

ESTTA Tracking number: **ESTTA746413**

Filing date: **05/13/2016**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	The Phillies
Granted to Date of previous extension	05/15/2016
Address	Citizens Bank Park One Citizens Bank Way Philadelphia, PA 19148 UNITED STATES

Name	Padres L.P.
Granted to Date of previous extension	05/15/2016
Address	100 Park Boulevard San Diego, CA 92101 UNITED STATES

Name	Pittsburgh Associates
Granted to Date of previous extension	05/15/2016
Address	PNC Park at North Shore 115 Federal Street Pittsburgh, PA 15212 UNITED STATES

Attorney information	Erika S. Krystian Cowan, Liebowitz & Latman, P.C. 114 West 47th Street New York, NY 10036 UNITED STATES esk@cll.com, mlk@cll.com, szl@cll.com, njh@cll.com, trademark@cll.com Phone:(212) 790-9200
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**Applicant Information**

Application No	86559822	Publication date	11/17/2015
Opposition Filing Date	05/13/2016	Opposition Period Ends	05/15/2016
Applicant	Pushpay IP Limited 22 VIADUCT HARBOUR AVENUE Auckland 1010, NEW ZEALAND		

**Goods/Services Affected by Opposition**

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Computer software for use in database management, use as a spreadsheet, and word processing; Computer software for facilitating financial transactions, namely, e-commerce software to allow users to perform electronic business transactions via global computer network; Apparatus for recording, transmission or reproduction of sound or images; Computer application software for mobile phones and handheld computing devices, namely, electronic financial platform software that accommodates multiple types of payment and debt transactions in an integrated mobile phone, PDA, and web based environment for use in payment processing and transactions, and software for use in payment transaction processing

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising services; Business management; Business administration services; Providing office functions

Class 036. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Financial services rendered in connection with the issuance, receipt and transfer of lines of credit, namely, credit processing services; Financial services, namely, providing electronic transfer of a virtual currency for use by members of an on-line community via a global computer network; Financial services, namely, business fundraising provided over a computer network such as the Internet and providing on-line stored value accounts in an electronic commerce environment; Financial affairs, namely, financial information, management and analysis services; Monetary affairs services in the form of monetary strategy consultation and research and monetary exchange operations; Financial and monetary affairs transaction management services, namely, providing secure commercial transaction services and payment options and providing an internet website portal in the field of financial transaction and payment processing services; Payment processing, namely, credit card and debit card transaction processing services; Online payment and transaction processing services; Financial payment and financial transaction services in the form of credit card, debit card loyalty program and payment transaction processing services; Financial transaction services, namely, providing secure commercial transactions and payment options; Financial transaction services, namely, providing secure commercial transactions and payment options using a mobile device at a point of sale; Merchant services, namely, payment transaction processing services

## Grounds for Opposition

Other	See attached pleading.
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Attachments	Letter to Commissioner re Consolidated Notice of Opposition against P.pdf(74426 bytes ) Consolidated Notice of Opposition - P - Pushpay IP Limited.pdf(52488 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 Facsimile or email (by agreement only) on this date.

Signature	/Erika S. Krystian/
Name	Erika S. Krystian
Date	05/13/2016



Cowan, Liebowitz & Latman, P.C.  
1133 Avenue of the Americas  
New York, NY 10036  
(212) 790-9200 Tel  
(212) 575-0671 Fax  
[www.cll.com](http://www.cll.com)

May 13, 2016

**By Electronic Filing**

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

Re: The Phillies, Pittsburgh Associates, and Padres L.P.  
Consolidated Notice of Opposition Against  
Pushpay IP Limited  
Application to register P  
Ref. No. 21307.019; .020; .022

Dear Commissioner:

We enclose a Consolidated Notice of Opposition against Application Serial Number 86/559,822 published in the Official Gazette on November 17, 2015. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$2,700 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Erika S. Krystian/  
Erika S. Krystian

Enclosure

cc: Ms. Diane Kovach (w/enc.)  
Mary L. Kevlin, Esq. (w/enc.)

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

In re Application Serial No. 86/559,822  
Filed: March 10, 2015  
For Mark: P  
Published in the Official Gazette: November 17, 2015  
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THE PHILLIES, PITTSBURGH ASSOCIATES, :  
AND PADRES L.P., :

Opposers, : Opposition No.

v. :

**CONSOLIDATED  
NOTICE OF OPPOSITION**

PUSHPAY IP LIMITED, :  
Applicant. :

