

ESTTA Tracking number: **ESTTA1024208**

Filing date: **12/20/2019**

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	Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company
Granted to Date of previous extension	12/29/2019
Address	7000 COLISEUM WAY OAKLAND, CA 94621 UNITED STATES

Attorney information	James D. Weinberger Fross Zelnick Lehrman & Zissu, P.C. 151 West 42nd Street, 17th Floor New York, NY 10036 UNITED STATES jweinberger@fzlz.com, jvosgerchian@fzlz.com (212) 813-5900
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**Applicant Information**

Application No	88050984	Publication date	07/02/2019
Opposition Filing Date	12/20/2019	Opposition Period Ends	12/29/2019
Applicant	AVID Center Suite 100 9797 Aero Drive San Diego, CA 92123 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 009. First Use: 2017/11/30 First Use In Commerce: 2017/11/30 All goods and services in the class are opposed, namely: Downloadable electronic publications in the nature of hand-outs, training manuals, workbooks, and guides for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills; Downloadable multimedia files containing teaching and training videos in the fields of core academic subjects and student success skills; Educational software featuring training in the fields of core academic subjects, college preparation, and student success skills
Class 016. First Use: 2017/11/30 First Use In Commerce: 2017/11/30 All goods and services in the class are opposed, namely: Printed instructional, educational, teaching and training materials and publications for teachers, counselors, and students in the field of core academic subjects, college preparation, and student success skills; School supplies, namely, pens, pencils, and notepads; Posters
Class 041. First Use: 2017/11/30 First Use In Commerce: 2017/11/30 All goods and services in the class are opposed, namely: Educational services, namely, conducting


web-based and live programs and workshops for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills and distributing course material in connection therewith, and consulting services related thereto; Educational services, namely, providing courses of instruction for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills and distributing course material in connection therewith, and consulting services related thereto; Educational services, namely, providing web-based and live training for certification of teachers and continuing education for teachers and principals; Providing a website featuring non-downloadable webinars and non-downloadable publications in the nature of books, handouts, work books, worksheets, journals, written articles, magazines, booklets, brochures, flashcards, training manuals, activity books, informational flyers and sheets, and curricula, all for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills; Educational and entertainment services, namely, providing motivational and educational speakers in the fields of core academic subjects, college preparation, and student success skills

### Grounds for Opposition

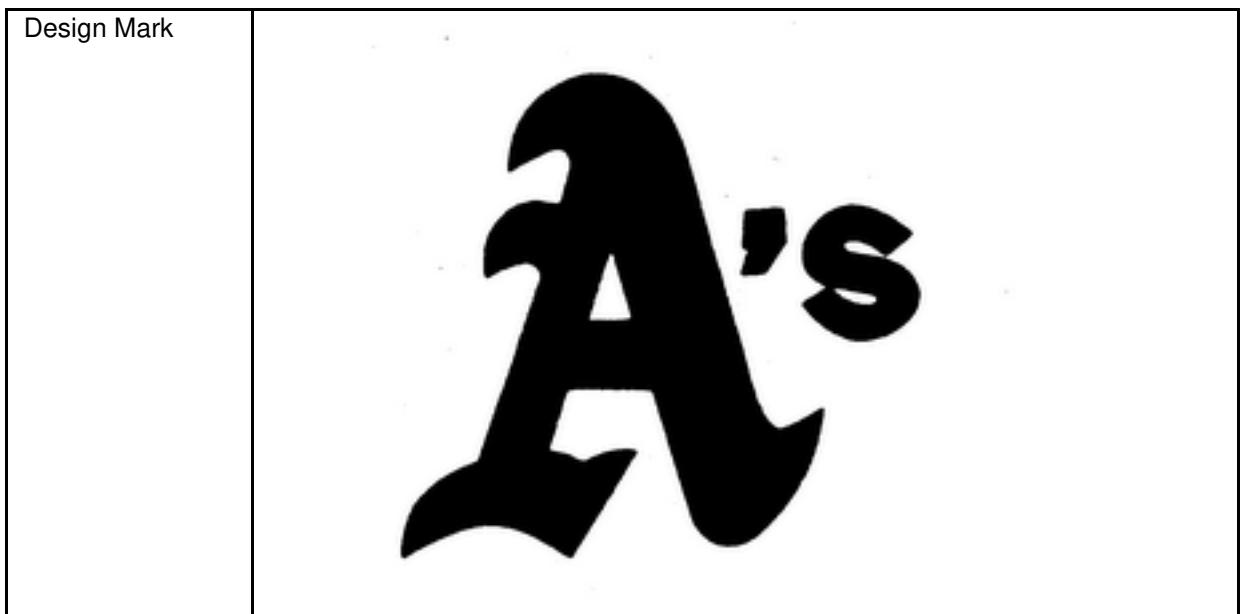
Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1257146	Application Date	09/27/1982
Registration Date	11/08/1983	Foreign Priority Date	NONE
Word Mark	A'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1961/04/01 First Use In Commerce: 1961/04/01 Entertainment Services-Namely, Conducting Professional Baseball Games and Exhibitions Rendered Live and Through the Media of Radio and Television Broadcasts		


