

ESTTA Tracking number: **ESTTA702274**

Filing date: **10/14/2015**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Football Northwest LLC
Granted to Date of previous extension	10/14/2015
Address	12 Seahawks Way Renton, WA 98056 UNITED STATES

Name	NFL Properties LLC
Granted to Date of previous extension	10/14/2015
Address	345 Park Avenue New York, NY 10154 UNITED STATES

Attorney information	Kristin H. Altoff Morgan, Lewis & Bockius LLP 1111 Pennsylvania Ave. NW; Attn: TMSU Washington, DC 20004 UNITED STATES trademarks@morganlewis.com, kaltoff@morganlewis.com, fgordon@morganlewis.com Phone:202.739.5093
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Applicant Information

Application No	86568687	Publication date	06/16/2015
Opposition Filing Date	10/14/2015	Opposition Period Ends	10/14/2015
Applicants	BRUNELLE KEN J P.O. Box 58321 Seattle, WA 98138 UNITED STATES PIPER DANNY R #109 San Diego, CA 92101 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, casual shirts, polo shirts, pants, shorts, jackets, sweatsuits, jerseys, tights, caps, hats, ponchos, gloves, arm

sleeves, briefs, socks and footwear

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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4692528	Application Date	07/31/2014
Registration Date	02/24/2015	Foreign Priority Date	NONE
Word Mark	12		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1984/10/00 First Use In Commerce: 2012/04/05 Capes; Jerseys; Long-sleeved shirts; Shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sports jerseys; Sweatshirts; T-shirts; Tops		

U.S. Registration No.	3300096	Application Date	06/30/2006
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	12		

Design Mark			
Description of Mark	The mark consists of The image of the fan displaying the #1 hand sign in the center of the number 12.		
Goods/Services	Class 036. First use: First Use: 2006/06/30 First Use In Commerce: 2006/08/12 Accepting and administering monetary charitable contributions; Charitable fund raising; Philanthropic services concerning monetary donations; Political fund-raising services; Providing college scholarships; Providing educational scholarships; Providing grants to charitable organizations		
U.S. Registration No.	3304717	Application Date	06/30/2006
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	12		

Design Mark			
Description of Mark	The mark consists of The digit "1" is light blue, the digit "2" is dark blue. The image of the fan in the center is white and the "#1" hand sign is light blue.		
Goods/Services	Class 036. First use: First Use: 2006/06/30 First Use In Commerce: 2006/08/12 Accepting and administering monetary charitable contributions; Charitable fund raising; Philanthropic services concerning monetary donations; Political fund-raising services; Providing college scholarships; Providing educational scholarships; Providing grants to charitable organizations		
U.S. Registration No.	3633279	Application Date	06/07/2006
Registration Date	06/02/2009	Foreign Priority Date	NONE
Word Mark	12		

Design Mark	
Description of Mark	The mark consists of an image of the fan displaying the "#1" hand sign in the center of the number "12".
Goods/Services	Class 041. First use: First Use: 2008/08/15 First Use In Commerce: 2008/08/15 Entertainment services, namely, arranging and conducting of competitions for sports fans; Entertainment services, namely, conducting contests; Fan clubs; Organizing exhibitions for football fans

U.S. Registration No.	4611448	Application Date	02/09/2014
Registration Date	09/23/2014	Foreign Priority Date	NONE

Word Mark	12
Design Mark	

Description of Mark	The mark consists of a stylized "12" in a white line stylization outlined in black on a blue rectangular background.
Goods/Services	Class 016. First use: First Use: 2013/12/16 First Use In Commerce: 2013/12/16 Flags and pennants of paper; Flags of paper; Paper flags

U.S. Registration No.	4631412	Application Date	02/09/2014
Registration Date	11/04/2014	Foreign Priority Date	NONE

Word Mark	12
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Description of Mark	The mark consists of a stylized "12" in a white line stylization outlined in black on a blue rectangular background.
Goods/Services	Class 024. First use: First Use: 2003/10/12 First Use In Commerce: 2003/10/12 Banners and flags of textile; Cloth flags; Fabric flags; Towels

