

UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 78/833,514  
Filed. March 9, 2006  
Serial No.: ORANGE

Examining Attorney:  
Michael J. Souders  
Trademark Law Office 115

AFFIDAVIT

STATE OF NEW YORK )  
COUNTY OF ONONDAGA ) ss:

Marc J. Donabella, being solemnly sworn hereby declares as follows:

1. I am a Licensing Administrator in the Syracuse University Office of Trademark Licensing, located at 303 University Place, Syracuse, NY 13244-2020. I have held this position since 2004 and I am familiar with all aspects of Syracuse University's (hereinafter "the Applicant") trademarks and trademark licensing.

2. I am authorized to make this Affidavit on behalf of the Applicant and I do so from my own knowledge of the facts, discussions with others, and from a review or examination of the records of the Applicant, being records to which I have full access.

3. The Applicant is the owner of numerous registered trademarks containing the word "ORANGE," as well as several pending applications for marks comprising or containing the word "ORANGE" (collectively, "the Applicant's Trademarks"). The Applicant makes the current application for registration of the mark "ORANGE" in the U.S. Patent and Trademark Office under Application No. 78/833,514 dated March 9, 2006, for International Class 25.

4. The Syracuse University Office of Trademark Licensing, in conjunction with the Collegiate Licensing Corporation, actively licenses the Applicant's Trademarks and collects royalties from the sale of goods and services bearing the Applicant's Trademarks. For example, the Applicant has actively used the current "ORANGE" mark in commerce and collected royalties from the sale of goods bearing that mark since at least as early as October 25, 1988.

5. The Applicant's use of the "ORANGE" mark is not merely descriptive of goods that are the color orange. Rather, Applicant's "ORANGE" mark functions as an indication of source of goods as perceived by both licensees of the Applicant's Trademarks as well as by the consuming public.

6. Purchasers of goods marked with the Applicant's Trademarks, including the current "ORANGE" mark, recognize the mark's significance as an indication that the Applicant is the source of goods bearing the mark.

7. The Syracuse University Bookstore sells goods marked with the Applicant's Trademarks and manufactured by authorized licensees. Sales figures from the Syracuse University Bookstore, attached as Exhibit 1, show that customers recognize the mark's significance as an indication that the Applicant is the source of goods bearing the mark. Since 2004, the Bookstore has collected at least \$620,434.77 in total retail sales for goods that feature the word "ORANGE" in the design.

8. Licensees of the Applicant's Trademarks, including the current "ORANGE" mark, recognize the mark's significance as an indication that the Applicant is the source of goods bearing the mark, and license the "ORANGE" mark for that reason.

9. Attached as Exhibit 2 is an email dated June 30, 2010 from Michael Toomey, owner of Papa's Sports ([www.papas-sports.com](http://www.papas-sports.com)), located at 2083 Park Street, Syracuse, New York, 13208. Papa's Sports is an authorized licensee of the Applicant's Trademarks, including the current "ORANGE" mark. In the email, Mr. Toomey acknowledges that his business sells a number of different types of goods which bear the word "ORANGE" and are available in multiple colors including white, ash, and navy. According to Mr. Toomey, consumers purchase the goods not because of their color, but to show pride in and to support the Applicant's athletic teams.

10. Attached as Exhibit 3 is an email dated June 30, 2010 from Todd Ruetsch, owner of Printing & Promotional Solutions, located at 235 Walton Street, Suite 200, Syracuse, New York,

13202. Mr. Ruetsch is an authorized licensee of the Applicant's Trademarks, including the current "ORANGE" mark. In the email, Mr. Ruetsch acknowledges that he pays the Applicant a royalty for the word "ORANGE" because it is viewed by consumers as an indicator of the Applicant rather than because some of the items on which the mark appears happen to be orange in color.

11. Attached as Exhibit 4 is an email dated July 1, 2010 from Lorrie K. Turner, the Director of Legal at New Era Cap Co., Inc. ([www.neweracap.com](http://www.neweracap.com)), located at 160 Delaware Avenue, Buffalo, New York. New Era Cap Co., Inc. is an authorized licensee of the Applicant's Trademarks, including the current "ORANGE" mark. In the letter, Ms. Turner acknowledges that that consumers purchase goods bearing the Applicant's marks, including the "ORANGE" mark, because they indicate the Applicant as the source.

12. Attached as Exhibit 5 is an email dated June 29, 2010 from Trey Ham, Licensing Manager of GFSI, Inc. ([www.gearforsports.com](http://www.gearforsports.com)), located at 9700 Commerce Parkway, Lenexa, Kansas 66219. GFSI, Inc. is an authorized licensee of the Applicant's Trademarks, including the current "ORANGE" mark. In the letter, Mr. Ham acknowledges that consumers purchase goods bearing the "ORANGE" mark not because the goods happen to be orange, but because consumers view the word as an indicator of the applicant.

13. Attached as Exhibit 6 is a letter dated June 29, 2010 from Bob Gautieri, a Partner of Design on the Fly ([www.designonthefly.com](http://www.designonthefly.com)), located at 4111 W. Alameda Ave., Suite 611, Burbank, California 91505. Design on the Fly is an authorized licensee of the Applicant's Trademarks, including the current "ORANGE" mark. In the letter, Mr. Gautieri acknowledges that consumers view the "ORANGE" mark as indicating the Applicant, just as the word "Irish" indicates the University of Notre Dame, "Green Wave" indicates Tulane University, and "Yellow Jackets" indicates the Georgia Institute of Technology.

