

4. For many years, and long before the May 5, 2017, filing date of Applicant’s intent-to-use application, Opposers and their authorized business partners, sponsors, and/or licensees have used Opposers’ SILVER & BLACK and RAIDER NATION Marks on or in connection with the sale of a wide variety of goods and services related to the business of organizing, conducting, and promoting the Raiders football franchise.

5. Opposers have used and are currently using Opposers’ SILVER & BLACK and RAIDER NATION Marks, individually and together, in connection with apparel and the sale of such apparel online, including as shown below.

http://www.nflshop.com/Oakland\_Raiders\_T-Shirts/Womens\_Oakland\_Raiders\_NFL\_Pro\_Line\_Black\_Hometown\_Collecti... Raiders Majestic Safety Blitz Tee Men's Oakland Raiders NFL Pro... Women's Oakland Raiders NF...


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**2 DAYS ONLY!** **FREE SHIPPING** ON ORDERS OVER \$25 **USE CODE NFL25** \*EXCLUSIONS APPLY / PROMOTION DETAILS >

HOME | OAKLAND RAIDERS GEAR | OAKLAND RAIDERS T-SHIRTS (656 ITEMS) | PRODUCT ID: 2558473



**Women's Oakland Raiders NFL Pro Line Black Hometown Collection V-Neck T-Shirt**  
In Stock - Ready to Ship

Your Price: \$24.99

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Women's Oakland Raiders Black Red Zone Script V-Neck T-Shirt \$22.99

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Home > Misc > Raider Image Exclusives > Raiders Majestic Raider Nation IV Tee



### Raiders Majestic Raider Nation IV Tee

Product ID: 1001176601

EXCLUSIVE ITEM

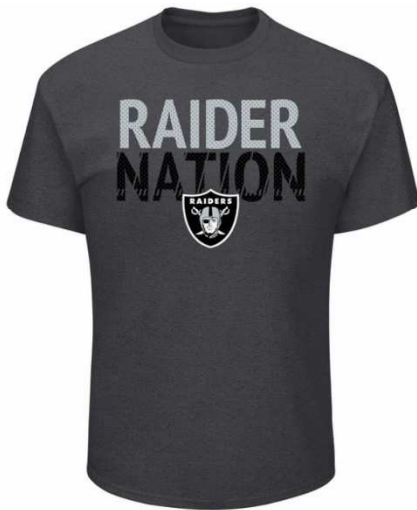
**\$24.99**

SIZE:

- SM
- MD
- LG
- XL
- 2X
- 3X
- 4X
- 5X
- 6X

SIZE GUIDE

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### Raiders Majestic Safety Blitz Tee

Product ID: 1001173003

**\$27.99**

SIZE:

- MD
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- XL
- 2X
- 3X
- 4X
- 5X
- 6X

SIZE GUIDE

QTY: 1 **ADD TO CART**

SHARE THIS PRODUCT

**PRODUCT DETAILS** SHIPPING RETURN INFO

Show off your Raider Nation pride on game day with the Raiders Majestic Safety Blitz Tee. This tee features distressed, screen printed Raiders' graphics on the chest. 50% cotton, 50% polyester.

Top Destination  
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**HURRY! ENDS SOON!** 22 HRS 21 MIN 31 SEC **FREE 2-DAY SHIPPING** ON ORDERS OVER \$49 **ORDER NOW, GET IT BY 1/12** LOOK FOR THIS ICON **USE CODE GAMES** (EXCLUSIONS APPLY. SEE DETAILS.)

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  - Pants
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  - Polos
  - Rompers
  - Shirts & Sweaters
  - Shorts
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  - T-Shirts
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- Customized
  - Design Your Own
- Price Range**
- less than \$10
  - \$10 to \$20

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 <input type="radio"/> Ships Free	 <input type="radio"/> Ships Free	 <input type="radio"/> Ships Free	 <input type="radio"/> Ships Free	 <input type="radio"/> Ships Free
<p>Men's Oakland Raiders NFL Pro Line Heathered Gray Hometown Collection Long Sleeve T-Shirt Your Price: \$34.99</p>	<p>Women's Oakland Raiders NFL Pro Line by Fanatics Branded Black Spirit Jersey Long Sleeve Lace Up T-Shirt Your Price: \$69.99</p>	<p>Men's Oakland Raiders Hands High Black/Silver Player Full-Zip Hoodie Your Price: \$69.99</p>	<p>Oakland Raiders The Northwest Company 46" x 60" 40-Yard Dash Micro Raschel Blanket Your Price: \$29.99</p>	<p>Men's Oakland Raiders Ra Line by Fanatics B Iconic Collection F Pullover Hoodie Your Price: \$59</p>



