

ESTTA Tracking number: **ESTTA398503**

Filing date: **03/16/2011**

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	D.C. ONE WHOLESALER, INC.
Granted to Date of previous extension	03/16/2011
Address	1287 4th Street, NE Washington, DC 20002 UNITED STATES

Attorney information	Deborah M. Lodge Patton Boggs LLP 2550 M Street, NW Washington, DC 20037 UNITED STATES dlodge@pattonboggs.com, docketingtrademarks@pattonboggs.com, kagee@pattonboggs.com Phone:202-457-6000
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Applicant Information

Application No	77962853	Publication date	11/16/2010
Opposition Filing Date	03/16/2011	Opposition Period Ends	03/16/2011
Applicant	Jonathan E Chien 1315 4th Street, NE Washington, DC 20002 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2006/02/21 First Use In Commerce: 2006/02/21 All goods and services in the class are opposed, namely: sweatshirts, T-shirt, Baseball caps, Skull Caps, Polo Shirts

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	Mark is common and ornamental and incapable of distinguishing Applicant's goods or functioning as a trademark

Attachments	ILDCOppNotice.pdf (4 pages)(224551 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	/Deborah M. Lodge/
Name	Deborah M. Lodge
Date	03/16/2011

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

In the Matter of Application Serial No. 77/962853, filed March 18, 2010.
Published in the Official Gazette on November 16, 2010

_____)		
D.C. One Wholesaler, Inc.,)		
Opposer,)		
)		
v.)		Opposition No. _____
)		Ser. No. 77/962853
)		Mark: I ♥ DC
Jonathan E Chien dba I LOVE DC, LLC,)		
Applicant.)		
_____)		

NOTICE OF OPPOSITION

Opposer D.C. One Wholesaler, Inc., (“Opposer” or “DC One”), a District of Columbia corporation located and doing business at 1287 4th Street, NE, Washington DC 20002, believes that it will be damaged by registration of the proposed mark **I ♥ DC** set forth in Application Serial No. 77/962853, and hereby opposes the proposed registration. In particular, Opposer believes that the proposed mark **I ♥ DC** is a merely descriptive and ornamental phrase that is incapable of functioning as a trademark, and that issuing a registration for **I ♥ DC** would inhibit competition in the souvenir market, to Opposer’s significant harm. Other sellers of DC-related souvenirs would also be harmed, as they could be deprived of the right to sell items with the commonly-used, ornamental and descriptive **I ♥ DC** phrase. As grounds for this opposition, it is alleged that:

1. Opposer DC One is a wholesale seller of t-shirts, hats, and other souvenir items. DC One sells to vendors, who then sell to the public, mainly tourists visiting the District of Columbia area.

For many years, DC One has sold t-shirts, hats and other items bearing the phrase I ♥ DC. Other wholesalers and vendors also sell souvenir goods that also bear the phrase I ♥ DC.

2. Applicant also sells t-shirts, hats, and other DC-related souvenir items to the public. Applicant filed Application Serial No. 77/962853 on March 18, 2010, for sweatshirts, T-shirt, baseball caps, skull caps, and polo shirts in Class 25. The application asserts a first use date of February 21, 2006.

3. Applicant is one source of goods bearing the ornamental and descriptive phrase I ♥ DC. However, Applicant is not the only source of such goods, as many other souvenir vendors sell goods bearing the phrase I ♥ DC that did not come from Applicant.

4. The phrase I ♥ DC is widely used as an ornamental and descriptive phrase on souvenir items, including but not limited to t-shirts, sweatshirts, caps, bags and other items. The phrase I ♥ DC is a commonly used phrase that connotes information or common sentiments, and/or is used in an ornamental and decorative way on t-shirts, sweatshirts, caps, bags and other items. It is of unknown origin and has been used in many contexts and on many kinds of goods that do not emanate from Applicant.

5. Applicant's proposed mark I ♥ DC is incapable of distinguishing the goods of Applicant from the goods of others and therefore cannot function as a trademark and an indicator of source.

6. Opposer would be damaged by the registration of Applicant's proposed mark. Applicant's application covers the same kinds of goods on which Opposer and other souvenir sellers use the phrase I ♥ DC. Issuing a registration for the phrase I ♥ DC would inhibit competition in the

souvenir market and would arm this applicant with a means of threatening and harassing competitors who sell similar merchandise.

7. This Opposition is timely, as Opposer has received extensions of time up to and including March 16, 2011, within which to file this Opposition.

8. This Opposition is being filed electronically through ESTTA, pursuant to the Board's rules. The filing fees are being paid through ESTTA.

WHEREFORE, Opposer D.C. One Wholesaler, Inc., believes that it would be damaged by the registration of the claimed mark **I ♥ DC** in Application Serial No. 77/962853, and prays that this Opposition be sustained and that said Application be refused registration.

Dated: March 16, 2011

Respectfully submitted,

D.C. One Wholesaler, Inc., Opposer

By: 

Deborah M. Lodge
Susan. E. Billheimer
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2550 M Street, N.W.
Washington, D.C. 20037
Telephone: 202-457-6000

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 37 CFR § 2.119, I served a true copy of the foregoing **NOTICE OF OPPOSITION** and exhibits thereto on Applicant by depositing said copy in the U. S. Mail, first class postage affixed, addressed to Applicant's attorney of record as follows: JUNGJIN LEE, LEE, LEE & ASSOCIATES, P.C. . SUITE 234, 2531 JACKSON ROAD, ANN ARBOR, MI 48103, on this day, March 16, 2011.


Deborah M. Lodge