14. Attached as Exhibit 7 is a letter dated July 2, 2010 from Mike Ross of Top of the World ([towcaps.com](http://towcaps.com)), located in Norman, Oklahoma 73070. Top of the World is an authorized

licensee of the Applicant's Trademarks, including the current "ORANGE" mark. In the letter, Mr. Ross acknowledges that consumers view the Applicant's Trademarks, which includes the "ORANGE" mark, as indicating the Applicant.

15. These emails show that the licensees, whose businesses rely on the commercial success of licensed trademarks, acknowledge that customers recognize the Applicant's "ORANGE" mark functions as an indication that the Applicant is the source of the goods bearing the mark.

**WHEREFORE**, for all the foregoing reasons, Applicant's mark has acquired distinctiveness pursuant to Trademark Act Section 2(f) and Deponent respectfully requests that the Applicant's "ORANGE" mark be approved for publication and registration.



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Marc J. Donabella

Sworn to before me this  
6th day of July, 2010.

Karen J. Macy  
Notary Public

**KAREN J. MACY**  
Notary Public, State of New York  
Qualified in Onondaga Co. No. 01MA4996804  
My Commission Expires May 18, 20 14

# Exhibit 1

## "Orange" Sales

Item Description	SKU	Size	Retail	Qty Sold	Retail Ext	Total Qty Sold for Style	Total Ret Sales for Style
T-shirt	932040319	s	16.99	314	\$ 5,334.86		
	932040419	m	16.99	892	\$ 15,155.08		
	932040519	l	16.99	1268	\$ 21,543.32		
	932040619	xl	16.99	814	\$ 13,829.86		
	932050719	xxl	17.99	297	\$ 5,343.03		
					<b>Total for item</b>	3585	\$ 61,206.15
T-shirt	932060319	s	16.99	2214	\$ 37,615.86		
	932060419	m	16.99	1222	\$ 20,761.78		
	932060519	l	16.99	496	\$ 8,427.04		
	932060619	xl	16.99	213	\$ 3,618.87		
	932070719	xxl	17.99	78	\$ 1,403.22		
					<b>Total for item</b>	4223	\$ 71,826.77
T-shirt	932100319	s	16.99	23	\$ 390.77		
	932100419	m	16.99	148	\$ 2,514.52		
	932100519	l	16.99	460	\$ 7,815.40		
	932100619	xl	16.99	437	\$ 7,424.63		
	932110719	xxl	17.99	212	\$ 3,813.88		
					<b>Total for item</b>	1280	\$ 21,959.20
T-shirt	932080319	s	16.99	378	\$ 6,422.22		
	932080419	m	16.99	561	\$ 9,531.39		
	932080519	l	16.99	482	\$ 8,189.18		
	932080619	xl	16.99	293	\$ 4,978.07		
	932090719	xxl	17.99	87	\$ 1,565.13		
					<b>Total for item</b>	1801	\$ 30,685.99
T-shirt	932120319	s	16.99	57	\$ 968.43		
	932120419	m	16.99	208	\$ 3,533.92		
	932120519	l	16.99	317	\$ 5,385.83		
	932120619	xl	16.99	222	\$ 3,771.78		
	932130719	xxl	17.99	87	\$ 1,565.13		
					<b>Total for item</b>	891	\$ 15,225.09
T-shirt	932140319	s	16.99	157	\$ 2,667.43		
	932140419	m	16.99	178	\$ 3,024.22		

	932140519	l	16.99	223	\$ 3,788.77		
	932140619	xl	16.99	181	\$ 3,075.19		
	932150719	xxl	17.99	65	\$ 1,169.35		
					<b>Total for item</b>	804	\$ 13,724.96
T-shirt	932180319	s	16.99	303	\$ 5,147.97		
	932180419	m	16.99	169	\$ 2,871.31		
	932180519	l	16.99	146	\$ 2,480.54		
	932180619	xl	16.99	80	\$ 1,359.20		
	932190719	xxl	17.99	43	\$ 773.57		
					<b>Total for item</b>	741	\$ 12,632.59
T-shirt	932160319	s	16.99	305	\$ 5,181.95		
	932160419	m	16.99	216	\$ 3,669.84		
	932160519	l	16.99	140	\$ 2,378.60		
	932160619	xl	16.99	54	\$ 917.46		
	932170719	xxl	17.99	44	\$ 791.56		
					<b>Total for item</b>	759	\$ 12,939.41
T-shirt	932220319	s	16.99	1103	\$ 18,739.97		
	932220419	m	16.99	499	\$ 8,478.01		
	932220519	l	16.99	1	\$ 16.99		
	932220619	xl	16.99	0	\$ -		
					<b>Total for item</b>	1603	\$ 27,234.97
T-shirt	932200319	s	16.99	159	\$ 2,701.41		
	932200419	m	16.99	150	\$ 2,548.50		
	932200519	l	16.99	195	\$ 3,313.05		
	932200619	xl	16.99	0	\$ -		
					<b>Total for item</b>	504	\$ 8,562.96
T-shirt	932230319	s	16.99	181	\$ 3,075.19		
	932230419	m	16.99	311	\$ 5,283.89		
	932230519	l	16.99	419	\$ 7,118.81		
	932230619	xl	16.99	0	\$ -		
					<b>Total for item</b>	911	\$ 15,477.89
T-shirt	932210319	s	16.99	196	\$ 3,330.04		
	932210419	m	16.99	189	\$ 3,211.11		
	932210519	l	16.99	209	\$ 3,550.91		
	932210619	xl	16.99	0	\$ -		
					<b>Total for item</b>	594	\$ 10,092.06
T-shirt	931070319	s	16.99	1211	\$ 20,574.89		

