

ESTTA Tracking number: **ESTTA538080**

Filing date: **05/15/2013**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Pittsburgh Steelers LLC
Granted to Date of previous extension	05/15/2013
Address	3400 South Water Street Pittsburgh, PA 15203 UNITED STATES

Name	NFL Properties LLC
Granted to Date of previous extension	05/15/2013
Address	345 Park Ave FL 7 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, chowell@morganlewis.com Phone:202.739.5093
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Applicant Information

Application No	85629819	Publication date	01/15/2013
Opposition Filing Date	05/15/2013	Opposition Period Ends	05/15/2013
Applicant	Irvwel, LLC Suite E #201 3465 S. Arlington Rd. Akron, OH 44312 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 016. First Use: 2012/04/09 First Use In Commerce: 2012/04/09 All goods and services in the class are opposed, namely: Address labels; Announcement cards; Boxes of paper or cardboard; Bumper stickers; Business cards; Calendars; Cardboard hang tags; Cards, namely, greeting cards; Children's wall stickers and murals; Coasters made of cardboard; Coasters made of paper; Collectible paper money; Correspondence cards; Decals; Decorative decals for vehicle windows; Display cards primarily composed of cardboard; Disposable napkins; Envelope paper; Event programs; Fabric gift bags; Gift bags; Gift boxes; Gift wrap paper; Greeting cards; Motivational cards; Novelty identification cards; Paper hang tags; Postcards and greeting cards;</p>
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Posters; Price tags; Printed advertising boards of paper; Printed advertising boards of cardboard; Printed art reproductions; Printed award certificates; Printed calendars; Printed certificates in the field of sports and/or entertainment; Printed invitations; Printed menus; Adhesive backed stickers; Printed sports and tournament schedule cards in credit format with space provided for recording results; Printed vouchers; Removable tattoos (decalcomania); Rubber stamps; Score sheets; Shipping labels; Silk screen prints; Sports trading cards; Stickers; Stickers and decalcomanias; Stickers and transfers; Table cloths of paper; Table napkins of paper; Tear-off calendars; Temporary tattoos; Trading cards; 3D decals for use on any surface

Class 025. First Use: 2012/04/09 First Use In Commerce: 2012/04/09

All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Bandanas; Bathing suits; Bras; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Children's cloth eating bibs; Children's headwear; Ear warmers; Gloves; Hooded sweatshirts; Maternity clothing, namely, shirts; Neckties ; Novelty headwear with attached wigs; Ponchos; Shirts; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Short-sleeved or long-sleeved t-shirts; Skirts; Sleepwear; Slippers; Sports bras; Sports jerseys; Sweat pants; Sweat shirts; Tank tops; T-shirts; Underwear; Wrist bands

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.	3050054	Application Date	12/17/2004
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	STEELERS		
Design Mark			
Description of Mark	The mark consists of the literal element "STEELERS" in stylized lettering and design contained within a circle. The word "STEELERS" appears within the left side of the circle; three stylized diamonds appear within the right side of the circle		
Goods/Services	<p>Class 016. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30 Posters; calendars; trading cards; series of books relating to football; magazines relating to football; newsletters relating to football; notepads; stickers; bumper stickers; [paper pennants;] greeting cards; printed tickets to sports games and events; pens [and pencils;] pencil cases; rub on decorative transfers; note paper; pictorial prints; [picture postcards;] art pictures; stationery; [envelopes;] stationery-type portfolios; photo albums; scrapbook albums; ring binders; checkbook covers; [tissue paper;] wrapping paper; [paper table cloths;] paper napkins; paper party invitations; [paper gift cards;] paper gift bags; paper decorations; collectible trading cards; collectible trading card and memorabilia holders; souvenir programs for sports events</p> <p>Class 025. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30 men's, women's and children's clothing, namely, fleece tops and bottoms, caps, headwear, T-shirts, sweatshirts, shorts, tank tops, sweaters, pants, jackets, turtlenecks, golf shirts, woven shirts, knit shirts, jerseys, wristbands, warm up suits, swimwear, wind resistant jackets, [raincoats,] parkas, ponchos, gloves, ties, [suspenders,] cloth bibs, sleepwear, namely, robes, [night shirts] and pajamas, [mittens,] knit hats and caps, scarves, aprons, headbands, [ear muffs] underwear, socks, shoes, athletic shoes, boots, [sneakers and] slippers</p> <p>Class 041. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30</p>		

