

ESTTA Tracking number: **ESTTA681358**

Filing date: **07/01/2015**

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	Juratoys		
Entity	Corporation	Citizenship	France
Address	Zone Industrielle Orgelet, 39270 FRANCE		

Attorney information	Elyse A Marcus Sills Cummis & Gross P.C. 101 Park Avenue, 28th Floor New York, NY 10178 UNITED STATES emarcus@sillscummis.com, fwaldbaum@sillscummis.com, pto@sillscummis.com Phone:212-643-7000
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Applicant Information

Application No	86486087	Publication date	06/02/2015
Opposition Filing Date	07/01/2015	Opposition Period Ends	07/02/2015
Applicant	HAPE HOLDING AG Hallwilerweg 2 Luzern, CH6003 SWITZERLAND		

Goods/Services Affected by Opposition

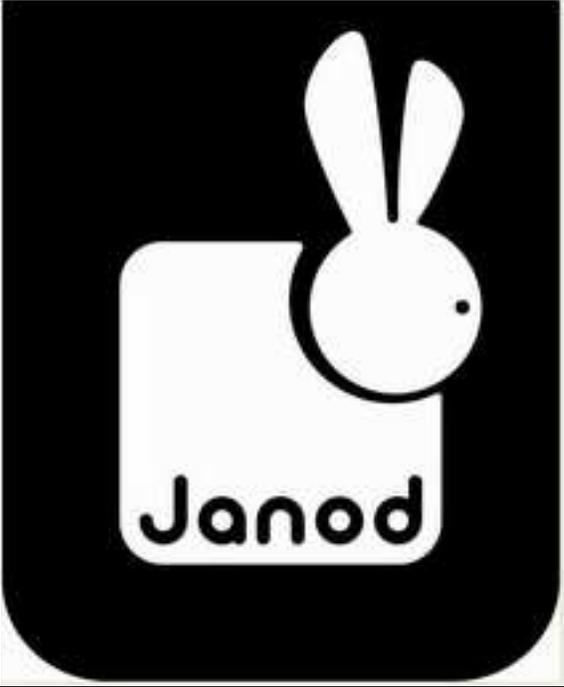
Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wooden or plastic toys and playthings, namely, dolls, construction toys, pull toys, ride-on toys, parlor and table games, puzzles, doll houses and accessories therefor, doll furniture, puppets, building blocks, links and rods interconnecting building blocks for construction toys, toy cars and trucks, toy tools and work benches, toy xylophones, toy trains, children's multiple activity toys, infant's toys, musical toys, pop-up toys, stacking toys

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4285115	Application Date	02/10/2012
Registration Date	02/05/2013	Foreign Priority Date	NONE
Word Mark	JANOD		

Design Mark			
Description of Mark	The mark consists of the image of a rabbit's head with a rounded edged square containing the word "Janod" on a rectangular background with rounded edges on the bottom.		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 magnets for use as toys or playthings</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 Games and playthings, namely, puzzles, playing cards, wood toy figures, rockinghorses, push toys, pull toys, baby multiple activity toys, baby play rings, children's multiple activity toys, children's activity tables containing manipulative toys and musical instruments, play pieces in the nature of cutout pieces to make two dimensional vehicles or people or characters or dolls, non-electronic toy vehicles and rockets, toy trains, toy musical instruments, toy blocks, stacking toys, toy tools, toy gardening equipment, children's easels and blackboards, children's easels that can convert to a puppet theatre, toy houses, toy kitchen sets, toy carpenter work bench, toy carpenter tools, toy insect collecting sets comprised of toy nets, toy plastic container and toy magnifying glass; Toy wooden-press for holding leaf and flower samples; puzzles and card games in travel cases; decorations for Christmas trees, plush toys, teddy bears and dolls, playing card cases</p>		
U.S. Registration No.	4284637	Application Date	05/27/2011
Registration Date	02/05/2013	Foreign Priority Date	01/25/2011
Word Mark	JANOD		

Design Mark	<h1>JANOD</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Magnets for use as toys or playthings</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Umbrellas, school satchels, school bags, briefcases, key cases, attachÃ© cases, purses not of precious metal, pocket wallets, rucksacks, handbags, canvas shopping bags, wheeled bags, beach bags, travelling bags, valises</p> <p>Class 020. First use: First Use: 0 First Use In Commerce: 0 Furniture, minors, picture frames, tables, desks, chairs, chests for toys, beds, bedding, namely, mattresses, pillows and bolsters; school furniture, playpens for babies</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 Games and playthings, namely, puzzles, playing cards, wood toy figures, rock- inghorses, push toys, pull toys, baby multiple activity toys, baby play rings, chil- dren's multiple activity toys, children's activity tables containing manipulative toys and musical instruments, play pieces in the nature of cutout pieces to make two dimensional vehicles or people or characters or dolls, non-electronic toy vehicles and rockets, toy trains, toy musical instruments, toy blocks, stacking toys, toy tools, toy gardening equipment, children's easels and blackboards, chil- dren's easels that can convert to a puppet theatre, toy houses, toy kitchen sets, toy carpenter work bench, toy carpenter tools, toy insect collecting sets com- prised of toy nets, toy plastic container and toy magnifying glass; Toy wooden- press for holding leaf and flower samples; puzzles and card games in travel cases; decorations for Christmas trees, plush toys, teddy bears and dolls, play- ing card cases</p>