	931070419	m	16.99	936	\$ 15,902.64		
	931070519	l	16.99	809	\$ 13,744.91		
	931070619	xl	16.99	530	\$ 9,004.70		
	931080719	xxl	17.99	203	\$ 3,651.97		
					<b>Total for item</b>	3689	\$ 62,879.11
T-shirt	957880319	s	13.95	430	\$ 5,998.50		
	957880419	m	13.95	394	\$ 5,496.30		
	957880519	l	13.95	465	\$ 6,486.75		
	957880619	xl	13.95	396	\$ 5,524.20		
	957890719	xxl	15.95	119	\$ 1,898.05		
	957890819	xxxl	15.95	29	\$ 462.55		
					<b>Total for item</b>	1833	\$ 25,866.35
T-shirt	957920319	s	13.95	10	\$ 139.50		
	957920419	m	13.95	11	\$ 153.45		
	957920519	l	13.95	12	\$ 167.40		
	957920619	xl	13.95	0	\$ -		
					<b>Total for item</b>	33	\$ 460.35
T-shirt	937890319	s	14.99	354	\$ 5,306.46		
	937890419	m	14.99	181	\$ 2,713.19		
	937890519	l	14.99	120	\$ 1,798.80		
	937890619	xl	14.99	66	\$ 989.34		
	937900719	xxl	16.99	18	\$ 305.82		
					<b>Total for item</b>	739	\$ 11,113.61
T-shirt	960640311	s	12.99	116	\$ 1,506.84		
	960640411	m	12.99	95	\$ 1,234.05		
	960640511	l	12.99	102	\$ 1,324.98		
	960640611	xl	12.99	96	\$ 1,247.04		
	960650711	xxl	14.99	37	\$ 554.63		
	960650811	xxxl	14.99	20	\$ 299.80		
					<b>Total for item</b>	466	\$ 6,167.34
T-shirt	960640319	s	12.99	159	\$ 2,065.41		
	960640419	m	12.99	136	\$ 1,766.64		
	960640519	l	12.99	127	\$ 1,649.73		
	960640619	xl	12.99	138	\$ 1,792.62		
	960650719	xxl	14.99	51	\$ 764.49		
	960650819	xxxl	14.99	26	\$ 389.74		
					<b>Total for item</b>	637	\$ 8,428.63

T-shirt	960320311	s	12.99	640	\$ 8,313.60		
	960320411	m	12.99	556	\$ 7,222.44		
	960320511	l	12.99	603	\$ 7,832.97		
	960320611	xl	12.99	543	\$ 7,053.57		
	960330711	xxl	14.99	185	\$ 2,773.15		
	960330811	xxxl	14.99	68	\$ 1,019.32		
					<b>Total for item</b>	2595	\$ 34,215.05
T-shirt	960320319	s	12.99	749	\$ 9,729.51		
	960320419	m	12.99	753	\$ 9,781.47		
	960320519	l	12.99	749	\$ 9,729.51		
	960320619	xl	12.99	629	\$ 8,170.71		
	960330719	xxl	14.99	175	\$ 2,623.25		
	960330819	xxxl	14.99	74	\$ 1,109.26		
					<b>Total for item</b>	3129	\$ 41,143.71
T-shirt	952653319	2T	9.99	87	\$ 869.13		
	952653419	3T	9.99	70	\$ 699.30		
	952653519	4T	9.99	65	\$ 649.35		
					<b>Total for item</b>	222	\$ 2,217.78
Apparel: Childrens	958722404	0-3 month	19.99	0	\$ -		
	958722904	6 month	19.99	18	\$ 359.82		
	958723004	12 month	19.99	7	\$ 139.93		
	958723104	18 month	19.99	9	\$ 179.91		
	958723204	24 month	19.99	0	\$ -		
					<b>Total for item</b>	34	\$ 679.66
Apparel: Childrens	958692411	0-3 month	19.99	0	\$ -		
	958692911	6 month	19.99	17	\$ 339.83		
	958693011	12 month	19.99	10	\$ 199.90		
	958693111	18 month	19.99	8	\$ 159.92		
	958693211	24 month	19.99	0	\$ -		
					<b>Total for item</b>	35	\$ 699.65
Apparel: Childrens	961154411	7	28.99	0	\$ -		
	961158011	8-10	28.99	1	\$ 28.99		
	961155811	10-12	28.99	1	\$ 28.99		
	961155611	14	28.99	0	\$ -		
					<b>Total for item</b>	2	\$ 57.98
T-shirt	961144404	7	17.99	4	\$ 71.96		
	961148004	8-10	17.99	2	\$ 35.98		



