

ESTTA Tracking number: **ESTTA596890**

Filing date: **04/07/2014**

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	NHL Enterprises, L.P.
Granted to Date of previous extension	04/06/2014
Address	1185 Avenue of the Americas15th Floor New York, NY 10036 UNITED STATES

Attorney information	Kelley A. Lynch NHL Enterprises, L.P. 1185 Avenue of the Americas15th Floor New York, NY 10036 UNITED STATES klynch@nhl.com, tprochnow@nhl.com, vfaraci@nhl.com, anunez@nhl.com Phone:2127892000
----------------------	--

Applicant Information

Application No	85925183	Publication date	10/08/2013
Opposition Filing Date	04/07/2014	Opposition Period Ends	04/06/2014
Applicant	Paul Wong 2306 #A Encinal Ave. Alameda, CA 94501 USX		

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, tops, bottoms, shirts, jackets, sweatshirts, hooded sweatshirts, sweat pants, headwear, footwear, t-shirts, scarves
--

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	The phrase WE BELIEVE is incapable of acquiring the distinctiveness required to be eligible for registration on the Principal Register pursuant to 15 U.S.C. Section 1052.

Attachments	NHLE Opposition.pdf(169461 bytes)
-------------	------------------------------------

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	/kelley a. lynch/
Name	Kelley A. Lynch
Date	04/07/2014

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

In the matter of trademark application Serial No. 85925183
Published in the Official Gazette on October 8, 2013

NHL ENTERPRISES, L.P.)	
)	
Opposer)	
)	
v.)	Opposition No. _____
)	
PAUL WONG)	<u>Notice of Opposition</u>
)	
Applicant)	
_____)	

NHL Enterprises, L.P., a Delaware limited partnership with a principal place of business at 1185 Avenue of the Americas, New York, NY, believes it will be damaged by the registration of WE BELIEVE ! (Application No. 85/925,183), filed by Paul Wong for use in connection with “Clothing, namely, tops, bottoms, shirts, jackets, sweatshirts, hooded sweatshirts, sweat pants, headwear, footwear, t-shirts, scarves” (the “Application”) and hereby opposes the Application.

The grounds for opposition are as follows:

1. Opposer, NHL Enterprises, L.P., is the licensing and marketing arm of the National Hockey League (“NHL”), the world’s foremost professional ice hockey league. The NHL was organized in 1917 and has continued to grow since that date into its current organization of 30 teams in the U.S. and Canada that provides professional ice hockey services and related goods and services and draws a large following of fans in the U.S. and worldwide.

2. As the exclusive licensing agent of the NHL and its 30 teams in the U.S., NHL Enterprises, L.P. licenses manufacturers to sell to consumers merchandise commemorating the NHL and its 30 member clubs.
3. Since prior to the filing date of the Application, Opposer has licensed manufacturers to sell to consumers a variety of different clothing items that use the phrase WE BELIEVE, BELIEVE or a variation thereof in connection with a number of the NHL teams, including without limitation the Pittsburgh Penguins, the Vancouver Canucks, the Detroit Red Wings, the Philadelphia Flyers and the Dallas Stars.
4. Opposer's use of WE BELIEVE, BELIEVE or a variation thereof in connection with clothing items for certain of the 30 NHL teams has been as a rally cry to describe and communicate the state of mind of the fans who purchase and wear the clothing.
5. Moreover, upon information and belief, the phrase WE BELIEVE, BELIEVE or a variation thereof has been used by sports teams outside of the NHL, including the Golden State Warriors of the NBA, for many years prior to the filing date of the Application, as a rally cry to describe and communicate the state of mind of fans who purchase and use the merchandise.
6. Because the phrase WE BELIEVE, BELIEVE or a variation thereof has been used in connection with clothing items that identify a number of different NHL teams as well as other sports teams and said uses by all of these different teams have been in the context of a rally cry to describe and communicate the state of mind of fans, the phrase WE BELIEVE, BELIEVE or a variation thereof has little or no significance as a source or association identifier and does not serve to identify a singular source of goods.

7. On May 7, 2013, Applicant filed an intent to use application for WE BELIEVE ! in connection with "Clothing, namely, tops, bottoms, shirts, jackets, sweatshirts, hooded sweatshirts, sweat pants, headwear, footwear, t-shirts, scarves." The Application was published for opposition in the *Official Gazette* on October 8, 2013.

8. The Trademark Trial and Appeal Board extended the opposition period for the Application by granting Opposer's timely extension requests. The opposition period for the Application is currently set to expire on April 6, 2014 (a Sunday, which automatically extends the deadline to Monday, April 7). Opposer, therefore, timely files this opposition.

9. If Applicant obtains registration of the Application opposed herein, he would obtain a prima facie exclusive right to use of the WE BELIEVE ! phrase as a trademark. Such registration would be a source of damage and injury to Opposer (and others including a number of NHL teams) who have used prior to the filing date of the Application or will use the phrase WE BELIEVE as a descriptive rally cry on clothing items and other sports related merchandise, as it may subject them to an infringement suit.

10. Registration should, therefore, be refused because the phrase WE BELIEVE ! is incapable of acquiring the distinctiveness required to be eligible for registration on the Principal Register pursuant to 15 U.S.C. Section 1052.

11. Registration should, therefore, be refused pursuant to Section 2(e)(1) of the Trademark Act of 1946, as amended, 15 U.S.C. Section 1052(e)(1) on the grounds that the Applicant's applied-for mark is, at best, merely descriptive.

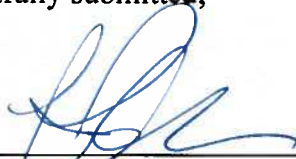
WHEREFORE, Opposer believes it will be damaged by registration of the mark WE BELIEVE ! shown in Application Serial No. 85/925,183 , and respectfully requests that the Opposition be sustained, registration of said mark be denied, and the Trademark Trial and Appeal Board grant other and further relief as it deems just and appropriate.

All communication should be addressed to Opposer's counsel NHL Enterprises, L.P. at the below stated address.

Dated: New York, New York
April 7, 2014

Respectfully submitted,

By:



Thomas H. Prochnow
Kelley A. Lynch
NHL Enterprises, L.P.
1185 Avenue of the Americas, 15th Floor
New York, NY 10036
Tel. (212) 789-2000
Fax. (212) 789-2727
tprochnow@nhl.com, klynch@nhl.com
Attorneys for Opposer
NHL Enterprises, L.P.

CERTIFICATE OF SERVICE

I, Kelley A. Lynch, hereby swear and affirm that on April 7, 2014, I caused to be served by First Class Mail, a true and correct copy of the foregoing Notice of Opposition, pursuant to 37 C.F.R. Section 2.10(a), on Applicant and Applicant's Attorney of Record at the following addresses:

Paul Wong
2306 #A Encinal Ave.
Alameda, California 94501

Mitesh Patel
Raj Abhyanker, P.C.
1580 W El Camino Real Ste 13
Mountain View, CA 94040-2463

Dated: April 7, 2014



Kelley A. Lynch