

ESTTA Tracking number: **ESTTA1179255**

Filing date: **12/17/2021**

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	NBA Properties, Inc.
Granted to Date of previous extension	12/19/2021
Address	OLYMPIC TOWER - 645 FIFTH AVENUE NEW YORK, NY 10022 UNITED STATES
Attorney information	ANIL V. GEORGE NBA PROPERTIES, INC. OLYMPIC TOWER - 645 FIFTH AVENUE NEW YORK, NY 11378 UNITED STATES Primary Email: ipgroup@nba.com Secondary Email(s): avgeorge@nba.com, cmatthews@nba.com 212-407-8330
Docket Number	IPC5017508

Applicant Information

Application No.	90303182	Publication date	06/22/2021
Opposition Filing Date	12/17/2021	Opposition Period Ends	12/19/2021
Applicant	The Board Factory Co., Ltd. 34/7 MOO.2, T.KHUKKHAK, A.TAKUAPA PHANG-NGA, 82220 THAILAND		

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: hooded sweatshirts; sweatshirts; pullovers; turtleneck pullovers; beachwear; shorts; bib shorts; fleece shorts; trousers shorts; denim jackets; denim jeans; denim pants; Bermuda shorts; t-shirts; printed t-shirts; short-sleeved t-shirts; short-sleeved or long-sleeved t-shirts; headwear; sports caps; baseball caps; Caps being headwear; baseball caps and hats; beach hats; board shorts; surf wear; wet suits for surfing; wetsuits for surface watersports; wetsuits; wet suits; wetsuits for windsurfing; swimwear; swimsuits; swim suits; swim shorts; swimming suits; swimming trunks; swimwear for children; swimwear for men and women; bathing suits; bathing suits for men; shirts; sports shirts; casual shirts; sweat shirts; open-necked shirts; hooded sweat shirts; trousers; short trousers; pants; pantsuits; dress pants; waterproof pants; stretch pants; sports pants; jogging pants; chino pants; tops, namely, woven, knit, and fleece tops; tracksuit tops; halter tops; vest tops; chemise tops; tops as clothing; jogging tops; tank-tops; tube tops; crop tops; tee-shirts; beanies; caps being headwear; hats; sun hats; beanie hats; baseball hats; fashion hats; water-

proof jackets; bomber jackets; jackets; windproof jackets; long jackets; jackets as clothing; dresses; jumper dresses; ladies' dresses; skirts; culotte skirts; dungarees; overalls; wetsuits for surfing; underwear; underwear for women; socks; sports socks; waist belts; leather belts for clothing; belts for clothing; sports caps and hats; trainers being footwear; footwear, namely, sneakers, casual footwear, espadrilles, beach shoes, sandals and beach shoes


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.	3045529	Application Date	10/27/2004
Registration Date	01/17/2006	Foreign Priority Date	NONE
Word Mark	PHOENIX SUNS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1969/11/00 First Use In Commerce: 1969/11/00 Clothing, namely hosiery, footwear, basketball shoes, basketball sneakers, T-shirts, shirts, polo shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, visors, warm-up suits, warm-up pants, warm-up tops/shooting shirts, jackets, wind resistant jackets, parkas, coats, baby bibs not of paper, head bands, wrist bands, aprons, undergarments, boxer shorts, slacks, caps, ear muffs, gloves, mittens, scarves, woven and knit shirts, jersey dresses, dresses, cheer-leading dresses and uniforms, swim wear, bathing suits, swimsuits, bikinis, tankinis, swim trunks, bathing trunks, board shorts, wet suits, beach cover-ups, bathing suit cover-ups, bathing suit wraps, sandals, beach sandals, beach hats, sun visors, swim caps, bathing caps, novelty headwear with wigs		

U.S. Registration No.	2857254	Application Date	04/16/2002
Registration Date	06/29/2004	Foreign Priority Date	NONE
Word Mark	PHOENIX SUNS		

Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 1969/11/00 First Use In Commerce: 1969/11/00 Clothing, namely, hosiery, footwear, basketball shoes, basketball sneakers, t-shirts, shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, warm-up suits, warm-up pants, warm-up tops, jackets, parkas, coats, cloth baby bibs not of paper, head bands, wrist bands, aprons, boxer shorts, [slacks,] caps, [ear muffs, gloves, mittens,] woven and knit shirts</p>		
U.S. Registration No.	1861768	Application Date	08/03/1992
Registration Date	11/08/1994	Foreign Priority Date	NONE
Word Mark	PHOENIX SUNS		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 016. First use: First Use: 1992/06/05 First Use In Commerce: 1992/06/05 publications and printed matter; namely, basketball trading cards, stickers, decals, commemorative basketball stamps of paper, post cards, note cards, memo pads, ball point pens, pencils, unmounted photographs, posters, calendars, bumper stickers, book covers, wrapping paper, statistical books, guide books and reference books for basketball, commemorative printed programs for basketball games, paper pennants, stationery-type portfolios, and printed statistical score sheets, newsletters and pamphlets in the field of basketball for distribution to the television and radio media</p> <p>Class 025. First use: First Use: 1992/06/05 First Use In Commerce: 1992/06/05 clothing; namely, hosiery, footwear, T-shirts, sweat shirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, nightshirts, hats, warm-up suits, jackets, parkas, coats, cloth bibs, head bands and wrist bands</p> <p>Class 028. First use: First Use: 1992/06/05 First Use In Commerce: 1992/06/05 toys and sporting goods; namely, golf balls, playground balls, sports balls, rubber action balls and foam sports balls, basketball nets, basketball backboards, basketballs, basketball pumps for inflating sports equipment such as basketballs, golf clubs, golf bags, computerized game equipment featuring a basketball table game; namely, cartridges, tapes, memory devices; namely, discs, video game cartridges, game tables; namely, basketball table top games, basketball board games, basketball kit composed of a basketball net, a sports whistle, a pump and a needle for a pump for inflating sports equipment such as basketballs; dolls, stuffed toys, jigsaw puzzles and Christmas tree ornaments</p> <p>Class 041. First use: First Use: 1992/06/05 First Use In Commerce: 1992/06/05 entertainment services, in the nature of basketball games and basketball exhibitions rendered live in stadia and through the media of radio and television broadcasts</p>

U.S. Registration No.	3399317	Application Date	05/08/2003
Registration Date	03/18/2008	Foreign Priority	NONE

		Date	
Word Mark	SUNS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2003/01/01 First Use In Commerce: 2003/01/01 Clothing, namely, hosiery, footwear, basketball shoes, basketball sneakers, T-shirts, shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, warm-up suits, warm-up pants, warm-up tops, jackets, wind resistant jackets, parkas, coats, cloth baby bibs, head bands, wrist bands, aprons, boxer shorts, slacks, caps, ear muffs, gloves, mittens, scarves, woven and knit shirts, dresses, cheerleading dresses and uniforms</p>		

Attachments	78506948#TMSN.png(bytes) 76396639#TMSN.png(bytes) 74301221#TMSN.png(bytes) 78247503#TMSN.png(bytes) Notice of Opposition SUNS CI 25.pdf(30723 bytes)
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Signature	/avg/
Name	ANIL V. GEORGE
Date	12/17/2021

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

In re Application of The Board Factory Co., Ltd.

SERIAL NO. : 90303182

MARK(S) : SUNS

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SUNS LEGACY PARTNERS, L.L.C., :
Petitioner :
v. : Opposition No. _____
THE BOARD FACTORY CO., LTD., :
Applicant. :
----- X

NOTICE OF OPPOSITION

Suns Legacy Partners, L.L.C. (“Opposer”) believes that it will be damaged by the registration of the proposed “SUNS” mark (the “Mark”) for goods in Class 25, identified in application serial number 90303182 (the “Application”), and, hereby, opposes registration of the same.

1. Opposer is a Delaware limited liability company with its principal office and place of business at 201 East Jefferson Street, Phoenix, Arizona 85004.

2. Opposer is the owner of the Phoenix Suns (the “Suns”) professional men’s basketball team, a member team of the National Basketball Association (the “NBA”).

3. Since long prior to November 6, 2020, the filing date of the Application, the Suns has been and now is engaged in the business of providing a wide range of goods and services, including but not limited to, among other things, assorted services promoting the goods and services of others; entertainment services in the nature of rendering live basketball games and basketball exhibitions; broadcasting basketball entertainment television and radio programs; publishing printed materials in the field of basketball entertainment; and a variety of collateral

merchandise, all under a family of “SUNS” trademarks and service marks, including, among others, SUNS and PHOENIX SUNS (collectively, the “Suns Marks”).

4. The Suns has used the Suns Marks extensively and continuously and, in connection thereto, engaged in wide ranging promotional efforts and generated substantial sales. As a result, the Suns Marks have become known to the public; are closely associated with the Suns and the NBA; are closely associated with the goods and services of the Suns; are recognized by the public as pointing to the source of origin for the goods and services of the Suns; and represent substantial goodwill of the Suns.

5. In addition to being distinctive of the goods and services of the Suns, the Suns Marks are famous. The Suns Marks are famous, among other reasons, because of extensive and continuous nationwide use by and/or on behalf of the Suns, the substantial sales volumes for goods and services associated with the Suns Marks, the wide ranging promotional efforts relating to the Suns Marks by the Suns and the NBA, and extensive media attention concerning the Suns, the goods and services of the Suns, and the Suns Marks.