	961148104	10-12	17.99	5	\$ 89.95		
	961145604	14	17.99	6	\$ 107.94		
					<b>Total for item</b>	17	\$ 305.83
T-shirt	961133316	2T	15.99	1	\$ 15.99		
	961133416	3T	15.99	1	\$ 15.99		
	961133516	4T	15.99	2	\$ 31.98		
	961134016	5	15.99	4	\$ 63.96		
					<b>Total for item</b>	8	\$ 127.92
T-shirt	958773304	2T	17.99	5	\$ 89.95		
	958773404	3T	17.99	11	\$ 197.89		
	958773504	4T	17.99	6	\$ 107.94		
	958774004	5	17.99	6	\$ 107.94		
					<b>Total for item</b>	28	\$ 503.72
T-shirt	958783311	2T	14.99	15	\$ 224.85		
	958783411	3T	14.99	14	\$ 209.86		
	958783511	4T	14.99	14	\$ 209.86		
	958784011	5	14.99	15	\$ 224.85		
					<b>Total for item</b>	58	\$ 869.42
T-shirt	951140314	s	12.99	33	\$ 428.67		
	951140414	m	12.99	65	\$ 844.35		
	951140514	l	12.99	61	\$ 792.39		
	951140614	xl	12.99	33	\$ 428.67		
					<b>Total for item</b>	192	\$ 2,494.08
Apparel: Childrens	955970314	s	29.99	16	\$ 479.84		
	955970414	m	29.99	22	\$ 659.78		
	955970514	l	29.99	17	\$ 509.83		
	955970614	xl	29.99	19	\$ 569.81		
					<b>Total for item</b>	74	\$ 2,219.26
T-shirt	959920311	s	24.00	16	\$ 384.00		
	959920411	m	24.00	33	\$ 792.00		
	959920511	l	24.00	22	\$ 528.00		
	959920611	xl	24.00	10	\$ 240.00		
					<b>Total for item</b>	81	\$ 1,944.00
T-shirt	950600314	s	28.99	16	\$ 463.84		
	950600414	m	28.99	33	\$ 956.67		
	950600514	l	28.99	22	\$ 637.78		
	950600614	xl	28.99	10	\$ 289.90		

						<b>Total for item</b>	81	\$	2,348.19
Sweatshirt	957520311	s	72.99	17	\$	1,240.83			
	957520411	m	72.99	21	\$	1,532.79			
	957520511	l	72.99	18	\$	1,313.82			
	957520611	xl	72.99	6	\$	437.94			
						<b>Total for item</b>	62	\$	4,525.38
Fleece Pant	957510311	s	44.99	19	\$	854.81			
	957510411	m	44.99	29	\$	1,304.71			
	957510511	l	44.99	11	\$	494.89			
	957510611	xl	44.99	7	\$	314.93			
						<b>Total for item</b>	66	\$	2,969.34
Sweatshirt	958610314	s	46.99	12	\$	563.88			
	958610414	m	46.99	15	\$	704.85			
	958610514	l	46.99	11	\$	516.89			
	958610614	xl	46.99	4	\$	187.96			
						<b>Total for item</b>	42	\$	1,973.58
T-shirt	956800311	s	24.99	41	\$	1,024.59			
	956800411	m	24.99	37	\$	924.63			
	956800511	l	24.99	12	\$	299.88			
	956800611	xl	24.99	7	\$	174.93			
						<b>Total for item</b>	97	\$	2,424.03
Fleece Pant	951900314	s	36.99	28	\$	1,035.72			
	951900414	m	36.99	36	\$	1,331.64			
	951900514	l	36.99	18	\$	665.82			
	951900614	xl	36.99	3	\$	110.97			
						<b>Total for item</b>	85	\$	3,144.15
T-shirt	954060310	s	22.99	16	\$	367.84			
	954060410	m	22.99	13	\$	298.87			
	954060510	l	22.99	12	\$	275.88			
	954060610	xl	22.99	4	\$	91.96			
						<b>Total for item</b>	45	\$	1,034.55
T-shirt	957300319	s	31.99	15	\$	479.85			
	957300419	m	31.99	16	\$	511.84			
	957300519	l	31.99	8	\$	255.92			
	957300619	xl	31.99	6	\$	191.94			
						<b>Total for item</b>	45	\$	1,439.55
Sweatshirt	957560314	s	45.99	14	\$	643.86			

	957560414	m	45.99	14	\$ 643.86		
	957560514	l	45.99	9	\$ 413.91		
	957560614	xl	45.99	6	\$ 275.94		
					<b>Total for item</b>	43	\$ 1,977.57
T-shirt	960300314	s	21.99	16	\$ 351.84		
	960300414	m	21.99	18	\$ 395.82		
	960300514	l	21.99	8	\$ 175.92		
	960300614	xl	21.99	5	\$ 109.95		
					<b>Total for item</b>	47	\$ 1,033.53
T-shirt	943660319	s	16.99	38	\$ 645.62		
	943660419	m	16.99	55	\$ 934.45		
	943660519	l	16.99	39	\$ 662.61		
	943660619	xl	16.99	26	\$ 441.74		
					<b>Total for item</b>	158	\$ 2,684.42
T-shirt	961190311	s	18.99	7	\$ 132.93		
	961190411	m	18.99	9	\$ 170.91		
	961190511	l	18.99	2	\$ 37.98		
	961190611	xl	18.99	2	\$ 37.98		
					<b>Total for item</b>	20	\$ 379.80
T-shirt	956040311	s	16.99	48	\$ 815.52		
	956040411	m	16.99	74	\$ 1,257.26		
	956040511	l	16.99	40	\$ 679.60		
	956040611	xl	16.99	28	\$ 475.72		
					<b>Total for item</b>	190	\$ 3,228.10
Sweatshirt	955990319	s	39.99	40	\$ 1,599.60		
	955990419	m	39.99	48	\$ 1,919.52		
	955990519	l	39.99	44	\$ 1,759.56		
	955990619	xl	39.99	26	\$ 1,039.74		
					<b>Total for item</b>	158	\$ 6,318.42
Sweatshirt	959730306	s	40.99	17	\$ 696.83		
	959730406	m	40.99	18	\$ 737.82		
	959730506	l	40.99	8	\$ 327.92		
	959730606	xl	40.99	4	\$ 163.96		
					<b>Total for item</b>	47	\$ 1,926.53
Shorts	951120311	s	24.99	133	\$ 3,323.67		
	951120411	m	24.99	146	\$ 3,648.54		
	951120511	l	24.99	71	\$ 1,774.29		