U.S. Registration No.	1267687	Application Date	09/27/1982
Registration Date	02/21/1984	Foreign Priority Date	NONE
Word Mark	OAKLAND A'S ATHLETICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 006. First use: First Use: 1981/11/20 First Use In Commerce: 1981/11/20 Key Tags and Key Chains</p> <p>Class 014. First use: First Use: 1981/11/20 First Use In Commerce: 1981/11/20 [Rings and] Lapel Pins</p> <p>Class 018. First use: First Use: 1981/11/20 First Use In Commerce: 1981/11/20 Tote Bags and All Purpose Sport Bags</p> <p>Class 020. First use: First Use: 1981/09/04 First Use In Commerce: 1981/09/04 Novelty Items, in the Nature of Pins, Portable Cushions and Chairs</p> <p>Class 021. First use: First Use: 1981/11/23 First Use In Commerce: 1981/11/23 Aluminum Tankards, Wastebaskets and Mugs of Non-Precious Metal</p> <p>Class 025. First use: First Use: 1981/11/20 First Use In Commerce: 1981/11/20 Clothing-Namely, T-Shirts, Sport Shirts, Sweaters, [Warm-Up Suits,] Pajamas andBaseball Uniforms</p> <p>Class 028. First use: First Use: 1981/11/23 First Use In Commerce: 1981/11/23 [Toy Ceramic Banks]</p> <p>Class 034. First use: First Use: 1981/11/21 First Use In Commerce: 1981/11/21 [Ceramic Ashtrays]</p>		

U.S. Registration No.	1267861	Application Date	09/27/1982
Registration Date	02/21/1984	Foreign Priority Date	NONE
Word Mark	A'S		



Description of Mark	NONE
Goods/Services	<p>Class 011. First use: First Use: 1981/11/15 First Use In Commerce: 1981/11/15 Electric Desk Lamps</p> <p>Class 024. First use: First Use: 1982/02/15 First Use In Commerce: 1982/02/15 Cloth Pennants</p> <p>Class 025. First use: First Use: 1981/01/15 First Use In Commerce: 1981/01/15 Men's, Women's, and Children's Clothing-Namely, Hats, Caps, Visors, Shirts, Jackets, Warm-Up Suits, Shorts, Socks and Wristbands</p> <p>Class 028. First use: First Use: 1981/04/15 First Use In Commerce: 1981/04/15 [Toy Helmet Banks and] Baseball</p>

U.S. Registration No.	1263825	Application Date	09/27/1982
Registration Date	01/10/1984	Foreign Priority Date	NONE
Word Mark	OAKLAND A'S ATHLETICS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1981/04/09 First Use In Commerce: 1981/04/09 Entertainment Services-Namely, Conducting Professional Baseball Games and Exhibitions Rendered Live and Through the Media of Radio and Television Broadcasts

U.S. Registration No.	1523854	Application Date	09/24/1987
Registration Date	02/07/1989	Foreign Priority Date	NONE
Word Mark	OAKLAND A'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1968/00/00 First Use In Commerce: 1968/00/00 ENTERTAINMENT SERVICES IN THE NATURE OFBASEBALL EXHIBITIONS		