6. Opposer has established common-law rights in and to the Suns Marks by virtue of its long-standing use of the mark in promotional efforts and sales of associated goods.

7. Notwithstanding the rights of the Suns and the widely publicized association of the Suns Marks with the suns, Applicant seeks registration of the Mark for “hooded sweatshirts; sweatshirts; pullovers; turtleneck pullovers; beachwear; shorts; bib shorts; fleece shorts; trousers shorts; denim jackets; denim jeans; denim pants; Bermuda shorts; t-shirts; printed t-shirts; short-sleeved t-shirts; short-sleeved or long-sleeved t-shirts; caps being headwear; headwear; sports caps; baseball caps; Caps being headwear; baseball caps and hats; beach hats; board shorts; surf wear; surf wear; wet suits for surfing; wetsuits for surface watersports; wetsuits; wet suits; wet suits for windsurfing; swimwear; swimsuits; swim suits; swim shorts; swimming suits; swimming trunks; swimwear for children; swimwear for men and women; bathing suits; bathing suits for men; shirts; sports shirts; casual shirts; sweat shirts; open-necked shirts; hooded sweat shirts; trousers; short trousers; pants; pantsuits; dress pants; waterproof pants; stretch pants; sports pants; jogging pants; chino pants; tops, namely, woven, knit, and fleece tops; tracksuit tops; halter tops; vest tops; chemise tops; tops as clothing; jogging tops; tank-tops; tube tops; crop tops; tee-shirts; beanies; caps being headwear; hats; sun hats; beanie hats; baseball hats; fashion hats; waterproof jackets; bomber jackets; jackets; windproof jackets; long jackets;

jackets as clothing; dresses; jumper dresses; ladies' dresses; skirts; culotte skirts; dungarees; overalls; wetsuits for surfing; underwear; underwear for women; socks; sports socks; waist belts; leather belts for clothing; belts for clothing; sports caps and hats; trainers being footwear; footwear, namely, sneakers, casual footwear, espadrilles, beach shoes, sandals and beach shoes” in International Class 25.

9. The term “SUNS” is primarily and exclusively associated with the Suns and its goods and services.

10. The Mark contains the identical words “SUNS”.

11. Opposer uses the Suns Marks in connection with the same or similar goods identified in the Application, along with related goods and services.

12. Use of the Mark likely will cause people to believe that the relevant goods are authorized, endorsed, or sponsored by, and, therefore, connected or associated with the Suns and the NBA.

13. Applicant’s use of the Mark dilutes the Suns Marks by blurring the distinctiveness of the latter.

14. Applicant’s adoption of the Mark is without license or permission from Opposer.

15. Registration of the Mark would be contrary to and violate Trademark Act Sections 2(a), 15 U.S.C. § 1052(a); 2(d), 15 U.S.C. § 1052(d); and 43(c), 15 U.S.C. § 1125(c), and, therefore, violate and diminish the prior and superior rights of GSW in the GSW Marks.

16. Registration of the Mark would be contrary to and violate Trademark Act Section 2(a), 15 U.S.C. § 1052(a), as the Mark falsely suggests an association with the Suns Marks when none exists and, therefore, violates and diminishes the prior and superior rights of the Suns in the Suns Marks in derogation of the rights of Opposer.

18. Registration of the Mark would be contrary to and violate Trademark Act Section 43(c), 15 U.S.C. § 1125(c), as use of the Mark would dilute the Suns Marks, which are famous, by blurring the distinctiveness of the Suns Marks and therefore violates and diminishes the prior and superior rights of the Suns in the Suns Marks in derogation of the rights of Opposer.

20. Opposer will be damaged if the PTO grants registration of the Mark because Applicant will obtain statutory rights in violation and derogation of the established prior and superior rights of GSW.


21. WHEREFORE, Opposer prays this opposition be sustained and that

Application Serial No. 87/080,885 be refused and denied registration.

December 17, 2021

SUNS LEGACY PARTNERS, L.L.C.

NBA PROPERTIES, INC.
Olympic Tower
645 Fifth Avenue
New York, New York 10022
(212) 407-8000

By: 
Anil V. George
Attorney for Opposer

CERTIFICATE OF SERVICE

I, Anil V. George, an attorney, hereby certify that I have this 17th day of December, 2021, via email served the foregoing NOTICE OF OPPOSITION to be served upon the Applicant at the following address:

Charles B. Brown
Corplaw Associates
400 Central Avenue, Suite 150
Northfield, IL 60093
charlie@corplaw.com



Anil V. George
Attorney for Opposer