	951120611	xl	24.99	58	\$ 1,449.42		
					<b>Total for item</b>	408	\$ 10,195.92
T-shirt	956070314	s	16.99	27	\$ 458.73		
	956070414	m	16.99	31	\$ 526.69		
	956070514	l	16.99	20	\$ 339.80		
	956070614	xl	16.99	9	\$ 152.91		
					<b>Total for item</b>	87	\$ 1,478.13
Sweatshirt	960740311	s	58.50	9	\$ 526.50		
	960740411	m	58.50	7	\$ 409.50		
	960740511	l	58.50	7	\$ 409.50		
	960740611	xl	58.50	0	\$ -		
					<b>Total for item</b>	23	\$ 1,345.50
T-shirt	961180304	s	18.99	3	\$ 56.97		
	961180404	m	18.99	1	\$ 18.99		
	961180504	l	18.99	0	\$ -		
	961180604	xl	18.99	0	\$ -		
					<b>Total for item</b>	4	\$ 75.96
T-shirt	958570311	s	28.99	6	\$ 173.94		
	958570411	m	28.99	14	\$ 405.86		
	958570511	l	28.99	3	\$ 86.97		
	958570611	xl	28.99	3	\$ 86.97		
					<b>Total for item</b>	26	\$ 753.74
T-shirt	960290319	s	14.99	28	\$ 419.72		
	960290419	m	14.99	26	\$ 389.74		
	960290519	l	14.99	17	\$ 254.83		
	960290619	xl	14.99	10	\$ 149.90		
					<b>Total for item</b>	81	\$ 1,214.19
T-shirt	957750311	s	17.99	6	\$ 107.94		
	957750411	m	17.99	15	\$ 269.85		
	957750511	l	17.99	9	\$ 161.91		
	957750611	xl	17.99	6	\$ 107.94		
					<b>Total for item</b>	36	\$ 647.64
T-shirt	957590319	s	17.99	45	\$ 809.55		
	957590419	m	17.99	42	\$ 755.58		
	957590519	l	17.99	21	\$ 377.79		
	957590619	xl	17.99	13	\$ 233.87		
					<b>Total for item</b>	121	\$ 2,176.79

T-shirt	957580314	s	20.99	23	\$ 482.77		
	957580414	m	20.99	24	\$ 503.76		
	957580514	l	20.99	15	\$ 314.85		
	957580614	xl	20.99	9	\$ 188.91		
					<b>Total for item</b>	71	\$ 1,490.29
Sweatshirt	957420311	s	59.99	12	\$ 719.88		
	957420411	m	59.99	16	\$ 959.84		
	957420511	l	59.99	9	\$ 539.91		
	957420611	xl	59.99	4	\$ 239.96		
					<b>Total for item</b>	41	\$ 2,459.59
Sticker	70519913240		3.99	347	\$ 1,384.53	347	\$ 1,384.53
					<b>Total for item</b>		
Beverage	40000103303		5.99	653	\$ 3,911.47	653	\$ 3,911.47
					<b>Total for item</b>		
Beverage	40000106620		6.99	33	\$ 230.67	33	\$ 230.67
					<b>Total for item</b>		
sticker	40000106576		1.49	452	\$ 673.48	452	\$ 673.48
					<b>Total for item</b>		
Beverage	70519913238		19.99	107	\$ 2,138.93	107	\$ 2,138.93
					<b>Total for item</b>		
Beverage	03208533753		18.99	44	\$ 835.56	44	\$ 835.56
					<b>Total for item</b>		
Toy	71509947788		18.99	58	\$ 1,101.42	58	\$ 1,101.42
					<b>Total for item</b>		
Toy	03177906832		2.69	19	\$ 51.11	19	\$ 51.11
					<b>Total for item</b>		
Toy	40000107732		12.95	60	\$ 777.00	60	\$ 777.00
					<b>Total for item</b>		
Toy	40000106574		3.99	445	\$ 1,775.55	445	\$ 1,775.55
					<b>Total for item</b>		
Blanket	74650707158		19.99	838	\$ 16,751.62	838	\$ 16,751.62
					<b>Total for item</b>		
Blanket	40000100464		59.99	148	\$ 8,878.52	148	\$ 8,878.52
					<b>Total for item</b>		
Golf	40000103376		39.99	58	\$ 2,319.42	58	\$ 2,319.42
					<b>Total for item</b>		
Wall Hanging	40000106640		22.99	21	\$ 482.79	21	\$ 482.79