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Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposers, The Phillies, a Pennsylvania limited partnership, with offices at Citizens Bank Park, One Citizens Bank Way, Philadelphia, PA 19148; Pittsburgh Associates, a Pennsylvania limited partnership, with offices at PNC Park at North Shore, 115 Federal Street, Pittsburgh, PA 15212; and Padres L.P., a Delaware limited partnership, with offices at 100 Park Boulevard, San Deigo, CA 92101 (collectively, "Opposers") believe that they will be damaged by registration of the standard character word mark consisting solely of the letter P ("Applicant's P Mark") for "Computer software for use in database management, use as a spreadsheet, and word processing; Computer software for facilitating financial transactions, namely, e-commerce software to allow users to perform electronic business transactions via global computer network; Apparatus for recording, transmission or reproduction of sound or images; Computer application software for mobile phones and handheld computing devices, namely, electronic financial platform software that accommodates multiple types of payment and debt transactions in an integrated mobile

phone, PDA, and web based environment for use in payment processing and transactions, and software for use in payment transaction processing” in International Class 9; “Advertising services; Business management; Business administration services; Providing office functions” in International Class 35; and for “Financial services rendered in connection with the issuance, receipt and transfer of lines of credit, namely, credit processing services; Financial services, namely, providing electronic transfer of a virtual currency for use by members of an on-line community via a global computer network; Financial services, namely, business fundraising provided over a computer network such as the Internet and providing on-line stored value accounts in an electronic commerce environment; Financial affairs, namely, financial information, management and analysis services; Monetary affairs services in the form of monetary strategy consultation and research and monetary exchange operations; Financial and monetary affairs transaction management services, namely, providing secure commercial transaction services and payment options and providing an internet website portal in the field of financial transaction and payment processing services; Payment processing, namely, credit card and debit card transaction processing services; Online payment and transaction processing services; Financial payment and financial transaction services in the form of credit card, debit card loyalty program and payment transaction processing services; Financial transaction services, namely, providing secure commercial transactions and payment options; Financial transaction services, namely, providing secure commercial transactions and payment options using a mobile device at a point of sale; Merchant services, namely, payment transaction processing services” in International Class 36 (collectively, Applicant’s Goods and Services”) as shown in Application Serial No. 86/559,822 (the “Application”), and having been granted extensions of time to oppose up to and including May 15, 2015, hereby oppose the same.

As grounds for opposition, it is alleged that:

1. Opposer The Phillies (the “Phillies Club”) is the owner of the renowned PHILADELPHIA PHILLIES MAJOR LEAGUE BASEBALL club.

2. Since long prior to March 10, 2015, Applicant’s constructive first use date, the Phillies Club and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used various “P” marks including, without limitation, in the following distinctive

stylizations: , alone or with other word, letter and/or design elements in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, advertising services; credit and debit cards, membership cards; computer application programs; video and computer games; cell-phone accessories; computer accessories; electronic ticketing services; financial services, namely, charitable fundraising services, financial sponsorship of sporting events, credit card services; apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items (collectively, the “Phillies P Marks”).

3. The Phillies Club owns U.S. federal registrations for the Phillies P Marks in International Classes 6, 14, 16, 18, 21, 25, 28 and 41, namely, Registration Nos. 922,084; 1,153,444; 1,214,054; 1,550,914; 1,569,839; 1,604,774; 1,862,960; 1,866,460; 2,536,294; 3,555,319; 3,747,556; 3,779,563; 4,120,821; 4,234,650; 4,246,618 and 4,265,099. Registration Nos. 922,084; 1,153,444; 1,214,054; 1,550,914; 1,569,839; 1,604,774; 3,555,319; 3,747,556 and 3,779,563 are incontestable. Registration Nos. 1,862,960 and 1,866,460 are partially incontestable.

4. Since long prior to March 10, 2015, Applicant's constructive first use date, the Phillies Club and its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Phillies P Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, advertising services; credit and debit cards, membership cards; computer application programs; video and computer games; cell-phone accessories; computer accessories; electronic ticketing services; financial services, namely, charitable fundraising services, financial sponsorship of sporting events, credit card services; apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Phillies P Marks, the Phillies Club has built up highly valuable goodwill in the Phillies P Marks, and said goodwill has become closely and uniquely identified and associated with the Phillies Club.

6. Opposer Pittsburgh Associates (the "Pirates Club") is the owner of the renowned PITTSBURGH PIRATES MAJOR LEAGUE BASEBALL club.

7. Since long prior to March 10, 2015, Applicant's constructive first use date, the Pirates Club and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used various "P" marks including, without limitation, in the following distinctive

stylizations: , alone or with other word, letter and/or design elements, in connection with baseball games and exhibition services and a wide variety of goods and

services, including, but not limited to, advertising services; credit and debit cards, membership cards; computer application programs; video and computer games; cell-phone accessories; computer accessories; electronic ticketing services; financial services, namely, charitable fundraising services, financial sponsorship of sporting events, credit card services; apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items (collectively, the “Pirates P Marks”).

