

ESTTA Tracking number: **ESTTA733633**

Filing date: **03/15/2016**

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	The Children's Hospital of Philadelphia
Granted to Date of previous extension	03/23/2016
Address	34th Street and Civic Center Boulevard Philadelphia, PA 19104 UNITED STATES

Attorney information	Jamie B. Bischoff Ballard Spahr LLP 1735 Market Street, 51st Floor Philadelphia, PA 19103-7599 UNITED STATES bischoff@ballardspahr.com, marandolat@ballardspahr.com, phila_tmddocketing@ballardspahr.com Phone:215.864.8207
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Applicant Information

Application No	85775650	Publication date	11/24/2015
Opposition Filing Date	03/15/2016	Opposition Period Ends	03/23/2016
Applicant	RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY 7 College Avenue, Winants Hall, Room 401 New Brunswick, NJ 08903 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: SPORTSWEAR, NAMELY, SHIRTS, HATS, JACKETS, SWEATERS, SHORTS, SWEATSHIRTS AND SWEATPANTS; CLOTHING, NAMELY, SHIRTS, HATS, JACKETS, SWEATERS, SHORTS, SCARVES, SWEATSHIRTS AND SWEATPANTS
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2537658	Application Date	11/17/1999
Registration Date	02/12/2002	Foreign Priority Date	NONE

Word Mark	CHOP
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1996/08/00 First Use In Commerce: 1996/08/00 hospital; medical services; health care; medical assistance; medical laboratory; medical research and medical testing; providing medical and health information; medical consulting; medical clinics and nutritional counseling

Attachments	75852087#TMSN.png(bytes) Notice of Opposition.pdf(173546 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	/Jamie B. Bischoff/
Name	Jamie B. Bischoff
Date	03/15/2016

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

THE CHILDREN’S HOSPITAL OF
PHILADELPHIA,

Opposer,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

In the matter of the application of Rutgers, The State University of New Jersey (the “Applicant”) for registration of the mark CHOP (“Applicant’s Mark”), Application Serial No. 85/775650 (the “Application”), filed November 9, 2012, and published for opposition in the *Official Gazette* on November 24, 2015.

The Children’s Hospital of Philadelphia, a Pennsylvania non-profit corporation having a place of business at 34th St. and Civic Center Blvd., Philadelphia, PA 19104 (the “Opposer”), believes that it will be damaged by the registration of the mark shown in the Application and hereby opposes the same. The grounds for opposition are as follows:

1. The Children’s Hospital of Philadelphia, founded in 1855, was the first hospital in the United States devoted exclusively to the care of children. Over the years since its founding, Opposer has become known by the acronym “CHOP,” and now uses CHOP as a mark for its goods and services.

2. Since opening its doors, Opposer has become one of the nation's premier children's hospitals. Consumers throughout the United States and all over the world recognize Opposer as a source of high-quality medical care for children. Opposer is a non-profit that depends on charitable contributions to advance its mission.

3. Since at least August 1996, Opposer has used the mark CHOP (the "Mark") in commerce to identify its hospital and related services. In addition, Opposer has made considerable use of the Mark for other goods and services, and thus has common-law rights in the Mark. For example, Opposer uses the Mark on t-shirts sold through its website.

<http://www.chop.edu/giving/promotions-that-give/wear-it-share-it#>

4. On February 12, 2002, Opposer received Federal Registration No. 2,537,658 for the Mark for "hospital; medical services; health care; medical assistance; medical laboratory; medical research and medical testing; providing medical and health information; medical consulting; medical clinics and nutritional counseling." A copy of the Certificate of Registration for CHOP® is attached as Exhibit A.

5. Opposer has invested considerable time and resources in promoting its activities under the Mark.

6. The Mark CHOP is inherently distinctive of Opposer's hospital services, as well as the other goods and services in connection with which Opposer uses its mark.

7. Consumers have come to associate the Mark with Opposer's hospital services and with Opposer as the source of these services.

