

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

Applicant: Roylco Inc.  
Marks: **BROWN BAG CRAFTS (with and without design)**  
Application Serial Nos.: 76299860 and 76299861 (respectively)  
Filing Date: August 13, 2001 (both)  
Date of Publication: September 16, 2003 (both)

Hill Design, Inc.,	)	
Opposer,	)	
	)	
v.	)	
	)	
Roylco Inc.,	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

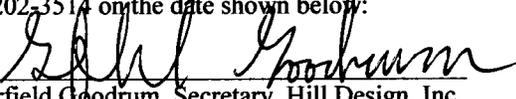
**NOW COMES** opposer, Hill Design, Inc., a New Hampshire domestic corporation with principal place of business at 50 Route 3A, Hill, New Hampshire, 03243 (hereinafter "Hill Design"), and files this Notice of Opposition against the above-identified trademark applications. Hill Design believes it will be damaged by registration of said applications. The grounds for opposition are as follows:

**Hill Design's Venerable Trademark Rights**

1. Hill Design is a leading designer and distributor of ceramic products offered in the crafts market, and has been in business for over twenty-five years with nation- and world-

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on the date shown below:

  
\_\_\_\_\_  
Garfield Goodrum, Secretary, Hill Design, Inc.  
November 17, 2003

wide sales. Since 1983, Hill Design has adopted and federally registered several **BROWN BAG** trademarks for its craft goods, thereby establishing a strong family of marks. Under the **BROWN BAG** family, Hill Design has offered over 250 different designs of ceramic molds and pans for crafts (including for paper-art, papermaking, and making beeswax candles, cookies and shortbread) and “how-to” and recipe booklets.

2. Hill Design has federally registered or applied to register the following **BROWN BAG** marks:

<u>Mark</u>	<u>Registration / Serial No.</u>	<u>Goods</u>
<b>BROWN BAG COOKIE ART (and design) ("cookie art" disclaimed)</b>	Reg. No. 1,366,725; registered on 10/22/85	cookie molds
<b>BROWN BAG</b>	Ser. No. 78/176,372; approved for publication on 11/10/02	ceramic cookie molds
<b>BROWN BAG COOKIE ART</b>	Ser. No. 78/212,170; Previous Reg. No. 1,904,477 (with “cookie art” disclaimed)	ceramic and printed goods
<b>BROWN BAG PAPER ART</b>	Previous Reg. No. 1,955,388 (with “paper art” disclaimed)	ceramic cookie molds

3. Hill Design has expended substantial effort and money since 1983 to promote its **BROWN BAG** marks. Hill Design has expended at least \$23,000,000 in promotion and

advertising of **BROWN BAG** marks and marked goods, and it has enjoyed over \$40,000,000 in sales of such marked items.

4. Hill Design has widely advertised its **BROWN BAG** marks and goods in periodicals, consumer and wholesale brochures, and catalogs with printings running into the millions. **BROWN BAG** marked goods have also enjoyed unsolicited, unpaid, and often repeated reviews and references in periodicals and newspapers over the years, including: "Country Living Magazine," "Family Circle," "Woman's Day," the "Boston Globe," "Gift and Stationery Business," "Gift and Decorative Accessories," "International Cookie Cookbook" (back cover shot), Williams Sonoma catalog (from cover), "Bon Apetit," and "Chocolatier." Hill Design has also run paid advertising of its **BROWN BAG** marked products numerous times in trade magazines in ads ranging from 1/8 size to double page spreads. Hill Design also uses its marks and promotes its goods on the internet.

5. Hill Design's **BROWN BAG** molds and goods have been displayed in numerous arts and crafts shows over the years, including: the "Gourmet Products" shows from 1984 to 2000; in its own, dedicated showroom at the Atlanta Gift Mart from 1997 to 1999; ten years (non-consecutive) at the League of New Hampshire Craftsmen's Fair; several export shows in the United Kingdom, Germany, and Japan; and in numerous regional gift shows throughout the U.S.

6. As a result of the substantial and continuous use, promotion, advertising, and media and public exposure of Hill Design's **BROWN BAG** marks in connection with its molds and booklets, consumers have come to recognize the **BROWN BAG** marks as identifying high-quality goods emanating exclusively from Hill Design. Accordingly, Hill Design has established a strong family of **BROWN BAG** marks, and the marks have become famous for its goods.

### The Opposed Applications

7. Upon information and belief, Applicant is a New York corporation with principal place of business in Anderson, South Carolina (hereinafter "Applicant").

8. On August 13, 2001, Applicant filed intent-to-use applications to register the marks **BROWN BAG CRAFTS** (Ser. No. 76/299,861) and **BROWN BAG CRAFTS (with design)** (Ser. No. 76/299,860). Applicant has disclaimed exclusive rights to the term "crafts" apart from the marks as wholes. The design element of applicant's second mark appears to consist solely in presenting particular letters of the wording in color.