8. The Pirates Club owns U.S. federal registrations for the Pirates P Marks in International Classes 6, 9, 14, 16, 18, 21, 25, 28, 41, namely, Registration Nos. 1,013,729; 1,224,328; 1,480,072; 1,539,239; 1,563,011; 1,608,016; 2,012,501; 2,522,241; 2,573,395; 2,575,850; 2,600,383; 2,620,454; 2,801,698; 2,880,609; 3,299,390; 3,303,987; 3,353,675; 3,366,796; 4,354,164 and 4,378,315. Registration Nos. 1,013,729, 1,224,328, 1,480,072, 1,539,239, 1,563,011, 1,608,016, 2,522,241, 2,573,395, 2,575,850, 2,600,383, 2,620,454, 2,880,609, 3,299,390, 3,303,987, 3,353,675 and 3,366,796 are incontestable.

9. Since long prior to March 10, 2015, Applicant’s constructive first use date, the Pirates Club and its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Pirates P Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, advertising services; credit and debit cards, membership cards; computer application programs; video and computer games; cell-phone accessories; computer accessories; electronic ticketing services; financial services, namely, charitable fundraising services, financial sponsorship of sporting events, credit card services; apparel; jewelry; paper goods and printed matter; toys and

sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

10. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Pirates P Marks, the Pirates Club has built up highly valuable goodwill in the Pirates P Marks, and said goodwill has become closely and uniquely identified and associated with the Pirates Club.

11. Opposer Padres L.P. (the “Padres Club”) is the owner of the renowned SAN DIEGO PADRES MAJOR LEAGUE BASEBALL club.

12. Since long prior to March 10, 2015, Applicant’s constructive first use date, the Padres Club and its predecessors, and their affiliated and related entities, licensees and/or sponsors have used various “P” marks including, without limitation, in the following distinctive

stylizations:  and , alone or with other word, letter and/or design elements, in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items (collectively, the “Padres P Marks”).

13. The Padres Club owns U.S. federal registrations for the Padres P Marks in International Classes 9, 14, 16, 18, 20, 24, 25, 28 and 41, namely, Registration Nos. 1,015,484; 1,554,459; 1,556,528; 1,585,635; 2,619,846; 2,620,286; 2,723,168; 3,066,606; 3,136,500; 3,136,501; 3,136,502; 3,174,798; 3,319,401; 3,325,596; 3,325,597; 3,325,598; 3,330,457; 3,518,075; 3,628,729 and 3,730,062. Registration Nos. 1,015,484, 1,554,459, 1,556,528, 1,585,635, 2,620,286, 3,066,606, 3,136,500, 3,174,798, 3,319,401, 3,325,596, 3,325,597, 3,325,598, 3,330,457, 3,518,075, 3,628,729 and 3,730,062 are incontestable.

14. Since long prior to March 10, 2015, Applicant's constructive first use date, the Padres Club and its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Padres P Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

15. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Padres P Marks, the Padres Club has built up highly valuable goodwill in the Padres P Marks, and said goodwill has become closely and uniquely identified and associated with the Padres Club.

16. On March 10, 2015, Applicant filed the Application for Applicant's P Mark for Applicant's Goods and Services in International Classes 9, 35 and 36, based on an intent to use.

17. Upon information and belief, Applicant did not use Applicant's P Mark for Applicant's Goods and Services in United States commerce prior to its constructive first use date of March 10, 2015.

18. Applicant's Goods and Services are identical and/or closely related to the goods offered and services rendered in connection with the Phillies P Marks, the Pirates P Marks, and/or the Padres P Marks (collectively, "Opposers' P Marks").

19. As Applicant has claimed Applicant's P Mark as a standard character mark, registration of such mark effectively could give Applicant rights to the letter "P" in any stylization, including the stylizations of Opposers' P Marks that have been duly registered and/or

have priority of use over Applicant's P Mark. Additionally, registration of such mark effectively could prevent Opposers from developing additional "P" marks in the future.

20. Applicant's P Mark, which as a standard character mark would encompass any stylization, including the stylizations of Opposers' P Marks, so resembles Opposers' P Marks as to be likely, when used in connection with Applicant's Goods and Services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Goods and Services have their origin with Opposers and/or that Applicant's Goods and Services are approved, endorsed or sponsored by Opposers or associated in some way with Opposers. Opposers would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's P Mark.

WHEREFORE, Opposers believe that they will be damaged by registration of Applicant's P Mark and request that the consolidated opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposers in this proceeding Mary L. Kevlin, Richard S. Mandel and Erika S. Krystian (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 114 West 47th Street, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
May 13, 2016

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.  
*Attorneys for Opposers*

By: /Erika S. Krystian/

Mary L. Kevlin  
Richard S. Mandel  
Erika S. Krystian  
114 West 47th Street  
New York, New York 10036  
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 13, 2016, I caused a true and correct copy of the foregoing *Notice of Opposition* to be sent via e-mail to Applicant's Attorney of Record and Correspondent, David L. May, Esq., Nixon Peabody LLP, 401 9th Street NW, Suite 900, Washington, DC 20004-2145.

/Erika S. Krystian/  
Erika S. Krystian