					<b>Total for item</b>		
vinyl	40000105948	19.95	41	\$ 817.95	41	\$ 817.95	
				<b>Total for item</b>			
Room	03487804094	12.99	103	\$ 1,337.97	103	\$ 1,337.97	
				<b>Total for item</b>			
Wall Hanging	01588996148	26.99	168	\$ 4,534.32	168	\$ 4,534.32	
				<b>Total for item</b>			
Room	87775500376	19.99	7	\$ 139.93	7	\$ 139.93	
				<b>Total for item</b>			
Beverage	68774651341	36.00	11	\$ 396.00	11	\$ 396.00	
				<b>Total for item</b>			
Beverage	68774651380	40.00	0	\$ -	0	\$ -	
				<b>Total for item</b>			
Beverage	68774651418	20.00	39	\$ 780.00	39	\$ 780.00	
				<b>Total for item</b>			
Beverage	68774651393	20.00	10	\$ 200.00	10	\$ 200.00	
				<b>Total for item</b>			
Golf	40000106645	17.99	24	\$ 431.76	24	\$ 431.76	
				<b>Total for item</b>			
Tag	40000106629	3.99	180	\$ 718.20	180	\$ 718.20	
				<b>Total for item</b>			
Frame	70519912487	24.99	18	\$ 449.82	18	\$ 449.82	
				<b>Total for item</b>			
Blanket	40000107301	96.99	63	\$ 6,110.37	63	\$ 6,110.37	
				<b>Total for item</b>			

\$ 620,434.77

# Exhibit 2

**Bettinger, Blaine**

---

**From:** Mike Toomey [mailto:mike@papas-sports.com]  
**Sent:** Wednesday, June 30, 2010 2:22 PM  
**To:** Marc J Donabella  
**Subject:** orange

Marc,

I am sending this letter to assure you that we sell a number of different items with the term ORANGE on them, and people are buying these items to show their pride in Syracuse University. We have offered shirts with ORANGE on them in White, Ash, Navy, and Orange, customers are not buying the shirts for the color, they are buying to support their team.

Sincerely,  
Mike

Michael Toomey  
Papa's Sports  
2083 Park St.  
Syracuse NY 13208  
315-455-7272

# Exhibit 3

**Bettinger, Blaine**

---

**From:** Todd [mailto:todd@ppspros.com]  
**Sent:** Wednesday, June 30, 2010 10:53 AM  
**To:** Marc J Donabella  
**Subject:** ORANGE - licensed

Marc,

Yes, the term ORANGE is a licensed mark of Syracuse University for which I pay a royalty due to it being viewed by consumers as an indicator of Syracuse University (and not because the shirt/apparel it appears on happens to be orange in color).

Let me know if you need anything else.

Regards,

**Todd Ruetsch**

Printing & Promotional Solutions  
235 Walton Street  
Suite 200  
Syracuse, NY 13202  
P:315-474-1110  
C: 315-430-2492



# Exhibit 4

**Bettinger, Blaine**

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**Attachments:** Syracuse Univ. Orange 03.16.10.pdf

From: Lorrie Turner

Sent: Thursday, July 01, 2010 4:59 PM

To: Sandra Young

Subject: Syracuse University

This email hereby confirms that New Era Cap Co., Inc. produces headwear and t-shirts (“Products”) for Syracuse University. The attached Appendix B lists the trademarks for which we are licensed. We pay a royalty to Syracuse University for the license. The trademarks for which we are licensed include several of the team names including, ORANGE, ‘CUSE, and SU. All of these are viewed by our consumers as identifiers of Syracuse University.

Lorrie K. Turner, Esq.

Director of Legal

New Era Cap Co., Inc.

160 Delaware Avenue

Buffalo NY 14202

Office: 716-604-9069

Mobile: 716-380-0343

Facsimile: 716-604-9068

Email: [lorrie.turner@neweracap.com](mailto:lorrie.turner@neweracap.com)<<mailto:lorrie.turner@neweracap.com>>

Website: [www.neweracap.com](http://www.neweracap.com)<<http://www.neweracap.com>>

**CONFIDENTIALITY NOTICE:** This email message and attachments may contain confidential information and/or information protected attorney-client privilege or other privileges. If you are not the intended recipient, use of the content by you is prohibited and may be illegal. If you received this by accident, please email me or contact me immediately. You must then delete and destroy all copies of this message. Thank you.

## APPENDIX B

SYRACUSE UNIVERSITY is the owner of all rights, title and interest in and to the following Indicia, which includes trademarks, service marks, trade names, designs, logos, seals and symbols.

MARCH 16, 2010  
PAGE 1

# SYRACUSE UNIVERSITY ORANGE










**RESTRICTIONS:**

You may not alter, skew, or distort any logos  
You may not place any other graphics on top of or obstructing any school logos  
You may not place any logos against overly distracting backgrounds or textures

PRIMARY MARKS		SECONDARY MARKS	
			
SECONDARY MARKS			
			
			
			
			

COLOR INFORMATION			
You must use the approved University colors or the "PANTONE" colors listed on this page. The colors on this page are not intended to match the PANTONE color standards. For the PANTONE color standards, refer to the current editions of the PANTONE color publications. *PANTONE is a registered trademark of PANTONE, Inc.			
SCHOOL COLORS	PANTONE COLORS	THREAD COLORS	
ORANGE NAVY BLACK WHITE	PANTONE 1655 PANTONE 282 PANTONE PROCESS BLACK WHITE	MADEIRA 1078 MADEIRA 1242 BLACK WHITE	POLYNEON 1678 POLYNEON 1742 BLACK WHITE
ORANGE	NAVY	BLACK	