U.S. Registration No.	4775754	Application Date	09/09/2014
Registration Date	07/21/2015	Foreign Priority Date	NONE

Word Mark	12
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Description of Mark	The mark consists of a stylized white "12" outlined in black on a blue rectangular background.
Goods/Services	Class 041. First use: First Use: 2003/10/12 First Use In Commerce: 2003/10/12 Arranging for ticket reservations for shows and other entertainment events; Arranging of contests; Entertainment in the nature of football games; Entertainment services, namely, arranging and conducting of competitions for games of skill and chance and spirit competitions for sports fans; Entertainment services, namely, conducting contests; Fan clubs; Organization of games; Organization of sport events in the field of football; Organizing and arranging exhibitions for entertainment purposes; Organizing community sporting and cultural events; Organizing exhibitions for the entertainment of football fans; Organizing sporting events, namely, football; Providing information relating to sports and sporting events; Providing on-line newsletters in the field of football; Providing online newsletters in the field of football via e-mail

U.S. Registration No.	3540842	Application Date	01/12/2007
Registration Date	12/02/2008	Foreign Priority Date	NONE

Word Mark	BRING ON THE 12
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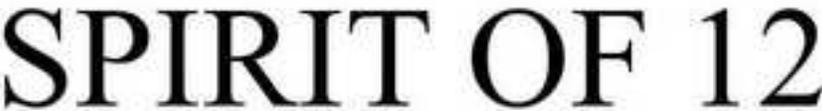


Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2006/12/31 First Use In Commerce: 2006/12/31

	Arranging for ticket reservations for shows and other entertainment events; Arranging of contests; Arranging of exhibitions, seminars and conferences; Entertainment in the nature of football games; Entertainment services, namely, arranging and conducting of football competition games of skill for sport fans; Entertainment services, namely, conducting contests; Entertainment services, namely, providing a television program in the field of football via a global computer network; Fan clubs; Operation of sports camps; Organization of games; Organization of sports events in the field of football; Providing newsletters in the field of football via e-mail
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U.S. Registration No.	3341813	Application Date	04/06/2006
Registration Date	11/20/2007	Foreign Priority Date	NONE

Word Mark	SPIRIT OF 12
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 041. First use: First Use: 2006/06/30 First Use In Commerce: 2006/08/12 Arranging for ticket reservations for shows and other entertainment events; Arranging of contests; Arranging of exhibitions, seminars and conferences; Awards program for major corporations and individuals who have made significant charitable contributions; Charitable services, namely, providing sporting goods to underprivileged children; Contests and incentive award programs to encourage students and organization members to set up and achieve goals in academics, attendance, citizenship and conduct; Entertainment in the nature of football games; Entertainment services, namely, arranging and conducting of competitions in the nature of games of skill and chance and spirit competitions for sports fans; Entertainment services, namely, conducting contests; Entertainment services, namely, providing a television program in the field of football via a global computer network; Entertainment, namely, live music concerts; Fan clubs; Operation of sports camps; Organization of games; Organization of sports events in the field of football; Organizing community sporting and cultural events; Organizing exhibitions for the entertainment of football fans; Providing facilities for sports tournaments; Providing newsletters in the field of football via e-mail; Providing various facilities for an array of sporting events, sports and athletic competitions and awards programmes; Sport camps
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U.S. Registration No.	3413381	Application Date	06/30/2006
Registration Date	04/15/2008	Foreign Priority Date	NONE

Word Mark	SPIRIT OF 12
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Design Mark	SPIRIT OF 12
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2006/06/30 First Use In Commerce: 2006/08/12 Accepting and administering monetary charitable contributions; Charitable fund raising; Philanthropic services concerning monetary donations; Political fund-raising services; Providing college scholarships; Providing educational scholarships; Providing grants to charitable organizations

Attachments	86353913#TMSN.png(bytes) 78920486#TMSN.png(bytes) 78920493#TMSN.png(bytes) 78903375#TMSN.png(bytes) 86188608#TMSN.png(bytes) 86188606#TMSN.png(bytes) 86390111#TMSN.png(bytes) 77081923#TMSN.png(bytes) 78855182#TMSN.png(bytes) 78920500#TMSN.png(bytes) VOLUME 12 Stylized Notice of Opposition.pdf(105168 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	/Kristin H. Altoff/
Name	Kristin H. Altoff
Date	10/14/2015

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

FOOTBALL NORTHWEST LLC and NFL
PROPERTIES LLC,

Opposers,

v.

