

ESTTA Tracking number: **ESTTA596894**

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	Pittsburgh Penguins LP
Granted to Date of previous extension	04/06/2014
Address	1005 Fifth Avenue Pittsburgh, PA 15219 UNITED STATES

Attorney information	Kelley A. Lynch NHL Enterprises, L.P. 1185 Avenue of the Americas 15th Floor New York, NY 10036 UNITED STATES klynch@nhl.com, tprochnow@nhl.com, vfaraci@nhl.com, anunez@nhl.com Phone: 2127892000
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**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
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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.

**Mark Cited by Opposer as Basis for Opposition**

U.S. Application/	NONE	Application Date	NONE
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Registration No.			
Registration Date	NONE		
Word Mark	WE BELIEVE		
Goods/Services	clothing; professional ice hockey services		

Attachments	Pittsburgh Penguins Opposition.pdf(163883 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	/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

PITTSBURGH PENGUINS, L.P. )  
 )  
 Opposer )  
 )  
 v. )  
 )  
 PAUL WONG )  
 )  
 Applicant )  
 \_\_\_\_\_ )

Opposition No. \_\_\_\_\_

Notice of Opposition

Pittsburgh Penguins, LP, a Pennsylvania limited partnership with a principal place of business at 1005 Fifth Avenue, Pittsburgh, Pennsylvania, 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, Pittsburgh Penguins, LP, is the owner of the well-known professional ice hockey team, the Pittsburgh Penguins. Founded in 1967, the Pittsburgh Penguins are a member club of the National Hockey League and have consistently attracted a large following of fans in the United States and worldwide.
2. The Pittsburgh Penguins have won the Stanley Cup Championship three times, most recently in 2009. The Pittsburgh Penguins are among the most recognizable NHL member teams. Current and former players for the Pittsburgh Penguins include NHL

superstar Sidney Crosby and NHL legend Mario Lemieux. Millions of fans have attended Penguins games and have enjoyed broadcasts of Penguins games and events.

3. Since prior to the May 7, 2013, filing date of the Application, Opposer has used the tagline WE BELIEVE in connection with professional ice hockey services and a variety of related goods, including clothing.

4. Opposer and its 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 WE BELIEVE tagline in association with the Opposer's trademarks. Consumers have come to associate the WE BELIEVE tagline with Opposer's Pittsburgh Penguins team and Opposer's goods and services, including clothing.

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. By virtue of his Application, Applicant is claiming to have the exclusive right to use the phrase WE BELIEVE! on or in connection with clothing.

10. Opposer believes it will be damaged by registration of the Application under Section 13 of the Lanham Act, 15 U.S.C. Section 1063, on the ground that the subject designation so resembles the WE BELIEVE tagline used by Opposer in the United States as to be likely, when used on or in connection with the goods identified in the Application for WE BELIEVE !, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposer and to the public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. Section 1052(d).

11. In the alternative, Opposer uses the WE BELIEVE tagline on or in connection with clothing and other goods and services commemorating the Pittsburgh Penguins team and the state of mind of its fans. If Applicant obtains registration of the Application opposed herein, he would obtain a prima facie exclusive right to use the WE BELIEVE ! phrase as a trademark. Such registration would be a source of damage and injury to Opposer who has used prior to the filing date of the Application or will use the phrase WE BELIEVE as a rally cry on clothing items and other sports related merchandise, as it may subject Opposer to an infringement suit.

12. 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.

13. 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:



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*NHL Enterprises, L.P.*

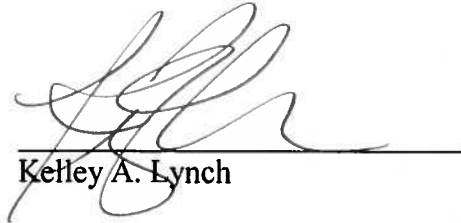
CERTIFICATE OF SERVICE

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