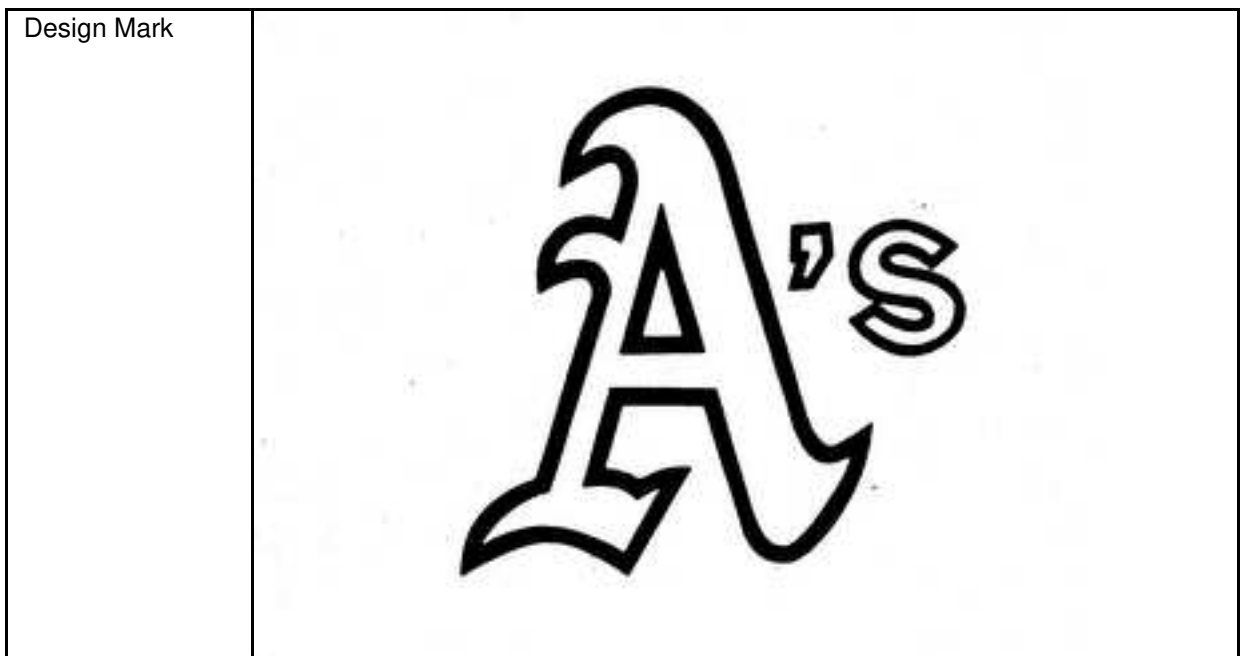
U.S. Registration No.	1530675	Application Date	08/08/1988
Registration Date	03/21/1989	Foreign Priority Date	NONE
Word Mark	OAKLAND A'S ATHLETICS		



Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 [ THERMOMETERS ]</p> <p>Class 016. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 PAPER PRODUCTS AND PRINTED MATTER, NAMELY, [ LITHOGRAPHS, ] POSTERS, PRINTS, [ LENTICULAR BASEBALL CARDS ] AND BASE-BALLCARDS</p> <p>Class 024. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 FABRICS, NAMELY, POTHOLDERS, BEDSPREADSAND SHEETS</p>
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U.S. Registration No.	1570831	Application Date	08/08/1988
Registration Date	12/12/1989	Foreign Priority Date	NONE
Word Mark	A'S		




Description of Mark	NONE
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Goods/Services	<p>Class 014. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 [ WATCHES, NAMELY, BATTING HELMET WRISTWATCHES ]</p> <p>Class 016. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 PAPER PRODUCTS AND PRINTED MATTER, NAMELY, PHOTOS OF BASEBALL PLAYERS,[ LENTICULAR BASEBALL CARDS, ] BASEBALL CARDS</p> <p>Class 021. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 BEVERAGE CONTAINERS, NAMELY, CUPS AND MUGS</p> <p>Class 034. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 [ SMOKER'S ARTICLES, NAMELY, CIGARETTE LIGHTERS ]</p>
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U.S. Registration No.	2573396	Application Date	04/10/2001
Registration Date	05/28/2002	Foreign Priority Date	NONE
Word Mark	A'S OAKLAND ATHLETICS		


Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 028. First use: First Use: 1992/12/00 First Use In Commerce: 1992/12/00 TOYS AND SPORTING GOODS, NAMELY, STUFFED TOYS, PLUSH TOYS, [ BEAN BAG TOYS, BEAN BAGS, ] CHECKER SETS, BOARD GAMES, DART BOARDS AND DART BOARD ACCESSORIES, TOY[ CARS AND ] TRUCKS, [ INFLATABLE BASEBALL BATS, ] TOY BASEBALL BATS, BAL- LOONS,PUZZLES, TOY TATTOOS, DECORATIVE WIND SOCKS, MINI BATS, VIDEO GAME CARTRIDGES, [ HAND HELD VIDEO AND ELECTRONIC GAMES,]BASEBALLS AND HOLDERS FOR BASEBALLS, AUTOGRAPHED BASEBALLS, BASKETBALLS, PLAYGROUND BALLS, RUBBER ACTION BALLS, GOLF BALLS, GOLF CLUB COVERS, [ GOLF CLUB BAGS,GOLF PUTTERS, ] BASEBALL BATS, MITTS, [CATCHER'S MASKS, PARTY FA- VORS IN THE NATURE OF NOISE MAKERS,] AND CHRISTMAS TREE OR- NAMENTS</p>		
U.S. Registration No.	2630348	Application Date	12/05/2000
Registration Date	10/08/2002	Foreign Priority Date	NONE
Word Mark	A'S OAKLAND ATHLETICS		



Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 CLOTHING, NAMELY, CAPS, HATS, HEADWEAR, SHIRTS, T-SHIRTS, TANK TOPS, [ TURTLENECKS,] SHORTS, BASEBALL UNIFORMS, JERSEYS, SWEATSHIRTS,[ BOXER SHORTS,] ROBES, SLEEPWEAR, JACKETS, INFANTWEAR, [CLOTH DIAPER SETS WITH UNDERSHIRT AND DIAPER COVER,] ROMPERS, FOOTWEAR, SOCKS		
U.S. Registration No.	2759932	Application Date	12/18/2001
Registration Date	09/02/2003	Foreign Priority Date	NONE
Word Mark	OAKLAND ATHLETICS A'S		

Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1994/03/00 First Use In Commerce: 1994/03/00  ELECTRICAL AND SCIENTIFIC APPARATUS, NAMELY, [ PRE-RECORDED VIDEOTAPES RELATING TO BASEBALL, ] PRE-RECORDED VIDEODISCS RELATING TO BASEBALL, PRE-RECORDED COMPACT DISCS RELATING TO BASEBALL, PRE-RECORDED AUDIO DISCS RELATING TO BASEBALL, [ BINOCULARS, ] SUN GLASSES; MAGNETS; COMPUTER ACCESSORIES, namely, MOUSE PADS [ AND COMPUTER SOFTWARE, NAMELY, SCREEN SAVERS; COMPACT DISC CASES, ] VIDEO AND COMPUTER GAME CARTRIDGES, VIDEO AND COMPUTER GAME DISCS, VIDEO AND COMPUTER GAME CASSETTES, COMPUTER GAME PROGRAMS</p>		
U.S. Registration No.	3349787	Application Date	10/28/2005
Registration Date	12/04/2007	Foreign Priority Date	NONE
Word Mark	A'S		

Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 014. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 Jewelry, namely, bracelets, charms, earrings, rings, belly rings, necklaces, pendants, watches, costume jewelry, rubber or silicone wristbands in the nature of a bracelet, medallions, ornamental metal pins, lapel pins, cuff links, metal belt buckles of precious metal, [tie tacks, tie pins, ] money clips of precious metal, metal key chains of precious metal, metal key rings of precious metal, clocks, wall clocks, alarm clocks, [fob watches, clock key chains,] and non-monetary coins of precious metal</p>		
U.S. Registration No.	3349788	Application Date	10/28/2005
Registration Date	12/04/2007	Foreign Priority Date	NONE
Word Mark	A'S		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00  Electrical and scientific apparatus, namely, radios; [ pre-recorded videotapes relating to baseball, ] pre-recorded videodiscs relating to baseball; [ pre-recorded audio discs relating to baseball; compact disc cases; cases for personal digital assistants, ] [cell phones,] cell phone accessories, namely, cases and face plate covers; calculators; [ photographic cameras,] electric switch plate covers; luminous signs, neon signs; sunglasses; decorative magnets; protective helmets, baseball batting helmets, [catcher'shelmets,] video and computer game cartridges, video and computer game discs [, video and computer game cassettes and video game controllers ] ; computer accessories, namely, mouse pads computer game programs, and computer game programs downloadable from a global computer network in the field of baseball</p>

Attachments	73389359#TMSN.png( bytes ) 73389055#TMSN.png( bytes ) 73389360#TMSN.png( bytes ) 73389056#TMSN.png( bytes ) 73744853#TMSN.png( bytes ) 73744794#TMSN.png( bytes ) 76238485#TMSN.png( bytes ) 76176172#TMSN.png( bytes ) 76349581#TMSN.png( bytes ) 78743060#TMSN.png( bytes ) 78743062#TMSN.png( bytes ) F3333131.pdf(125086 bytes )
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Signature	/s/ James D. Weinberger
Name	James D. Weinberger
Date	12/20/2019

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

ATHLETICS INVESTMENT GROUP LLC  
D/B/A THE OAKLAND ATHLETICS  
BASEBALL COMPANY,

Opposer,

-against-

AVID CENTER,

Applicant.

**NOTICE OF OPPOSITION**

Opposer, Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company (“Opposer”), a California limited liability company, with offices at 7000 Coliseum Way, Second Floor, Oakland, California 94621, believes that it will be damaged by registration of the mark THE 4 A’S (“Applicant’s Mark”) for “Downloadable electronic publications in the nature of hand-outs, training manuals, workbooks, and guides for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills; Downloadable multimedia files containing teaching and training videos in the fields of core academic subjects and student success skills; Educational software featuring training in the fields of core academic subjects, college preparation, and student success skills” in International Class 9, “Printed instructional, educational, teaching and training materials and publications for teachers, counselors, and students in the field of core academic subjects, college preparation, and student success skills; School supplies, namely, pens, pencils, and notepads; Posters” in International Class 16 and “Educational services, namely, conducting web-based and live

programs and workshops for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills and distributing course material in connection therewith, and consulting services related thereto; Educational services, namely, providing courses of instruction for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills and distributing course material in connection therewith, and consulting services related thereto; Educational services, namely, providing web-based and live training for certification of teachers and continuing education for teachers and principals; Providing a website featuring non-downloadable webinars and non-downloadable publications in the nature of books, handouts, work books, worksheets, journals, written articles, magazines, booklets, brochures, flashcards, training manuals, activity books, informational flyers and sheets, and curricula, all for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills; Educational and entertainment services, namely, providing motivational and educational speakers in the fields of core academic subjects, college preparation, and student success skills” in International Class 41 as shown in Application Serial No. 88050984 (the “Application”), and having been granted extensions of time to oppose up to and including December 30, 2019, hereby opposes the same.

As grounds therefore, Opposer alleges as follows:

1. Opposer is the owner of the renowned OAKLAND ATHLETICS club, formerly known as the PHILADELPHIA ATHLETICS and KANSAS CITY ATHLETICS.
2. Since long prior to July 24, 2018, Applicant’s filing date for the Application and the earliest date upon which Applicant can rely, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks comprising or containing a

capital letter “A”, including, without limitation, in the following distinctive stylizations:



, alone or with other word, letter and/or design elements (“Opposer’s A Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel and accessories; paper goods and printed matter; toys and sporting goods; jewelry; drinkware; scientific apparatus; and novelty items.

