

ESTTA Tracking number: **ESTTA657489**

Filing date: **02/23/2015**

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	The National Collegiate Athletic Association
Granted to Date of previous extension	02/22/2015
Address	P.O. Box 6222 Indianapolis, IN 46206 UNITED STATES

Attorney information	Douglas N. Masters LOEB & LOEB LLP 321 North Clark Street, Suite 2300 Chicago, IL 60654 UNITED STATES chdoCKET@loeb.com, dmasters@loeb.com, aprovenCIO@loeb.com Phone:3124643100
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Applicant Information

Application No	86131804	Publication date	08/26/2014
Opposition Filing Date	02/23/2015	Opposition Period Ends	02/22/2015
Applicant	Class Act Sports, LLC # 607 Long Beach, NY 11561 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer game software for providing a fantasy sports contest for use on wireless devices; computer application software for mobile devices and computers, namely, software for creating and playing contests, games and trivia; computer game software
Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Entertainment services, namely, providing sports and fantasy sports information, online, non-downloadable computer games and contests via the internet and other communications networks in the fields of sports and fantasy sports games and contests; providing online non-downloadable game and contest software; providing online non-downloadable software for playing fantasy sports games and contests
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing online non-downloadable software for use in creating fantasy sports games and contests

Applicant Information

Application No	86242813	Publication date	08/26/2014
Opposition Filing Date	02/23/2015	Opposition Period Ends	
Applicant	Class Act Sports, LLC # 607 Long Beach, NY 11561 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, t-shirts, button down-shirts, sweatshirts, undershirts, long sleeve shirts, wristbands, headbands, pants, sweatpants, shorts, socks, gloves, jackets, belts, undergarments, night shirts, swim wear, pajamas and bandanas; headwear, namely, hats; footwear, namely, casual shoes in the nature of leisure shoes and sandals, sneakers, and flip flops

Applicant Information

Application No	86243893	Publication date	08/26/2014
Opposition Filing Date	02/23/2015	Opposition Period Ends	
Applicant	Class Act Sports, LLC # 607 Long Beach, NY 11561 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2014/01/22 First Use In Commerce: 2014/03/07 All goods and services in the class are opposed, namely: Entertainment services, namely, providing sports and fantasy sports information, online, non-downloadable computer games and contests via the internet and other communications networks in the fields of sports and fantasy sports games and contests; providing online non-downloadable game and contest software; providing online non-downloadable software for playing fantasy sports games and contests
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	images of brackets, and marks consisting of or referring to the term BRACKET		
Goods/Services	classes 9, 25, 41, 42 - entertainment services, and related promotional and sponsorship services		

Attachments	Not of Oppos CLASS ACT SPORTS LLC.pdf(14134 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	/Douglas N. Masters/
Name	Douglas N. Masters
Date	02/23/2015

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

In the Matter of Application Serial No. 86/131,804: BRACK ATTACK; 86/242,813: BRACK ATTACK; 86/243,893: DON'T LET ONE TEAM BUST YOUR BRACKET;

NATIONAL COLLEGIATE ATHLETIC)	
ASSOCIATION,)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	
CLASS ACT SPORTS LLC,)	
)	
Applicant.)	
)	
_____)	

CONSOLIDATED NOTICE OF OPPOSITION

National Collegiate Athletic Association (“NCAA” or “Opposer”), believes it will be damaged by the registrations of BRACK ATTACK, Application Serial No. 86/131,804; BRACK ATTACK, Application Serial No. 86/242,813; and DON'T LET ONE TEAM BUST YOUR BRACKET, Application Serial No. 86/243,893 (collectively “Applications”) and opposes registration of each.

As grounds for opposition, Opposer alleges that:

1. NCAA is a voluntary association of colleges and others that promotes the interests of student athletes.

2. Since prior to the filing dates of Applicant’s Applications, NCAA has continuously used images of brackets, and marks consisting of or referring to the term BRACKET, in commerce in connection with entertainment services, and related promotional and sponsorship services (“BRACKET Marks”).

3. NCAA has offered many millions of dollars' worth of services in connection with its BRACKET Marks.

4. NCAA has spent significant sums advertising and promoting its BRACKET Marks throughout the United States.

5. By virtue of the popularity of NCAA's services offered in connection with its BRACKET Marks, and its advertising and promotion of its BRACKET Marks, NCAA has built up and now owns an extremely valuable goodwill which is symbolized by its Tournament Bracket and BRACKET Marks.

6. Applicant's use of BRACK ATTACK and DON'T LET ONE TEAM BUST YOUR BRACKET are without Opposer's consent or authorization.

7. Registration by Applicant of the applied-for marks would be damaging to Opposer.

COUNT I – LIKELIHOOD OF CONFUSION UNDER 15 U.S.C. §1052(d)

8. Opposer realleges the allegations in Paragraphs 1 through 7.

9. Applicant's use of the marks BRACK ATTACK and DON'T LET ONE TEAM BUST YOUR BRACKET for the goods and services set forth in Application Serial Nos. 86/131,804; 86/242,813; and 86/243,893 is likely to result in confusion, mistake, and/or deception that consumers are likely to believe Applicant's goods and services are Opposer's goods and services, or the goods and services of a person or company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

COUNT II – SUGGESTION OF A FALSE CONNECTION UNDER 15 U.S.C. § 1052(a)

10. Opposer realleges the allegations in Paragraphs 1 through 7.

11. Since prior to the filing dates of the opposed Applications and by virtue of Opposer's extensive use, advertising, and promotion of the BRACKET Marks and Tournament Bracket in connection with the marketing and/or sale of various products and services, such branding promotions related to NCAA's Men's Division 1 Basketball Tournament and has become well-known and closely identified with Opposer by consumers.

12. Applicant's applied for marks will be understood by consumers to refer to Opposer, and consumers will erroneously believe that Applicant's marks, and the goods and services provided thereunder, are associated with or authorized by, Opposer.

13. Opposer is not connected with Applicant's BRACK ATTACK and DON'T LET ONE TEAM BUST YOUR BRACKET goods and services, nor has Opposer authorized Applicant's use of these marks in connection with such goods and services.

14. Opposer's BRACKET Marks, Tournament Bracket, and promotional use of a bracket are sufficiently well-known and closely identified with Opposer such that Applicant's use and registration of these marks for the applied for goods and services will falsely suggest to consumers a connection with Opposer. Upon information and belief, Applicant intends through its attempt to register BRACK ATTACK and DON'T LET ONE TEAM BUST YOUR BRACKET to trade on the association of the Tournament Bracket and the BRACKET Marks with Opposer in violation of 15 U.S.C. § 1052(a).

WHEREFORE, Opposer respectfully requests that this combined opposition be sustained and that Application Serial Nos. 86/131,804; 86/242,813; and 86/243,893 be denied registration.

Please debit our Deposit Account No. 502876 for the \$1200 filing fee and for any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 N. Clark Street, Suite 2300, Chicago, Illinois 60654.

Dated: February 23, 2015

LOEB & LOEB LLP

By: /s/ Douglas N. Masters
Douglas N. Masters
321 N. Clark Street, Suite 2300
Chicago, IL 60654
Telephone: 312.464.3144
Facsimile: 312.577.0828

Attorneys for Opposer
NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION

CERTIFICATE OF SERVICE

I, Angela Provencio, hereby certify that a copy of the **COMBINED NOTICE OF OPPOSITION** has been served upon:

Stephanie Pottick, Esq.
Pottick Law
P.O. Box 405
Huntington Beach, CA 92648-0405

via first class mail, postage prepaid this 23rd day of February, 2015.

/s/ Angela Provencio _____