

ESTTA Tracking number: **ESTTA354283**

Filing date: **06/22/2010**

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	Wm. Wrigley Jr. Company
Granted to Date of previous extension	07/25/2010
Address	410 N. Michigan Avenue Chicago, IL 60611 UNITED STATES

Correspondence information	Douglas N. Masters, Rupen R. Fofaria Attorneys of Record Loeb & Loeb, LLP 321 North Clark Street Suite 2300 Chicago, IL 60654 UNITED STATES dmasters@loeb.com, rfofaria@loeb.com, chdocket@loeb.com Phone:312-464-3100
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Applicant Information

Application No	77841372	Publication date	01/26/2010
Opposition Filing Date	06/22/2010	Opposition Period Ends	07/25/2010
Applicant	The Topps Company, Inc. One Whitehall Street New York, NY 10004 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2003/05/00 First Use In Commerce: 2003/05/00 All goods and services in the class are opposed, namely: Candy, namely, lollipops

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	105032	Application Date	02/26/1915
Registration Date	06/29/1915	Foreign Priority Date	NONE
Word Mark	JUICY FRUIT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U046 (International Class 030). First use: First Use: 1894/01/01 First Use In Commerce: 1894/01/01 CHEWING GUM

U.S. Registration No.	2836550	Application Date	04/01/2003
Registration Date	04/27/2004	Foreign Priority Date	NONE

Word Mark	JUICY FRUIT
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 confectionery, namely, chewing gum
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U.S. Registration No.	3706347	Application Date	06/20/2008
Registration Date	11/03/2009	Foreign Priority Date	NONE

Word Mark	JUICY FRUIT STIX
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 2009/01/19 First Use In Commerce: 2009/01/19 Chewing gum
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Attachments	78232286#TMSN.gif (1 page)(bytes) 77504050#TMSN.jpeg (1 page)(bytes) Notice of Opposition - Juicy Drop.pdf (4 pages)(14402 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	/Rupen R. Fofaria/
Name	Rupen R. Fofaria
Date	06/22/2010

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

In The Matter of Application Serial No. 77/841,372: JUICY DROP
Published in the *Official Gazette* of January 26, 2010 in International Class 30

WM. WRIGLEY JR. COMPANY,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
THE TOPPS COMPANY, INC.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Wm. Wrigley Jr. Company (“Opposer”), a Delaware corporation, doing business at 410 North Michigan Avenue, Chicago, IL 60654, believes it will be damaged by the registration in International Classes 30 of the mark shown in Application Serial No. 77/841,372, filed by The Topps Company, Inc. (“Applicant”), a Delaware corporation at One Whitehall Street, New York, New York 10004, and hereby opposes the same.

As grounds for its opposition, Opposer alleges:

1. Opposer is the nation’s leading marketer of confectionary products.
2. Opposer and Applicant are competitors in the business of marketing confectionery products.
3. Since long prior to May 2003, Opposer has continuously marketed confectionery products in connection with the mark JUICY FRUIT.
4. Opposer has registered its JUICY FRUIT Marks in the United States Patent and Trademark Office, including, but not limited to, Reg. Nos. 105,032; 2,836,550; and 3,706,347.

5. These registrations are valid, subsisting, and owned by Opposer. Reg. Nos. 105,032 and 2,836,550 are also incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

6. Opposer has sold millions of dollars worth of goods in connection with its JUICY FRUIT Mark.

7. Opposer has spent millions of dollars advertising and promoting its JUICY FRUIT Mark throughout the United States.

8. By virtue of the popularity of Opposer's goods offered in connection with the JUICY FRUIT Mark, and its advertising and promotion of the JUICY FRUIT Mark, Opposer has built up and now owns an extremely valuable goodwill which is symbolized by its JUICY FRUIT Mark.

9. On October 5, 2009, Applicant filed Application Serial No. 77/841,372 under 15 U.S.C. § 1052(f) ("Application") with the United States Patent and Trademark Office seeking registration of the alleged mark, JUICY DROP, for "candy, namely, lollipops," in Class 30 and claiming a date of first use of May 2003.

10. On information and belief, Applicant has not used the applied-for mark in commerce prior to May 2003.

COUNT I

ALLEGED MARK IS DESCRIPTIVE WITHOUT SECONDARY MEANING

11. Opposer realleges the allegations of Paragraphs 1 through 10.

12. By applying for registration under 15 U.S.C. § 1052(f), Applicant has admitted that its alleged mark is not inherently distinctive.

13. Applicant's alleged mark has not become distinctive of Applicant's goods in commerce.

COUNT II

LIKELIHOOD OF CONFUSION

14. Opposer realleges the allegations of Paragraphs 1 through 10.

15. If the applied for mark has become distinctive of Applicant's goods in commerce, then Applicant's use of JUICY DROP in Class 30 as set forth in the Application is likely to result in confusion, mistake, or deception with Opposer, or the goods marketed in connection with Opposer's JUICY FRUIT Mark, or in the belief that Applicant or its JUICY DROP goods are in some way legitimately connected with, or licensed or approved by, Opposer.

16. Use by Applicant of JUICY DROP is without Opposer's consent or permission.

WHEREFORE, registration by Applicant of the JUICY DROP mark as set forth in the Application would be damaging to Opposer.

Please debit our Deposit Account No. 502876 for the filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb, LLP, 321 North Clark Street, Suite 2300, Chicago, IL 60654.

Date: June 22, 2010

LOEB & LOEB LLP

By: /Rupen R. Fofaria/

Douglas N. Masters

Rupen R. Fofaria

321 North Clark Street, Suite 2300

Chicago, Illinois 60654

Telephone: (312) 464-3100

Facsimile: (312) 464-3111

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Rupen R. Fofaria, hereby certify that a copy of the **NOTICE OF OPPOSITION** has been served upon:

ANDREW BAUM
FOLEY & LARDNER LLP
90 PARK AVE
NEW YORK, NY 10016-1301

via first class mail, postage prepaid, this 22nd day of June, 2010.

/Rupen R. Fofaria/_____