6. In addition to the common law rights in Opposers’ SILVER & BLACK and RAIDER NATION Marks, the Raiders Club owns registrations and applications for many of Opposers’ SILVER & BLACK and RAIDER NATION Marks used in connection with entertainment services in the form of football games and exhibitions and promotional and merchandising products and services, including, among others, the following registrations issued by the United States Patent and Trademark Office (“PTO”):

<b>Registration Number</b>	<b>Mark</b>	<b>International Class</b>	<b>Date of First Use in Commerce</b>
2,716,923	RAIDER NATION	25	06/01/1995
2,902,616	RAIDER NATION	35, 41	06/01/1995
2,822,131	SILVER & BLACK CLUB	16, 41	08/2001
2,683,107	SILVER & BLACK SHOW	41	07/2000

7. The registrations referenced above are valid and subsisting, in full force and effect, and constitute *prima facie* and/or conclusive evidence of the Raiders Club’s exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations.

8. The registrations referenced above are incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and constitute conclusive evidence of the Raiders Club’s exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations.

9. During the longstanding, widespread and continuous use of Opposers’ SILVER & BLACK and RAIDER NATION Marks, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and

publicizing the sale of goods and services bearing the Opposers' SILVER & BLACK and RAIDER NATION Marks.

10. Opposers and their licensees and sponsors have sold and offered for sale goods and services bearing Opposers' SILVER & BLACK and RAIDER NATION Marks in a trading area of broad geographical scope encompassing the United States, including its territories.

11. Opposers and their licensees and sponsors have sold and offered for sale goods and services bearing Opposers' SILVER & BLACK and RAIDER NATION Marks in numerous channels of trade.

12. Opposers' SILVER & BLACK and RAIDER NATION Marks are symbolic of the extensive goodwill and consumer recognition that Opposers have established through substantial expenditures of time, effort and other resources in the advertising and promotion of the goods and services Opposers sell and offer for sale under Opposers' SILVER & BLACK and RAIDER NATION Marks.

13. As a result of Opposers' regular, extensive and well-publicized use, Opposers' SILVER & BLACK and RAIDER NATION Marks are famous in the United States and are associated exclusively with Opposers and their high quality goods and services.

14. On May 5, 2017, Applicant filed an intent-to-use application for federal registration of Applicant's SILVER & BLACK NATION Designation shown in Application Serial No. 87/439,181.

15. Applicant's SILVER & BLACK NATION Designation application covers "Clothing, namely, short-sleeved shirts, long-sleeved shirts, sweatshirts, jackets, pants and shorts" in Class 25.

16. Applicant's SILVER & BLACK NATION Designation, Application Serial No. 87/439,181, was published for opposition in the *Official Gazette* on September 12, 2017.

17. The Trademark Trial and Appeal Board extended the opposition period for Applicant's SILVER & BLACK NATION Designation by granting Opposers' timely requests for extensions. The opposition period for Application Serial No. 87/439,181 currently expires on January 10, 2018. Opposers timely file this opposition.

18. Opposers' rights in and to Opposers' SILVER & BLACK and RAIDER NATION Marks are superior to those of Applicant.

19. Opposers' SILVER & BLACK and RAIDER NATION Marks are famous and became famous before the Applicant's filing date or any use of Applicant's SILVER & BLACK NATION Designation.

20. Applicant's application for and any use of Applicant's SILVER & BLACK NATION Designation is without the consent, authorization, or license of Opposers.

21. Upon information and belief, Applicant intends to use Applicant's SILVER & BLACK NATION Designation to trade off of the substantial goodwill associated with Opposers' SILVER & BLACK and RAIDER NATION Marks.

22. The NFL has approved the Raiders Club to relocate from Oakland, California to Las Vegas, Nevada in 2019. Applicant resides in the city of Las Vegas, Nevada and, upon information and belief, intends to use Applicant's SILVER & BLACK NATION Designation in connection with clothing related to the Raiders Club and the team's move to Las Vegas.

23. Opposers believe they will be damaged by registration of Applicant's SILVER & BLACK NATION Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject designation so resembles Opposers' SILVER & BLACK and RAIDER

NATION Marks used by Opposers in the United States as to be likely, when used on or in connection with the goods identified in the application for Applicant's SILVER & BLACK NATION Designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposers and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

24. Opposers believe they will be damaged by registration of Applicant's SILVER & BLACK NATION Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, because the use and registration of Applicant's SILVER & BLACK NATION Designation is likely to dilute the distinctive quality of Opposers' famous SILVER & BLACK and RAIDER NATION Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposers believe they will be damaged by registration of Applicant's SILVER & BLACK NATION Designation shown in Application Serial No. 87/439,181 and respectfully request that the registration sought by Applicant be refused.

Dated: January 10, 2018

Respectfully submitted,

By: /s/ Kristin H. Altoff

Kristin H. Altoff

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Attorneys for Opposers

THE OAKLAND RAIDERS and NFL

PROPERTIES LLC