

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

In the Matter of Application Serial No. 75/792,341
Mark: BULLZ-EYE.COM
Filed: September 3, 1999
Published: May 27, 2003

Target Brands, Inc.,)
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 Opposer,)
vs.)
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Bullz-Eye.com, LLC,)
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 Applicant)
)

Opposition No. _____



01-26-2004
U.S. Patent & TMOtc/TM Mail Rcpt Dt. #78

Box TTAB/FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

Opposer Target Brands, Inc. ("TBI") is a Minnesota corporation having its principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403-2467.

Opposer believes that it will be damaged by the registration of the mark in Trademark Application Serial No. 75/792,341, and hereby opposes the same.

As grounds of this opposition, it is alleged that:

1. Target Corporation, through its Target Stores division ("Target"), has since 1962 operated, among other things, a chain of family-oriented TARGET® discount department stores, now numbering more than 1,100 stores in 47 states.

2. Target has since at least as early as December 1968 continuously used, and is today using, a "Bullseye" Design mark ("Bullseye Design") in connection with many goods and services.

3. TBI is the owner of a number of federal registrations for the Bullseye Design mark, alone or in combination with its TARGET mark, for retail department store and various other goods and services, including but not limited to, United States Registration No. 972,082, registered October 30, 1973 for the Bullseye Design mark alone in connection with retail department store services; and Registration No. 1,386,318 for TARGET and the Bullseye Design mark together for use in connection with various retail services.

4. TBI's Bullseye Design mark is known internally and has been referred to by the public and the media as a "Bullseye" for years. TBI also owns a federal registration for the word BULLSEYE for use in connection with a parlor game (U.S. Registration No. 811,297).

5. Target and TBI have invested great sums of money and substantial effort in establishing, promoting and protecting the Bullseye Design and BULLSEYE marks.

6. Through extensive use and promotion of the Bullseye Design and BULLSEYE marks by Target, substantial and valuable goodwill and public recognition have been built up in the Bullseye Design and BULLSEYE marks.

7. TBI's Bullseye Design mark is famous. Indeed, Advertising Age in a December 2000 article categorized the Bullseye Design mark as an "advertising icon in a class with . . . McDonald's arches and Nike's swoosh."

8. Upon information and belief, Applicant Bullz-Eye.Com, LLC (“Bullz-Eye”), is an Ohio limited liability company, having its address at 2847 Shakespeare Lane, Avon, Ohio 44011.

9. Upon information and belief, Applicant on or about September 3, 1999 filed an intent-to-use federal application, Serial No. 75/792,341, to register a mark BULLZ-EYE.COM for “entertainment services, namely, providing general interest information via a global computer network” (the “’341 Application”).

10. Upon information and belief, Applicant’s intended BULLZ-EYE.COM mark is nearly identical to TBI’s BULLSEYE Mark and famous Bullseye Design mark.

11. Upon information and belief, Target’s actual, continuous and continuing use of the BULLSEYE and Bullseye Design marks began prior to any use by Applicant of its intended BULLZ-EYE.COM mark.

12. Applicant’s intended BULLZ-EYE.COM mark so resembles TBI’s BULLSEYE and Bullseye Design marks as to be likely, when used in connection with the goods identified by Applicant’s ‘341 Application, to cause confusion, to cause mistake, and/or to deceive.

13. Upon information and belief, Applicant is using its intended mark in connection with a website located at *bullz-eye.com*, which advertises itself as “The Guys’ Portal to the Web,” and displays “adult” content and links to the same.

14. The “adult” content posted at this site is, to say the least, inconsistent with the image and goodwill that have been built in TBI’s Bullseye Design mark.

15. Applicant’s intended BULLZ-EYE.COM mark so resembles TBI’s famous BULLSEYE and Bullseye Design marks, when used in connection with the goods identified

by Applicant's '341 Application, as to tarnish and thus cause dilution of TBI's famous Bullseye Design mark.

16. Upon information and belief, the mark in Applicant's '341 Application cannot be registered consistent with 15 U.S.C. § 1052(d) or 15 U.S.C. § 1063.

WHEREFORE, Opposer believes that it would be damaged by registration of Applicant's intended bullseye design mark, and prays that application Serial No. 75/792,341 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

A duplicate of this Notice of Opposition is being filed herewith, together with filing fees of \$300.00. If the amount submitted herewith is determined to be incorrect, the Commissioner may charge any additional fees or to credit any over payment to Deposit Account No. 06-0029.

Please address all correspondence to:

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2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

Dated: January 22, 2004

FAEGRE & BENSON LLP,

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Attorneys for Opposer Target Brands, Inc

CERTIFICATE OF SERVICE

I certify that this Request is being deposited on January 22, 2004 with the Postal Service by U.S. First Class Mail to the Applicant in an envelope addressed to Applicant's attorney.

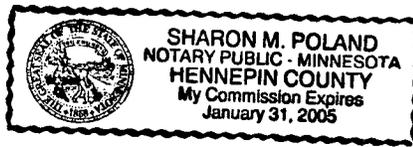
Deborah Corpus
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24th Floor, National City Center
1900 East 9th Street
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By: *Sonya Erickson*
Sonya Erickson

Subscribed and sworn to before me
this 22 day of January, 2004.

Sharon M. Poland

Notary Public



TTAB

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I CERTIFY THAT, ON JANUARY 22, 2004 THIS PAPER IS
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Joseph J. Erickson

Joseph J. Erickson

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Assistant Commissioner for Trademarks
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Enclosed for filing with the United States Patent and Trademark Office are the documents listed below:

- The original and two copies of the Notice of Opposition;
- Credit card authorization form in the amount of \$300.00; and
- Postcard
A self-addressed return postcard in accordance with T.M.E.P. Section 703 itemizing all of the above-referenced documents filed with the United States Patent and Trademark Office.

Respectfully Submitted,

TARGET BRANDS, INC.

By: Eunice P. de Carvalho

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Dated: January 22, 2004

cc: Shayne Brown
M2:20579214.01