KEN J. BRUNELLE and DANNY R. PIPER,

Applicants.

In re Application Serial No. 86/568,687
Mark: VOLUME 12 Stylized

VOLUME **12**

Published: June 16, 2015
Opposition No. _____

NOTICE OF OPPOSITION

Opposers Football Northwest LLC and NFL Properties LLC (“Opposers”) believe they will be damaged by registration of the designation VOLUME 12 Stylized shown in Application Serial 86/568,687 (“Applicants’ VOLUME 12 Designation”), filed by Ken J. Brunelle (a resident of Seattle, Washington) and Danny R. Piper (“Applicants”) for use in connection with an array of goods in Class 25. Opposers hereby oppose registration of Applicants’ VOLUME 12 Designation under the provisions of Sections 2(a), 2(d), 13, 43(a) and 43(c) of the Trademark Act of July 5, 1946 (the “Lanham Act”), 15 U.S.C. §§ 1052(a), 1052(d), 1063, and 1125(c).

As grounds for opposition, Opposers allege that:

1. Opposer Football Northwest LLC d/b/a Seattle Seahawks (the “Seahawks” or “Seahawks Club”) is a Washington limited liability company, with a principal place of business at 12 Seahawks Way, Renton, Washington 98056. The Seahawks Club owns and operates a professional football team and provides entertainment services to the public in the form of competitive professional football games. The Seahawks Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 345 Park Avenue, New York, New York, 10154. NFLP represents the NFL and its thirty-two Member Clubs for the licensing and protection of their names, logos, symbols, and other identifying marks and is charged with protecting these marks and the rights of the NFL and the Member Clubs with respect thereto.

3. For many years, and long before March 18, 2015, the filing date of Applicants’ intent-to-use application, Opposers have used the mark 12 and variations thereof (the “Opposers’ 12 Marks”) in connection with their business of organizing, conducting, and promoting the Seahawks football franchise.

4. For many years, and long before March 18, 2015, the filing date of Applicants’ intent-to-use application, Opposers and their authorized business partners, sponsors, and/or licensees have used Opposers’ 12 Marks on or in connection with the sale of a wide variety of goods and services related to the business of organizing, conducting, and promoting the Seahawks football franchise, including clothing.

5. In addition to the common law rights in Opposers’ 12 Marks, the Seahawks Club owns registrations and applications for many of Opposers’ 12 Marks used in connection with promotional and merchandising products and entertainment services in the form of football games and exhibitions, including, among others, the following registrations issued by the United States Patent and Trademark Office (“PTO”):

Registration Number	Mark	International Class(es)	Date of First Use in Commerce
4,692,528	12 Stylized 	25	4/5/2012
3,300,096	12 Stylized 	36	8/12/2006
3,304,717	12 Stylized 	36	8/12/2006
3,633,279	12 Stylized 	41	8/15/2008
4,611,448	12 Stylized 	16	12/16/2013
4,631,412	12 Stylized 	24	10/12/2003
4,775,754	12 Stylized 	41	10/12/2003
3,540,842	BRING ON THE 12	41	12/31/2006

Registration Number	Mark	International Class(es)	Date of First Use in Commerce
3,341,813	SPIRIT OF 12	41	8/12/2006
3,413,381	SPIRIT OF 12	36	8/12/2006

6. The registrations referenced above are valid and subsisting, in full force and effect, and constitute *prima facie* and/or conclusive evidence of the Seahawks Club's exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations.

7. The following registrations referenced above are incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and constitute conclusive evidence of the Seahawks Club's exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations: 3,341,813; 3,300,096; 3,304,717; 3,413,381; 3,540,842 and 3,633,279.

8. During the longstanding, widespread and continuous use of Opposers' 12 Marks, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and publicizing the sale of goods and services bearing the Opposers' 12 Marks.

9. Opposers and their licensees and sponsors have sold and offered for sale goods and services bearing Opposers' 12 Marks in a trading area of broad geographical scope encompassing the United States, including its territories.