VERBIAGE			GENERAL INFORMATION	
Syracuse ® Syracuse University ® Syracuse U ® SU ® Syracuse Basketball ® Syracuse Football ® Syracuse Lacrosse ®	Orange ® Carrier Dome ® Orange Pack ® 'Cuse ® Go Orange ® We're Orange™ Together New York's College Team™	Otto™ Otto's Army™ CLUB 4 4™	LOCATION: SYRACUSE, NY	ESTABLISHED DATE: 1870
			MASCOT: ORANGE	CONFERENCE: BIG EAST
			MASCOT NICKNAME: OTTO	SECONDARY TYPEFACE: FACET EXTRA BOLD REGULAR

ATHLETIC MARKS					
					
BASKETBALL	BASKETBALL	BASKETBALL	FOOTBALL	FOOTBALL	FOOTBALL
ATHLETIC MARKS					
					
ATHLETICS	ATHLETICS	ATHLETICS	LACROSSE	LACROSSE	LACROSSE
AGGRESSIVE OTTO			MASCOT MARK		
					

ADDITIONAL PERTINENT INFORMATION		
	Yes	No
• University seal permitted on products for resale:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Alterations to seal permitted:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Alterations to Block S permitted:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Overlaying / intersecting graphics permitted with seal:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• University licenses consumables:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• University licenses health & beauty products:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• University permits numbers on products for resale:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Mascot caricatures permitted:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Cross licensing with other marks permitted:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• NO USE of current player's name, image, or likeness is permitted on commercial products in violation of NCAA rules and regulations.	<input type="checkbox"/>	<input type="checkbox"/>
• NO REFERENCES to alcohol, drugs, or tobacco related products may be used in conjunction with University marks.	<input type="checkbox"/>	<input type="checkbox"/>
• Use of the "Aggressive Otto" mark will be approved on a case-by-case basis. Licensees will be required to sign to an addendum to their current license agreement with CLC for Syracuse University to use this logo. All merchandise featuring this mark will garner a 10% royalty rate.	<input type="checkbox"/>	<input type="checkbox"/>
		Restrictions
		_____
		Special approval required.
		_____
		Special approval required.
		_____
		_____
		Special approval required.
		_____

NOTE: The marks of Syracuse University are controlled under a licensing program administered by The Collegiate Licensing Company. Any use of these marks will require written approval from The Collegiate Licensing Company.

In addition to the Indicia shown above, any Indicia adopted hereafter and used or approved for use by SYRACUSE UNIVERSITY shall be deemed to be additions to the Indicia as though shown above and shall be subject to the terms and conditions of the Agreement.

## APPENDIX B

SYRACUSE UNIVERSITY is the owner of all rights, title and interest in and to the following Indicia, which includes trademarks, service marks, trade names, designs, logos, seals and symbols.

MARCH 16, 2010  
PAGE 2

# SYRACUSE UNIVERSITY ORANGE



FONT SYSTEM	
<b>ABCDEFGHIJKLMN OPQRSTUVWXYZ 0123456789</b>	<b>ABCDEFGHIJKLMN OPQRSTUVWXYZ 0123456789</b>
<b>ABCDEFGHIJKLMN OPQRSTUVWXYZ 0123456789</b>	<b>ABCDEFGHIJKLMN OPQRSTUVWXYZ 0123456789</b>
HELMET MARK	VINTAGE HELMET MARK
 <div style="text-align: right; font-size: small;">35</div>	 <div style="text-align: right; font-size: small;">36</div>
Vintage 44 helmet can only be used with permission from Syracuse licensing.	
ORANGE IN THE APPLE	
 <div style="text-align: right; font-size: small;">37</div>	 <div style="text-align: right; font-size: small;">38</div>
 <div style="text-align: right; font-size: small;">39</div>	 <div style="text-align: right; font-size: small;">40</div>

COLOR INFORMATION			
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VERBIAGE	GENERAL INFORMATION	
Syracuse ® Syracuse University ® Syracuse U ® SU ® Syracuse Basketball ® Syracuse Football ® Syracuse Lacrosse ®	Orange ® Carrier Dome ® Orange Pack ® 'Cuse ® Go Orange ® We're Orange™ Together New York's College Team™	Otto™ Otto's Army™ CLUB 4 4™
LOCATION: SYRACUSE, NY MASCOT: ORANGE MASCOT NICKNAME: OTTO		ESTABLISHED DATE: 1870 CONFERENCE: BIG EAST SECONDARY TYPEFACE: FACET EXTRA BOLD REGULAR

SPECIAL USE MARKS		
 <div style="text-align: right; font-size: small;">41</div>	 <div style="text-align: right; font-size: small;">42</div>	Preferred mark for fashion colors

INSTITUTIONAL MARKS		
 SYRACUSE UNIVERSITY. <div style="text-align: right; font-size: small;">43</div>	 SYRACUSE UNIVERSITY. <div style="text-align: right; font-size: small;">45</div>	 SYRACUSE UNIVERSITY. SUOS CULTORES SCIENTIA CORONAT FOUNDED A·D·1870. <div style="text-align: right; font-size: small;">46</div>
 SYRACUSE UNIVERSITY. <div style="text-align: right; font-size: small;">44</div>	SYRACUSE UNIVERSITY.	

