

ESTTA Tracking number: **ESTTA946681**

Filing date: **01/10/2019**

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	Pizza Hut, LLC		
Entity	limited liability company	Citizenship	Texas
Address	7100 Corporate Drive Plano, TX 75024 UNITED STATES		

Attorney information	David E. Armendariz Pirkey Barber PLLC 600 Congress Ave., Suite 2120 Austin, TX 78701 UNITED STATES darmendariz@pirkeybarber.com, akuhn@pirkeybarber.com, eolson@pirkeybarber.com, tmcentral@pirkeybarber.com no phone number provided
----------------------	---

**Applicant Information**

Application No	88029513	Publication date	12/11/2018
Opposition Filing Date	01/10/2019	Opposition Period Ends	01/10/2019
Applicant	Genesco Sports Enterprises, Inc. 5944 Luther Lane, Suite 500 Dallas, TX 75225 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Pizza
--

**Grounds for Opposition**

The mark is deceptively misdescriptive	Trademark Act Section 2(e)(1)
Deceptiveness	Trademark Act Section 2(a)

Attachments	Dkt 1 - Notice of Opposition.pdf(16904 bytes )
-------------	--

Signature	/David E. Armendariz/
Name	David E. Armendariz
Date	01/10/2019

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

In Re Serial No. 88/029,513	§	
Filed: July 9, 2018	§	
Mark: <b>OFFICIAL PIZZA OF FOOTBALL</b>	§	
Published: December 11, 2018	§	
	§	
PIZZA HUT, LLC,	§	
	§	Opposition No. _____
Opposer,	§	
	§	
v.	§	
	§	
GENESCO SPORTS ENTERPRISES, INC.,	§	
	§	
Applicant.	§	

**NOTICE OF OPPOSITION**

Opposer, Pizza Hut, LLC, a Texas limited liability company having a principal place of business at 7100 Corporate Drive, Plano, Texas 75024, believes that it will be damaged by the registration of Application Serial No. 88/029,513 (the “Application”), filed by Genesco Sports Enterprises, Inc. (“Applicant”), for the mark OFFICIAL PIZZA OF FOOTBALL based on an intention to use the mark on or in connection with “Pizza” in International Class 30. Pizza Hut hereby opposes the Application under the provisions of 15 U.S.C. § 1063, and as grounds for opposition asserts the following:

1. For over 60 years, Pizza Hut, through its related companies and predecessors in interest (individually and collectively referred to as “Opposer”), has operated restaurants nationwide that make and sell pizza and other food items. Opposer is the holder of many registrations for trademarks used in connection with pizza and restaurant services, including registrations in International Class 30.

2. Opposer is one of the largest pizza companies in the world and in the United States with over 16,500 restaurants in over 100 countries, including over 7,000 locations across the United

States. Opposer supports these restaurants with millions of dollars of advertising and promotion each year.

3. Opposer is currently the Official Pizza Sponsor of the National Football League (“NFL”), a relationship that gives Opposer exclusive marketing rights, benefits, and designations connecting its PIZZA HUT marks with the NFL and its teams, players, events, and partners. Opposer has also entered into separate exclusive-sponsorship relationships with a number of individual NFL teams and players.

4. Opposer spends a significant amount of money advertising and promoting its exclusive official sponsorship of the NFL. Opposer prominently uses the designation OFFICIAL PIZZA SPONSOR OF THE NFL to promote this exclusive relationship.

5. Opposer is also the Official Pizza Partner of the National Collegiate Athletic Association (“NCAA”). This designation gives Opposer exclusive rights to use official NCAA marks and media, as well as exclusive rights to associate itself with NCAA sports, including NCAA college football.

6. Opposer spends a significant amount of money advertising and promoting its exclusive official sponsorship of the NCAA. Opposer prominently uses the designation THE OFFICIAL PIZZA OF COLLEGE FOOTBALL to promote this exclusive relationship.

7. Opposer also enjoys an exclusive partnership with ESPN as the Official Pizza Sponsor of *ESPN College Gameday*, a pre-game show broadcast by the network in connection with its coverage of NCAA college football. Opposer has spent a significant amount of money in connection with this exclusive relationship.

8. As a result of Opposer’s official pizza sponsorship of the NFL, the NCAA, and *ESPN College Gameday*, and its extensive promotion of the same, consumers and the general public

recognize and closely associate Opposer and Opposer's pizza and restaurants with the NFL, NCAA college football, *ESPN College Gameday*, and football generally.

9. On information and belief, NFL and NCAA football games, including the Super Bowl and the NCAA College Football National Championship game, are among the most watched television broadcasts and are well-known by the general public.

10. Applicant's applied-for mark, OFFICIAL PIZZA OF FOOTBALL, creates the false impression that Applicant's products or services have been officially endorsed, sponsored, or licensed by, or otherwise affiliated with, the NFL, the NCAA, or other officially licensed football properties. The applied-for mark is likely to mislead and confuse consumers into believing that Applicant is the official pizza sponsor of the NFL or NCAA, which is false.

11. Applicant's mark is deceptively misdescriptive and misrepresents the character, quality, function, composition, or use of Applicant's goods because it falsely describes Applicant's goods as the "official pizza of football," and football is widely associated by consumers and the general public with the NFL's professional football games, the NCAA's college football games, and related teams, players, events, and partners.

12. Applicant's description of its products through use of the phrase "official pizza of football" is likely to mislead consumers into believing that Applicant and/or its products have been officially endorsed, sponsored, or licensed by, or otherwise affiliated with, the NFL, the NCAA, and/or related football games, teams, players, events, or partners.

13. Because Applicant's applied-for mark is deceptively misdescriptive of pizza, it is not entitled to registration on the Principal Register pursuant to Section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

14. Applicant's use of the phrase "official pizza of football" misrepresents Applicant's sponsorship status and therefore would materially affect a consumer's decision to purchase Applicant's goods. A consumer would incorrectly interpret this phrase to designate that Applicant's goods are endorsed, sponsored, or licensed by, or otherwise affiliated with, the NFL, the NCAA, or other football properties. As such, the applied-for mark is deceptive.

15. Because Applicant's applied-for mark consists of deceptive matter, it is not entitled to registration pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

WHEREFORE, Opposer prays that this Opposition be sustained, that the Application be rejected, and that registration of the mark therein be refused.

This Notice of Opposition is being filed electronically, along with the filing fee required by 37 C.F.R. § 2.6(a)(16). The Commissioner is authorized to draw on the Deposit Account of Pirkey Barber PLLC, Account No. 50-3924/YUMB037/DEA, if there is any problem with the processing of the electronically submitted fee.

Date: January 10, 2019

Respectfully submitted,

/David E. Armendariz/

Anna Kuhn

David E. Armendariz

PIRKEY BARBER PLLC

600 Congress Avenue, Suite 2120

Austin, Texas 78701

(512) 322-5200

ATTORNEYS FOR OPPOSER