10. Opposers and their licensees and sponsors have sold and offered for sale goods and services bearing Opposers' 12 Marks in numerous channels of trade.

11. Opposers' 12 Marks are symbolic of the extensive goodwill and consumer recognition that Opposers have established through substantial expenditures of time, effort and other resources in the advertising and promotion of the goods and services Opposers sell and offer for sale under Opposers' 12 Marks.

12. As a result of Opposers' regular, extensive and well-publicized use, Opposers' 12 Marks are famous in the United States and are associated exclusively with Opposers and their high quality goods and services.

13. On March 18, 2015, Applicants filed an intent-to-use application under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), for federal registration of Applicants' VOLUME 12 Designation shown in Application Serial No. 86/568,687.

14. The application for Applicants' VOLUME 12 Designation covers the following goods in Class 25:

Clothing, namely, T-shirts, casual shirts, polo shirts, pants, shorts, jackets, sweatsuits, jerseys, tights, caps, hats, ponchos, gloves, arm sleeves, briefs, socks and footwear

15. Applicants' VOLUME 12 Designation, Application Serial No. 86/568,687, was published for opposition in the *Official Gazette* on June 16, 2015.

16. The Trademark Trial and Appeal Board extended the opposition period for the Applicants' VOLUME 12 Designation by granting Opposers' timely requests for extensions. The opposition period for Application Serial No. 86/568,687 currently expires on October 14, 2015. Therefore, Opposers timely file this opposition.

17. Opposers' rights in and to Opposers' 12 Marks are superior to those of Applicant.

18. Opposers' 12 Marks are famous and became famous before the filing date or any use of Applicants' VOLUME 12 Designation.

19. Applicants' application for and any use of Applicants' VOLUME 12 Designation are without the consent, authorization, or license of Opposers.

20. Upon information and belief, Applicants are using Applicants' VOLUME 12 Designation in bad faith to trade off of the substantial goodwill associated with Opposers' 12 Marks.

21. As depicted below, Applicants have used Applicants' VOLUME 12 Designation in connection with "Seattle," the city where the Seahawks Club is located and plays, and with the colors blue and green, identical to the colors used by and associated with the Seahawks Club. .



22. As shown below, the stylization of the "12" in Applicants' VOLUME 12 Designation is substantially similar to the stylization of the "12" in the Seahawks Club's Registration No. 4,692,528 and to the 12 mark used by Opposers.



23. Upon information and belief, the “VOLUME” in Applicants’ VOLUME 12 Designation refers to the fact that the crowd at the Seahawks Club’s stadium in Seattle has set the world record for crowd noise.

24. Opposers believe they will be damaged by registration of Applicants’ VOLUME 12 Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that Applicants’ use and registration of the subject designation will falsely suggest a connection between Applicants and Opposers named herein to the damage of Opposers, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

25. Opposers believe they will be damaged by registration of Applicants’ VOLUME 12 Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject designation so resembles Opposers’ 12 Marks used by Opposers in the United States as to be likely, when used on or in connection with the goods identified in the application for Applicants’ VOLUME 12 Designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposers and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

26. Opposers believe they will be damaged by registration of Applicants’ VOLUME 12 Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, because the use and registration of Applicants’ VOLUME 12 Designation is likely to dilute the distinctive quality of Opposers’ famous 12 Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposers believe they will be damaged by registration of Applicants' VOLUME 12 Designation shown in Application Serial No. 86/568,687 and respectfully request that the registration sought by Applicants be refused.

Dated: October 14, 2015

Respectfully submitted,

By: /s/ Kristin H. Altoff

Michael F. Clayton

Kristin H. Altoff

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Ave., N.W.

Washington, D.C. 20004

Tel: (202) 739-3000

Fax: (202) 739-3001

Attorneys for Opposers

FOOTBALL NORTHWEST LLC and NFL

PROPERTIES LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition has been sent via first class mail, postage pre-paid on this 14th day of October 2015 to:

KEN J BRUNELLE
PO BOX 58321
SEATTLE, WASHINGTON 98138-1321
UNITED STATES

/Kristin H. Altoff/