8. In addition to its use as a trademark, Opposer also uses CHOP as a trade name to identify itself and its business to the public.

9. Despite Opposer's common-law and statutory rights in the Mark and trade name CHOP, Applicant seeks to register the identical mark CHOP for "sportswear, namely, shirts, hats, jackets, sweaters, shorts, sweatshirts and sweatpants; clothing, namely, shirts, hats, jackets, sweaters, shorts, scarves, sweatshirts and sweatpants," as set forth in the Application.

10. Applicant has alleged that it had a bona fide intent to use Applicant's Mark in commerce.

11. Opposer's use of the Mark precedes the filing date of the Application.

12. Opposer's registration for the Mark is valid and subsisting.

13. Opposer's use of the Mark has been continuous, exclusive, and commercially significant for many years in connection with its healthcare, fundraising, and related services.

14. Applicant's Mark is identical to Opposer's Mark

15. If Applicant's Mark is permitted to register for the applied-for goods, consumers who encounter Applicant's Mark are likely to be confused as to the source of the goods, or are likely to think that Opposer has authorized, sponsored, or licensed Applicant to offer such goods, or that Opposer and Applicant are otherwise related to one another.

16. If Applicant is granted a registration for Applicant's Mark, it would obtain thereby at least a *prima facie* exclusive right to use that mark in connection with the goods recited in the Application. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that this Opposition be sustained and registration of the mark of Application Serial No. 85/775650 in International Class 25 be refused.

Dated: March 15, 2016

Respectfully submitted,

By: /Jamie B. Bischoff/

Jamie B. Bischoff
Tyler R. Marandola
BALLARD SPAHR LLP
1735 Market Street, 51st Floor
Philadelphia, Pennsylvania 19103-7599
(215) 665-8500

ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Opposition was served on March 15, 2016 by First-Class U.S. Mail on the Correspondent of Record for the Applicant of Application Serial No. 85/775650 at the following mail and e-mail addresses:

Alexander Solo
Lerner, David, Littenberg, Krumholz &
Mentnik, LLP
600 South Ave. W Ste. 2
Westfield, NJ 07090-1497
trademarkadmin@ldlkm.com

By: /s/ Tyler R. Marandola
Tyler R. Marandola

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

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

REGISTRATION NO: 2537658 SERIAL NO: 75/852087 MAILING DATE: 02/18/2011
REGISTRATION DATE: 02/12/2002
MARK: CHOP
REGISTRATION OWNER: Children's Hospital of Philadelphia, The

CORRESPONDENCE ADDRESS:

Jamie B. Bischoff
BALLARD SPAHR LLP
1735 MARKET STREET, 51ST FLOOR
PHILADELPHIA PA 19103-7599

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1059.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):

042.

NO EMPLOYEE NAME FOUND
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
571-272-9500

**PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION
ORIGINAL**

REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION

I) SECTION 8: AFFIDAVIT OF CONTINUED USE

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,537,658

Registered Feb. 12, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

CHOP

**CHILDREN'S HOSPITAL OF PHILADELPHIA,
THE (PENNSYLVANIA NON-PROFIT COR-
PORATION)
34TH AND CIVIC CENTER BOULEVARD
PHILADELPHIA, PA 19104**

**FOR: HOSPITAL; MEDICAL SERVICES; HEALTH
CARE; MEDICAL ASSISTANCE; MEDICAL LA-
BORATORY; MEDICAL RESEARCH AND MEDI-
CAL TESTING; PROVIDING MEDICAL AND**

**HEALTH INFORMATION; MEDICAL CONSULT-
ING; MEDICAL CLINICS AND NUTRITIONAL
COUNSELING, IN CLASS 42 (U.S. CLS. 100 AND 101).**

FIRST USE 8-0-1996; IN COMMERCE 8-0-1996.

SER. NO. 75-852,087, FILED 11-17-1999.

JEAN IM, EXAMINING ATTORNEY