

ESTTA Tracking number: **ESTTA530476**

Filing date: **04/04/2013**

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	Junwei He		
Entity	Individual	Citizenship	CHINA
Address	Shengan Street, Heping District Room 301-305, No 5-1, Huaiyuanli Tianjin City, CHINA		

Attorney information	Nicholas Wells Wells IP Law, LLC 299 S. Main St., Suite 1300 Salt Lake City, UT 84111 UNITED STATES nwells@wellsiplaw.com Phone:801-444-7143
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Applicant Information

Application No	85159636	Publication date	03/05/2013
Opposition Filing Date	04/04/2013	Opposition Period Ends	04/04/2013
International Registration No.	NONE	International Registration Date	NONE
Applicant	Qiang Zhang 5245 Rue Berri Apt 4 Montreal QC, H2J2S4 CANADA		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Bean jam buns; Bread and buns; Buns; Chinese steamed dumplings (shumai, cooked); Chinese stuffed dumplings (gyoza, cooked); Cream buns; Dumplings; Fish dumplings; Flour for making dumplings of glutinous rice; Honey buns; Jam buns; Rice dumplings dressed with sweet bean jam (ankoro); Shrimp dumplings; Steamed buns stuffed with minced meat (niku-manjuh); Sweet dumplings (dango)

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration	2917812	Application Date	04/14/2003
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No.			
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	GBL TIANJIN, CHINA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1980/06/18 First Use In Commerce: 2003/02/06 steam buns with various fillings		

Attachments	76510654#TMSN.gif (1 page)(bytes) GO BELIEVE GBL-TTAB Opposition.pdf (7 pages)(43373 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	/Nicholas D. Wells/
Name	Nicholas Wells
Date	04/04/2013

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

Mark: GO BELIEVE GBL (and Design)

Serial No.: 85159636

Published: March 5, 2013

Junwei He

Opposer,

v.

Qiang Zhang

Applicant

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

In the matter of trademark application Serial No. 85159636 for the trademark GO
BELIEVE GBL (and Design) shown below



for “Bean jam buns; Bread and buns; Buns; Chinese steamed dumplings (shumai, cooked); Chinese stuffed dumplings (gyoza, cooked); Cream buns; Dumplings; Fish dumplings; Flour for making dumplings of glutinous rice; Honey buns; Jam buns; Rice dumplings dressed with sweet bean jam (ankoro); Shrimp dumplings; Steamed buns stuffed with minced meat (niku-manjuh); Sweet dumplings (dango)” in International Class 030, filed October 23, 2010 and published in the Official Gazette on March 5, 2013.

Opposer, Junwei He, an individual, citizen of China having a place of business at Shengan Street, Heping District, Room 301-305, No 5-1, Huaiyuanli, Tianjin City, China believes he will be damaged by registration of the mark shown in the above identified application and hereby opposes the same.

The grounds for the opposition are as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 2917812 for the mark GBL TIANJIN, CHINA (and Design) shown below



for “steam buns with various fillings” in International Class 30.

2. Opposer has used its mark in commerce on food items sold within the United States since at least as early as February 6, 2003.

3. Opposer has expended significant resources in the manufacturing and promotion of its food products sold under its GBL TIANJIN, CHINA (and Design) mark. The mark has become well known as an identifier of high-quality food products.
4. Applicant's above identified mark GO BELIEVE GBL (and Design) mark is likely, when used on or in connection with Applicant's goods, to cause confusion, or to cause mistake, or to deceive due to its being confusingly similar to Opposer's GBL TIANJIN, CHINA (and Design) mark and its use in connection with goods similar to the goods sold by Opposer under its GBL TIANJIN, CHINA (and Design) mark, and on goods which travel in the same channels of trade as goods sold under Opposer's GBL TIANJIN, CHINA (and Design) mark.
5. Opposer has priority of use in commerce and priority of registration of its GBL TIANJIN, CHINA (and Design) mark.
6. The topmost element of Applicant's mark consists of the letters GBL in a design format that is identical to the GBL element within Opposer's mark.
7. The formatting of the upper row of Chinese characters in Applicant's mark, appearing between two horizontal lines, is identical to the formatting of the row of Chinese characters appearing in Opposer's mark.
8. The two lines of Chinese characters in Applicant's mark each transliterate to "**Gou Bu Li**" and both translate in English to "**Dog No Response**".
9. The three right-most Chinese characters within Opposer's mark transliterate to "**Gou Bu Li**" and translate in English to "**Dog No Response**".
10. The Chinese characters that appear twice in Applicant's mark are identical to the three right-most Chinese characters that appear within Opposer's mark.

11. The two left-most Chinese characters in Opposer's mark transliterate to "Tian Jin", in reference to the geographic location named in the literal element of Opposer's mark.
12. The English wording GO BELIEVE appearing in Applicant's mark is phonetically equivalent to the pronunciation of the Chinese characters appearing in Opposer's mark.
13. Applicant's mark is likely to be comprehended by U.S. consumers as being confusingly similar to Opposer's mark.
14. The goods that Applicant intends to sell overlap the goods sold by Opposer under its mark, and those goods which are not identical are related.
15. Applicant's mark is not registrable under Section 2(d) of the Lanham Act in view of Opposer's prior, continuous, ongoing and current use of its mark in commerce.
16. On information and belief, Applicant was aware of Opposer's registered mark prior to the filing date of Applicant's application.
17. On information and belief, Applicant was aware of Opposer's use of Opposer's mark in commerce in connection with food products in the United States prior to the filing date of Applicant's application.
18. On information and belief, Applicant sought to trade on the goodwill of Opposer's mark by applying for a confusingly similar mark for use on goods that are identical to or related to Opposer's Goods.
19. On information and belief, Applicant's declaration made on Oct. 23, 2010 within the application for the GO BELIEVE GBL (and Design) mark was fraudulently made because Applicant knew that he did not have "the right to use the mark in

- commerce” because of Opposer’s pre-existing rights in Opposer’s mark; and that use of Applicant’s mark by Applicant was, in fact, likely “to cause confusion, or to cause mistake, or to deceive” because of Opposer’s pre-existing rights in Opposer’s mark.
20. Applicant committed fraud during the prosecution of his application for Applicant’s mark because of his false declarations made at the time the application was filed.
 21. Applicant’s mark, when used on Applicant’s goods, falsely suggests a connection with Opposer.
 22. As a result of the use and promotion of Opposer's mark for the goods identified above, Opposer's mark has acquired significant goodwill and has become famous prior to Applicant's first use of his mark and the filing date of his application. Opposer's mark is famous marks within the meaning of Section 43(c) of the Lanham Act. Registration of the confusingly similar mark by Applicant will lessen the capacity of Opposer's mark to identify and distinguish the goods of Opposer, and is thereby likely to cause dilution of Opposer's mark.

WHEREFORE, Opposer believes that he will be damaged by registration of said mark and prays that this opposition be sustained.

Dated: Salt Lake City, Utah
April 4, 2013

WELLS IP LAW, LLC

By: s/Nicholas D. Wells

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Attorney for Opposer,
Junwei He

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April 2013, I served a copy of this **OPPOSITION** on the Applicant, as designated below, by placing said copy in the United States Mail, first class, postage prepaid, addressed as follows:

QIANG ZHANG
5245 RUE BERRI APT 4
MONTREAL H2J2S4
CANADA

By: s/Nicholas D. Wells

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