	Educational and entertainment services in the nature of organizing and presenting professional football games and exhibitions; providing sports and entertainment information via a global computer network and a commercial on-line service; organization of sports events; fan club services; educational services, namely, physical education programs and seminars in the field of football; production of radio and television programs, football games, exhibitions, competitions and musical, [comedy and dance performances] performed before live audiences and broadcast via television, cable television, satellite television and radio broadcast
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U.S. Registration No.	870257	Application Date	10/31/1968
Registration Date	05/27/1969	Foreign Priority Date	NONE
Word Mark	PITTSBURGH STEELERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U107 (International Class 041). First use: First Use: 1940/00/00 First Use In Commerce: 1940/00/00 ENTERTAINMENT SERVICES-NAMELY, FOOTBALL EXHIBITIONS RENDERED LIVE IN STADIA AND THROUGH THE MEDIA OF RADIO AND TELEVISION BROADCASTS		

U.S. Registration No.	3050051	Application Date	12/17/2004
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	STEELERS		
Design Mark			
Description of Mark	The mark consists of the literal element "STEELERS" in stylized lettering and design contained within a circle. The word "STEELERS" appears within the left side of the circle; three stylized diamonds appear within the right side of the circle.		
Goods/Services	Class 009. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30 Football helmets; [telephones;] cell phone covers; [cell phone straps;] magnetic coded charge cards; decorative magnets; compact discs, [audio tapes,] pre-recorded [videotapes and] DVDs featuring the sport of football; computer game software and discs; [video game cartridges;]computer mouse pads; [camera cases;] sunglasses; [eyeglass cases; eyeglass chains;] binoculars; light switch covers Class 014. First use: First Use: 1975/03/30 First Use In Commerce: 1975/03/30 Jewelry; watches; clocks; pins; earrings; necklaces; bracelets; belt buckles of precious metal; charms; money clips of precious metal; [tie pins;] rings; commemorative and collectible coins; pendants Class 028. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30 Toys and sporting goods, namely, plush toys; stuffed toy animals; play figures; golf balls; golf bags; [golf clubs;] golf club covers; footballs; toy banks; board games relating to football; playing cards; Christmas tree ornaments; balloons; jigsaw puzzles; toy and decorative wind socks; [kites;] model toy cars and trucks; billiard balls; dart boards; playing cards; miniature helmets		

U.S. Registration No.	3050049	Application Date	12/17/2004
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Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	PITTSBURGH STEELERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1973/09/00 First Use In Commerce: 1973/09/00 Football helmets; telephones; cell phone covers; cell phone straps; magnetic coded charge cards; decorative magnets; compact discs, audio tapes, pre-recorded videotapes and DVDs featuring the sport of football; computer game software and discs; video game cartridges; computer mouse pads; camera cases; sunglasses; eyeglass cases; eyeglass chains; binoculars; light switch covers</p> <p>Class 028. First use: First Use: 1963/09/00 First Use In Commerce: 1963/09/00 Toys and sporting goods, namely, plush toys; stuffed toy animals; play figures; golf balls; golf bags; golf clubs; golf club covers; footballs; toy banks; board games relating to football; playing cards; Christmas tree ornaments; balloons; jigsaw puzzles; toy and decorative wind socks; kites; model toy cars and trucks; billiard balls; dart boards; playing cards; miniature helmets</p>		