3. Opposer owns U.S. federal registrations for Opposer’s A Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 28 and 41, namely, Registration Nos. 1257146, 1267687, 1267861, 1263825, 1523854, 1530675, 1570831, 2573396, 2630348, 2759932, 3349787 and 3349788. All of the registrations for Opposer’s A Marks relied upon herein are valid, subsisting and in full effect and serve as prima facie evidence of the validity of the mark and of Opposer’s exclusive right to use the mark in connection with the goods and services identified therein, pursuant to Section 33(a) of the Lanham Act, 15 U.S.C. § 1115(a). Moreover, all of the registrations are incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore serve as conclusive proof of Opposer’s exclusive right to use the mark in connection with the goods and services identified therein, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

4. Since long prior to July 24, 2018, Applicant’s filing date for the Application and the earliest day on which Applicant may rely, 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 A 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 and accessories; paper goods and printed matter; toys and sporting goods; jewelry; drinkware; scientific apparatus; 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 A Marks, Opposer has built up highly valuable goodwill in Opposer's A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On July 24, 2018, Applicant filed the Application to register Applicant's Mark for "Downloadable electronic publications in the nature of hand-outs, training manuals, workbooks, and guides for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills; Downloadable multimedia files containing teaching and training videos in the fields of core academic subjects and student success skills; Educational software featuring training in the fields of core academic subjects, college preparation, and student success skills" in International Class 9, "Printed instructional, educational, teaching and training materials and publications for teachers, counselors, and students in the field of core academic subjects, college preparation, and student success skills; School supplies, namely, pens, pencils, and notepads; Posters" in International Class 16 and "Educational services, namely, conducting web-based and live programs and workshops for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills and distributing course material in connection therewith, and consulting services related thereto; Educational services, namely, providing courses of instruction for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills and distributing course material in connection therewith, and consulting services related thereto;



Educational services, namely, providing web-based and live training for certification of teachers and continuing education for teachers and principals; Providing a website featuring non-downloadable webinars and non-downloadable publications in the nature of books, handouts, work books, worksheets, journals, written articles, magazines, booklets, brochures, flashcards, training manuals, activity books, informational flyers and sheets, and curricula, all for teachers, counselors, and students in the fields of core academic subjects, college preparation, and student success skills; Educational and entertainment services, namely, providing motivational and educational speakers in the fields of core academic subjects, college preparation, and student success skills” in International Class 41 on the basis of Applicant’s claimed intent to use Applicant’s Mark in United States commerce.

7. 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 July 24, 2018 filing date for the Application.

8. The goods and services covered by the Application are closely related to the goods offered and services rendered in connection with Opposer’s A Marks.

9. Applicant’s Mark is highly similar to Opposer’s A Marks in that it includes A’S.

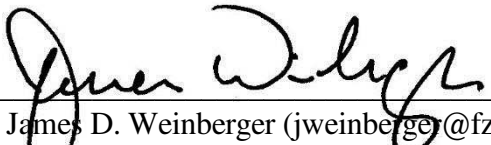
10. Applicant’s Mark so resembles Opposer’s A Marks as to be likely, when used in connection with Applicant’s goods and services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s goods and services have their origin with Opposer and/or that such goods and services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

11. Moreover, Opposer's A Marks are famous for goods and services relating to baseball games and exhibition services and a wide variety of goods and services, and had become famous long before the earliest priority date upon which Applicant can rely. Because Opposer's A Marks have become famous, Applicant's use and registration of Applicant's Mark will damage Opposer by trading on the enormous goodwill associated with Opposer's A Marks and diluting their distinctiveness. Thus, Applicant's use and registration of Applicant's Mark in connection with the goods and services identified in the Application are likely to cause dilution by blurring of the famous Opposer's A Marks, in violation of Sections 13(a) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1063(a), 1125(c).

12. By reason of the foregoing, Opposer is likely to be harmed by the registration of the Application for Applicant's Mark.

Dated: New York, New York  
December 20, 2019

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By:   
James D. Weinberger (jweinberger@fzlz.com)  
Jessica Vosgerchian (jvosgerchian@fzlz.com)  
151 West 42<sup>nd</sup> Street, 17<sup>th</sup> Floor  
New York, New York 10036  
Tel: (212) 813-5900

*Attorneys for Opposer*