9. The applications were published on September 16, 2003, with the following identification of goods for both:

"hobby craft set containing children's educational and creative products, namely, gummed paper, paper name tags, stickers, craft paper, yarn, pre-cut paper shapes, finger paints, pre-cut decorative shapes, felt cut-outs, pipe cleaners, feathers, foam craft shapes, bead buddies, pom poms, glue, and activity guides."

10. Hill Design timely filed 30-day extensions of time to file notices of opposition in both applications on October 15, 2003, pursuant to 37 C.F.R. Section 2.102. The extensions were granted until Saturday, November 15, 2003. Hill Design timely files this Notice of Opposition by express mail.

### Hill Design Will Be Severely Damaged by Registration of the Opposed Applications

11. Registration of Applicant's **BROWN BAG CRAFTS** ("crafts" disclaimed) marks will create a great likelihood of confusion with Hill Design's prior-registered **BROWN BAG COOKIE ART (and design)** ("cookie art" disclaimed) mark. Such registration would severely harm Hill Design.

12. Applicant has copied exactly the initial wording of Hill Design's registered mark – the arbitrary terms **BROWN BAG**, and it has positioned this wording as the leading element of

the applied-for marks. Moreover, the terms **BROWN BAG** are the *only* distinctive element in Applicant's marks. Thus, in appearance, sound, and meaning, the marks are essentially the same.

13. Applicant would register its marks for the essentially the same goods that Hill Design offers – craft goods. Applicant identifies the following in its applications, inter alia, “hobby craft set[s],” craft paper, and “activity guides.” Hill Design has registered its plead mark for what are essentially “craft sets,” namely cookie molds used by crafts people in their pursuits. Indeed, “craft paper” is closely related to Hill Design’s cookie molds. It is quite ordinary and commonplace in the craft world to use cookie molds and stamps in paper-art and papermaking. (Moreover, Applicant’s “activity guides” and various “paper” goods are the same as and subsumed within Hill Design’s identification for the previously registered and currently pending **BROWN BAG COOKIE ART (words only)** mark.)

14. Thus, Applicant’s marks are essentially identical to Hill Design’s previously registered (and pending) **BROWN BAG** mark(s), and they are used on closely related and the same goods. The parties’ goods are used in the same activities, and can even be used in connection with each other. Relevant purchasers of these goods are also the same, and the goods are offered in the same outlets – craft stores. Registration of Applicant’s marks would, therefore, create a great likelihood of consumer confusion and harm.

15. Considering Hill Design’s registered **BROWN BAG** marks dating back to 1985, Applicant should have adopted a very different mark for its closely related goods. (Hill Design’s **BROWN BAG PAPER ART** mark was registered when Applicant filed its applications for, inter alia, **paper** craft sets. Even a cursory review of the Register would have revealed Hill Design’s marks.) Applicant’s mere addition of one generic term to the highly distinctive

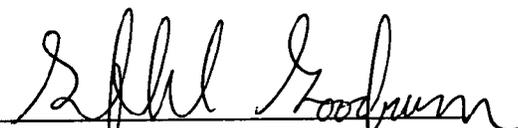
**BROWN BAG** portion of Hill Design's registered mark plead here is insufficient, if not highly suspect.

\* \* \*

**WHEREFORE**, Hill Design, Inc. respectfully requests that the Trademark Trial and Appeal Board refuse Applicant Roylco Inc.'s applications to register the **BROWN BAG CRAFTS (with and without design)** trademarks.

**HILL DESIGN, INC.**

Dated: November 17, 2003

  
By: Garfield Goodrum  
Title: Secretary

Hill Design, Inc.  
631 Town Hill Road  
Reading, VT 05062  
(802) 484-9034  
fax: (802) 484-9144  
[gbgoodrum@earthlink.net](mailto:gbgoodrum@earthlink.net)

**CERTIFICATE OF SERVICE**

I certify that I deposited a true copy of the foregoing Notice of Opposition with the U.S. Postal Service as first class mail, postage pre-paid, addressed to counsel of record for applicant Roylco Inc., namely, Allen F. Creighton, McNair Law Firm, P.A., 1301 Gervaid Street, Columbia, SC 29201, on November 17, 2003.

  
By: Garfield Goodrum

TTAB



**HILL DESIGN, INC.**

November 17, 2003

Via U.S. Mail, First Class, Certified

7002 0860 0006 3692 2043

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia  
22:202-3514



11-20-2003

Patent & TMO/c/TM Mail Rcpt Dt. #64

Re: Hill Design, Inc. v. Roylco Inc.  
Trademark Trial and Appeal Board  
Opposition to Application Nos.: 76299860 and 76299861  
For the marks: **BROWN BAG CRAFTS (with and without design)**

Dear Sir:

Enclosed please find one original and one true copy of Hill Design, Inc.'s Notice of Opposition to the above-referenced trademark applications, as well as a U.S. Postal Service money order in the amount of SIX HUNDRED DOLLARS (\$600) for the filing fee.

Please contact me, if you have any questions regarding this matter.

Sincerely,

HILL DESIGN, INC.

A handwritten signature in cursive script, which reads "Garfield Goodrum".

Garfield Goodrum  
Secretary