U.S. Registration No.	3023804	Application Date	12/17/2004
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	STEELERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30 Football helmets;[telephones;] cell phone covers;[cell phone straps;]magnetic coded charge cards; decorative magnets; compact discs,[audio tapes,] pre-recorded [videotapes]and DVDs featuring the sport of football; computer game software and discs; [video game cartridges;]computer mouse pads; [camera cases;]sunglasses;[eyeglass cases; eyeglass chains;] binoculars; light switch covers</p> <p>Class 014. First use: First Use: 1975/03/30 First Use In Commerce: 1975/03/30 Jewelry; watches; clocks; pins; earrings; necklaces; bracelets; belt buckles of precious metal; charms; money clips of precious metal[; tie pins;]rings; commemorative and collectible coins; pendants</p> <p>Class 016. First use: First Use: 1963/09/30 First Use In Commerce: 1963/09/30 Posters; calendars; trading cards; series of books relating to football; magazines relating to football; newsletters relating to football; notepads; stickers; bumper stickers;[paper pennants;]greeting cards; printed tickets to sports games and events; pens and [pencils]; pencil cases; rub on decorative transfers; note paper; pictorial prints;[picture postcards]; art pictures; stationery; [envelopes;] stationery-type portfolios; photo albums; scrapbook albums; ring binders; checkbook covers;[tissue paper;]wrapping paper;[paper table cloths;]paper napkins; paper party invitations; [paper gift cards;]paper gift bags; paper decorations; collectible trading cards; collectible trading card and memorabilia holders; souvenir programs for sports events</p> <p>Class 025. First use: First Use: 1963/09/01 First Use In Commerce: 1963/09/30 Men's, women's and children's clothing, namely, fleece tops and bottoms, caps, headwear, T-shirts, sweatshirts, shorts, tank tops, sweaters, pants, jackets,</p>		

	<p>turtlenecks, golf shirts, woven shirts, knit shirts, jerseys, wristbands, warm up suits, swimwear, wind resistant jackets, [raincoats,]parkas, ponchos, gloves, ties, [suspenders,] cloth bibs, sleepwear, namely, robes, [night shirts]and pajamas, [mittens,]knit hats and caps, scarves, aprons, headbands,[ear muffs,]underwear, socks, shoes, athletic shoes, boots, [sneakers]and slippers</p> <p>Class 028. First use: First Use: 1974/09/30 First Use In Commerce: 1974/09/30</p> <p>Toys and sporting goods, namely, plush toys; stuffed toy animals; play figures; golf balls; golf bags;[golf clubs;] golf club covers; footballs; toy banks; board games relating to football; playing cards; Christmas tree ornaments; balloons; jigsaw puzzles; toy and decorative wind socks;[kites;] model toy cars and trucks; billiard balls; dart boards; playing cards; miniature helmets</p>
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U.S. Registration No.	1889820	Application Date	08/03/1992
Registration Date	04/18/1995	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1963/09/00 First Use In Commerce: 1963/09/00 trading cards, posters, magazines relating to football, postcards, calendars, wrapping paper, paper gift boxes, paper stickers, paper napkins, [paper towels], books relating to football, posterbooks, notepads, paper hats and greeting cards</p> <p>Class 025. First use: First Use: 1963/09/00 First Use In Commerce: 1963/09/00 men's, women's and children's clothing and footwear; namely, coaches caps, wool hats, [painters caps], baseball caps, visors, headbands, [ear muffs, knit face masks,] belts, wristbands, T-shirts, tank tops, pajamas, golf shirts, sweaters, sweatshirts, jackets, neckties, braces, cloth bibs, jerseys, night shirts, coats, [robes,] raincoats, parkas, ponchos, sneakers, gloves, scarves, snow suits, mittens, aprons, down jackets, leather jackets, shorts, sweatpants, jeans, pants, [knickers], socks, underwear [, bathing suits and leg warmers]</p>		