ADDITIONAL PERTINENT INFORMATION																										
<ul style="list-style-type: none"> <li>• University seal permitted on products for resale:</li> <li>• Alterations to seal permitted:</li> <li>• Alterations to Block S permitted:</li> <li>• Overlaying / intersecting graphics permitted with seal:</li> <li>• University licenses consumables:</li> <li>• University licenses health &amp; beauty products:</li> <li>• University permits numbers on products for resale:</li> <li>• Mascot caricatures permitted:</li> <li>• Cross licensing with other marks permitted:</li> <li>• NO USE of current player's name, image, or likeness is permitted on commercial products in violation of NCAA rules and regulations.</li> <li>• NO REFERENCES to alcohol, drugs, or tobacco related products may be used in conjunction with University marks.</li> <li>• Use of the "Aggressive Otto" mark will be approved on a case-by-case basis. Licensees will be required to sign to an addendum to their current license agreement with CLC for Syracuse University to use this logo. All merchandise featuring this mark will garner a 10% royalty rate.</li> </ul>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Yes</th> <th style="text-align: center;">No</th> <th style="text-align: center;">Restrictions</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="border-bottom: 1px solid black;">Special approval required.</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="border-bottom: 1px solid black;">Special approval required.</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="border-bottom: 1px solid black;">Special approval required.</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="border-bottom: 1px solid black;"></td> </tr> </tbody> </table>	Yes	No	Restrictions	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	Special approval required.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Special approval required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	Special approval required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
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In addition to the Indicia shown above, any Indicia adopted hereafter and used or approved for use by SYRACUSE UNIVERSITY shall be deemed to be additions to the Indicia as though shown above and shall be subject to the terms and conditions of the Agreement.

# Exhibit 5

**Bettinger, Blaine**

---

**Subject:** ORANGE

**From:** Trey Ham [mailto:tham@gearforsports.com]

**Sent:** Tuesday, June 29, 2010 2:34 PM

**To:** Marc J Donabella

**Subject:** ORANGE

It is the direction at GFSI, Inc. that the term "ORANGE" is a licensed mark of Syracuse University for which we pay a royalty.

This is due to the term being viewed by consumers as an indicator of Syracuse University, and not because the shirt it appears on happens to be the color orange.

Thank You,

Trey Ham  
Licensing Manager  
GFSI, Inc.  
9700 Commerce Parkway  
Lenexa, KS 66219

913-693-3261 phone  
913-693-3939 fax  
800-942-3261 toll free  
tham@gearforsports.com





# Exhibit 6

(DESIGN ON THE FLY)

June 29, 2010

Marc Donabella  
Syracuse University  
Licensing Director  
303 University Place  
Syracuse, New York 13244-2020

Dear Marc,

This is to address the situation regarding the royalty payments of our apparel merchandise that we distribute/manufacture for usage of certain phrases and trademarks for Syracuse University. In addition to the icons for the school, i.e., the "S", Otto, football helmets, "SU," in which we must indicate those trademark items, we pay royalty to the university when any of the following word terms are used in addition to or separate of those icons including: (1) Syracuse, (2) Syracuse University, (3) 'Cuse, (4) Orange.

Even though we print on orange shirts and the school's official color is orange, the term "ORANGE" is a clear indication that is associated and viewed by consumers as a direct tie into that of Syracuse University, in the same manner that it "Jayhawk" is viewed as a part of University of Kansas, "Irish" for Notre Dame, "Yellow Jackets" for Georgia Tech, "Green Wave" for Tulane University, etc. Simply, it is the moniker of the team, the official nickname/ mascot of the school, and therefore a trademark of Syracuse University, in the same form as those schools stated above.

I hope this addresses any questions as to the recognition of license trademarks for Syracuse University.

Warmest Regards

Bob Gautieri  
Partner, Design On The Fly

4777 W. ALAMEDA AVE. SUITE 611  
BURBANK, CA 91505 818.558.1060 PHONE  
818.558.1315 FAX



# Exhibit 7

**Bettinger, Blaine**

---

**Subject:** Marketing discussion for Syracuse merchandise

**From:** Mike Ross [mailto:mross@towcaps.com]  
**Sent:** Friday, July 02, 2010 9:38 AM  
**To:** Marc J Donabella  
**Subject:** Marketing discussion for Syracuse merchandise

**Hello Marc,**

I wanted to write you today to confirm that as we design our collegiate headwear we often use verbiage such as Syracuse University or Orange or Orange Power to enhance our Syracuse product line. We also use verbiage at times as stand-alone decoration for our collegiate products. Without the ability to use this verbiage, we would struggle with our creative applications and design capabilities, and our sales would suffer tremendously as a result of these not being made available to us.

As you know, we apply your verbiage to most of our licensed designs, as a result we include these in our monthly royalty reports furnished to CLC on your behalf. Brand recognition in the retail market is essential to our success, and these enhancements are necessary in our industry and have played a huge part in our sales programs servicing accounts in all channels we sell into. These include Sporting Goods Stores, Department Stores, large and small Mass Retail stores and Grocery/Drug/C-Store chains as well as, and especially towards, Campus/Local retail stores where your immediate consumer-base is located.

We have found that trying to sell products that only appear to be tied to any college, like only being the same color of a school rather than being an officially licensed product using official school logos and verbiage, isn't a successful way to do business. Our company is proud to be a college-only and headwear-only collegiate licensee supporting your brand year-round. We have trained our retail partners to demand officially licensed products, and their customers will not accept anything less.

If there's anything we can do to assist you in enhancing your brand further, please let me know. We look forward to a very bright Back-To-School sales period in 2010 and appreciate all you do to assist us in maximizing our sales of your school's headwear line.

**Mike Ross**  
**Top of the World**