

ESTTA Tracking number: **ESTTA523254**

Filing date: **02/25/2013**

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	Leaf Trading Cards, LLC		
Entity	limited liability company	Citizenship	Texas
Address	3330 Earhart Drive Suite 204 Carrollton, TX 75006 UNITED STATES		

Attorney information	John A. Thomas Glast, Phillips & Murray, P.C. 14801 Quorum Drive Suite 500 Dallas, TX 75254 UNITED STATES jathomas@gpm-law.com Phone:972-419-8378		
----------------------	--	--	--

Applicant Information

Application No	85650691	Publication date	02/19/2013
Opposition Filing Date	02/25/2013	Opposition Period Ends	03/21/2013
Applicant	PANINI AMERICA, INC. 5325 FAA Boulevard, Suite 100 Irving, TX 75061 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. First Use: 1994/00/00 First Use In Commerce: 1994/00/00 All goods and services in the class are opposed, namely: Sports trading cards

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Related Proceedings	None
---------------------	------

Attachments	Notice of Opposition-LIMITED.pdf (5 pages)(20266 bytes)
-------------	--

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	/John A. Thomas/
Name	John A. Thomas
Date	02/25/2013

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

Opposition No. _____

LEAF TRADING CARDS, LLC,)	
Opposer)	NOTICE OF OPPOSITION
v.)	LIMITED , Serial No. 85/650691
PANINI AMERICA, INC.,)	
Applicant)	

Opposer Leaf Trading Cards, LLC ("Opposer") a Texas limited-liability company, having an office and principal place of business at 3330 Earhart Dr., Suite 204, Carrollton, Texas 75006, believes that it would be damaged by the registration of the trademark LIMITED in International Class 16 as applied for in Application Serial No. 85/650691, filed on June 13, 2012 under Section 1(b) of the Lanham Act. As grounds for its opposition, Opposer, by its undersigned attorneys, alleges as follows:

1. Opposer began operations in 2010 as a manufacturer and seller of sports trading cards.
2. Opposer markets and sells its products nationwide to dealers and distributors of trading cards and sports memorabilia who then resell Opposer's products to individual collectors.
3. Opposer acquired, used, and is still using, the distinctive mark LEAF LIMITED in connection with the production, marketing, promotion, and sale of certain of

its trading cards. Opposer is the owner of Registration Nos. 3293662 and 2914104 for LEAF, for use in connection with trading cards.

4. Opposer has used, and is still using, the distinctive mark LEAF LIMITED in connection with the production, marketing, promotion, and sale of certain of its trading cards since at least 2011.

5. Opposer has expended a substantial amount of money in developing, marketing, and promoting its LEAF LIMITED mark in connection with its trading cards. Opposer is continuing to spend substantial sums promoting the LEAF LIMITED mark.

6. Opposer has acquired an excellent reputation among trading card customers because of its high quality trading cards, innovative products, and excellent customer service. As a result, Opposer's products associated with its trademarks have been and are now recognized by the public and the trading card community as originating from a single source, namely, Opposer.

7. Upon information and belief, Applicant is a Delaware corporation with its principal place of business at 5325 FAA Blvd., Suite 100, Irving, Texas 75061.

8. On or about June 13, 2012, Applicant filed an application to register the mark LIMITED for "sports trading cards," in International Class 16, in App. Ser. No. 85/650691 ("the Application"). The Application was published for opposition on February 19, 2013.

COUNT ONE – LIMITED IS DESCRIPTIVE

9. Opposer repeats and realleges the allegations set forth in paragraphs 1 through 8 as if fully set forth herein.

10. Applicant's designation LIMITED is merely descriptive of Applicant's trading cards, the term "limited" being commonly used, both generally, and in the trading card industry, to indicate an issue of cards that is restricted within definite bounds, such as date or number.

11. The designation LIMITED merely describes trading cards that are produced in restricted quantities. Therefore, registration of the LIMITED designation is prohibited under Section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

12. Further, if Applicant's registration is granted, Opposer will be unable to use the descriptive term "limited" to describe its products and services by using such a commonly recognized indicator of limited issuance of trading cards.

13. Applicant's designation LIMITED has not acquired secondary meaning and is not entitled to registration under Section 2(f), 15 U.S.C. 1052(f).

COUNT TWO – LIMITED IS GENERIC

14. Opposer repeats and realleges the allegations set forth in paragraphs 1 through 8 as if fully set forth herein.

15. The opposed designation LIMITED is a commonly used laudatory term in many industries, including the trading card industry. The term is incapable of

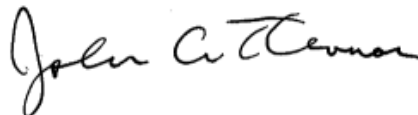
distinguishing Applicant's goods and is generic. Therefore, Applicant should be denied registration of LIMITED under Section 23 of the Lanham Act, 15 U.S.C. § 1091.

16. Applicant's designation LIMITED has not acquired secondary meaning and is not entitled to registration under Section 2(f), 15 U.S.C. 1052(f).

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration in Class 16 sought by Applicant in Application Serial No. 85/650691 be denied.

Dated: February 25, 2013

GLAST, PHILLIPS & MURRAY, P.C.



By _____

John A. Thomas
14801 Quorum Drive
Suite 500
Dallas, Texas 75254
(972) 419-8378
(972) 419-8329 Fax
jathomas@gpm-law.com

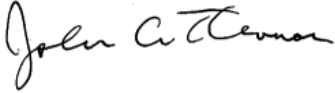
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition has be served on the attorney of record for the Applicant; namely:

Norman H. Zivin
COOPER & DUNHAM LLP
30 Rockefeller Plaza, 20th Fl.
New York, NY 10112

by United States First Class Mail, postage prepaid, on February 25, 2013.



By _____
John A. Thomas
Attorney for Opposer