U.S. Registration No.	1812089	Application Date	08/03/1992
Registration Date	12/21/1993	Foreign Priority Date	NONE
Word Mark	PITTSBURGH STEELERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1963/09/00 First Use In Commerce: 1963/09/00 trading cards, posters, magazines and books regarding football, postcards, calendars, wrapping paper, paper gift boxes, paper stickers, paper napkins, [paper towels], posterbooks, notepads, paper hats and greeting cards</p> <p>Class 025. First use: First Use: 1963/09/00 First Use In Commerce: 1963/09/00 men's, women's and children's clothing and footwear; namely, coaches caps, wool hats, [painters caps], baseball caps, visors, headbands, ear muffs, [knit face masks], belts, wristbands, T-shirts, tank tops, pajamas, golf shirts, sweaters, sweatshirts, jackets, neckties, braces, bibs, jerseys, night shirts, coats, robes, raincoats, parkas, ponchos, sneakers, gloves, scarves, snow suits, mittens, aprons, down jackets, leather jackets, shorts, sweatpants, jeans, pants,</p>		

	[knickers], socks, underwear, bathing suits and leg warmers
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U.S. Registration No.	1109723	Application Date	01/06/1978
Registration Date	12/19/1978	Foreign Priority Date	NONE
Word Mark	STEELERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1940/00/00 First Use In Commerce: 1940/00/00 ENTERTAINMENT SERVICES IN THE FORM OF PROFESSIONAL FOOTBALL GAMES AND EXHIBITIONS		

U.S. Registration No.	881474	Application Date	10/31/1968
Registration Date	11/25/1969	Foreign Priority Date	NONE
Word Mark	STEELERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U107 (International Class 041). First use: First Use: 1962/00/00 First Use In Commerce: 1962/00/00 ENTERTAINMENT SERVICES-NAMELY, FOOTBALL EXHIBITIONS RENDERED LIVE IN STADIA AND THROUGH THE MEDIA OF RADIO AND TELEVISION BROADCASTS		

Attachments	STILLER GANG Notice of Opposition.pdf(127503 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	05/15/2013

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

PITTSBURGH STEELERS LLC and NFL
PROPERTIES LLC,

Opposers,

v.

IRVWEL, LLC,

Applicant.

In re Application Serial No. 85/629,819
Mark: STILLER GANG and Design



Published: January 15, 2013

Opposition No. _____

NOTICE OF OPPOSITION

Opposers Pittsburgh Steelers LLC and NFL Properties LLC (“Opposers”) believe they will be damaged by registration of the design shown in Application Serial 85/629,819 (“Applicant’s Designation”), filed by Irwvel, LLC (“Applicant”) for use in connection with goods in Classes 16 and 25. Opposers hereby oppose registration of Applicant’s 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 Pittsburgh Steelers LLC (the “Steelers” or “Steelers Club”) is a Pennsylvania limited liability company, with a principal place of business at 3400 South Water Street, Pittsburgh, Pennsylvania, 15203. The Steelers Club owns and operates a professional football team and provides entertainment services to the public in the form of competitive professional football games. The Steelers 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 either the May 18, 2012 filing date of Applicant's Designation or the asserted April 9, 2012 date of first use, Opposers have used the STEELERS mark and variations thereof and the design marks depicted below and variations thereof, both separately and together (collectively, the "Steelers Marks") in connection with the business of organizing, conducting, and promoting the Steelers football franchise.



4. For many years, and long before either the May 18, 2012 filing date of Applicant's Designation or the asserted April 9, 2012 date of first use, Opposers, their authorized business partners, sponsors, and/or licensees have used the Steelers 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 Steelers football franchise.

5. In addition to the common law rights in the Steelers Marks, the Steelers Club owns several registrations for the Steelers Marks for use in connection with clothing, printed materials, entertainment services in the form of football games and exhibitions, and related promotional goods and services, 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
3,050,054		16, 25 and 41	Sept. 30, 1963
3,050,051		9, 14 and 28	Sept. 30, 1963 (Cl. 9 and 28) Mar. 30, 1975 (Cl. 14)
3,050,049	PITTSBURGH STEELERS	9, 28	Sept. 1973 (Cl. 9) Sept. 1963 (Cl. 28)
3,023,804	STEELERS	9, 14, 16, 25 and 28	Sept. 30, 1963 (Cl. 9, 16 and 25) Mar. 30, 1975 (Cl. 14) Sept. 30, 1974 (Cl. 28)
1,889,820		16 and 25	Sept. 30, 1963
1,812,089	PITTSBURGH STEELERS	16 and 25	Sept. 30, 1963
1,109,723	STEELERS	41	1940
881,474		41	1962
870,257	PITTSBURGH STEELERS	41	1940

6. The registrations referenced above are valid and subsisting, in full force and effect, and constitute *prima facie* and/or conclusive evidence of the Steelers 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 also incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and constitute conclusive evidence of the Steelers Club's exclusive right to use the marks in commerce in connection with the goods and/or services specified in the registrations: 3,050,054; 3,050,051; 3,050,049; 3,023,804; 1,889,820; 1,812,089; 1,109,723; and 881,474.

8. During the longstanding, widespread and continuous use of the Steelers 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, including clothing, bearing the Steelers Marks.

9. The colors used by and associated with the Steelers Club are yellow and black.

10. Opposers' hypocycloid / diamond design often appears on products in yellow, red and blue (clockwise from the top), as depicted below.



11. Opposers and their licensees and sponsors have sold and offered for sale goods and services, including clothing and printed materials, bearing the Steelers Marks in a trading area of broad geographical scope encompassing the United States, including its territories.

12. Opposers and their licensees and sponsors have sold and offered for sale goods and services, including clothing and printed materials, bearing the Steelers Marks in numerous channels of trade.

13. The Steelers 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 the Steelers Marks.

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

15. On May 18, 2012, Applicant filed an application under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), for federal registration of Applicant's Designation shown in Application Serial No. 85/629,819.

16. The application for Applicant's Designation covers a wide array of goods in Classes 16 and 25.

17. Applicant's Designation, Application Serial No. 85/629,819, was published for opposition in the *Official Gazette* on January 15, 2013.

18. The Trademark Trial and Appeal Board extended the opposition period for the Applicant's Designation by granting Opposers' timely requests for extensions. The opposition period for Application Serial No. 85/629,819 currently expires on May 15, 2013. Therefore, Opposers timely file this opposition.

19. Opposers' rights to the Steelers Marks are superior to those of Applicant.

20. The Steelers Marks are famous and became famous before the filing date or any use of Applicant's Designation.

21. Applicant's application for and any use of Applicant's Designation are without the consent, authorization, or license of Opposers.

22. The specimen Applicant submitted to support its application for Applicant's Designation evidence that Applicant uses its mark in the colors black and yellow, with the hypocycloid / diamond designs appearing in yellow, red and blue (clockwise from the top).

23. Depicted below are images of the specimen Applicant submitted to support its application for Applicant's Designation in Class 25, on the left, and an image of one of Opposers' products bearing the Steelers Marks, on the right.

Specimen from Applicant's Application



Specimen Showing Opposers' Use



24. Opposers believe they will be damaged by registration of Applicant's Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that Applicant's use and registration of the subject designation will falsely suggest a connection between Applicant 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 Applicant's Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject designation so resembles the Steelers Marks, both alone and in combination, 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 Applicant's 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 Applicant's Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, because the use and registration of Applicant's Designation is likely to dilute the distinctive quality of Opposers' famous Steelers 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 Applicant's Designation shown in Application Serial No. 85/629,819 and respectfully request that the registration sought by Applicant be refused.

Dated: May 15, 2013

Respectfully submitted,

By: /s/ Kristin H. Altoff
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Anita B. Polott
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Attorneys for Opposers
PITTSBURGH STEELERS 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 15th day of May 2013 to:

Irvwel, LLC
3465 S. Arlington Rd.
Suite E #201
Akron, Ohio 44312

/Kristin H. Altoff/