Attachments	85539520#TMSN.png(bytes) 85332367#TMSN.png(bytes) JuratoysNoticeofOpp.pdf(247085 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	/Elyse A Marcus/
Name	Elyse A Marcus
Date	07/01/2015

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

JURATOYS,	:	NOTICE OF OPPOSITION
	:	
Opposer,	:	Application Serial No. 86/486,087
	:	
v.	:	
	:	
HAPE HOLDING AG	:	
AKTIENGELLSCHAFT,	:	
	:	
Applicant,	:	
	:	

Sills Cummis & Gross P.C., are the attorneys for Juratoys (“Opposer”), a French corporation with an address at Zone Industrielle, Orgelet, France 39270. Opposer believes that it will be damaged by the registration of Hape Holding AG Aktiengesellschaft’s (“Applicant”) application No. 86/486,087 for J’ADORE and Design in International Classes 28 (“Applicant’s Mark”). Applicant’s application was filed on December 19, 2014 under Section 1(b) of the Lanham Act. As grounds for its opposition, Opposer alleges as follows:

1. Opposer is a French toy company that has been specializing in wooden toys for over forty years. The vast collection of toys branded with the JANOD trademark includes, but is not limited to, pull toys, puzzles, blocks and musical instruments. Each year Opposer’s in-house designers create over one-hundred new toys branded with the JANOD trademark.
2. Applicant is Hape Holding AG Aktiengesellschaft, a Swiss company doing business at Hallwilerweg, 2 Luzerne CH6003, Switzerland.

3. Opposer owns a federal trademark registration for JANOD in block letters for:

“Magnets for use as toys or playthings” in International Class 9;

“Umbrellas, school satchels, school bags, briefcases, key cases, attaché cases, purses not of precious metal, pocket wallets, rucksacks, handbags, canvas shopping bags, wheeled bags, beach bags, travelling bags, valises” in International Class 18;

“Furniture, minors, picture frames, tables, desks, chairs, chests for toys, beds, bedding, namely, mattresses, pillows and bolsters; school furniture, playpens for babies” in International Class 20; and

“Games and playthings, namely, puzzles, playing cards, wood toy figures, rocking horses, push toys, pull toys, baby multiple activity toys, baby play rings, children's multiple activity toys, children's activity tables containing manipulative toys and musical instruments, play pieces in the nature of cutout pieces to make two dimensional vehicles or people or characters or dolls, non-electronic toy vehicles and rockets, toy trains, toy musical instruments, toy blocks, stacking toys, toy tools, toy gardening equipment, children's easels and blackboards, children's easels that can convert to a puppet theatre, toy houses, toy kitchen sets, toy carpenter work bench, toy carpenter tools, toy insect collecting sets comprised of toy nets, toy plastic container and toy magnifying glass; Toy wooden press for holding leaf and flower samples; puzzles and card games in travel cases; decorations for Christmas trees, plush toys, teddy bears and dolls, playing card cases in International Class 28.

The application for this registration was based on a French application for the same trademark based on Section 44(d) of the Trademark Act. Accordingly, the priority filing date of the application for JANOD in block letters is January 25, 2011.

4. In addition to the block letter mark, Opposer also owns a federal trademark registration for JANOD & Design for:

“magnets for use as toys or playthings” in Class 9; and

“games and playthings, namely, puzzles, playing cards, wood toy figures, rocking horses, push toys, pull toys, baby multiple activity toys, baby play rings, children's multiple activity toys, children's activity tables containing manipulative toys and musical instruments, play pieces in the nature of cutout pieces to make two dimensional vehicles or people or characters or dolls, non-electronic toy

vehicles and rockets, toy trains, toy musical instruments, toy blocks, stacking toys, toy tools, toy gardening equipment, children's easels and blackboards, children's easels that can convert to a puppet theatre, toy houses, toy kitchen sets, toy carpenter work bench, toy carpenter tools, toy insect collecting sets comprised of toy nets, toy plastic container and toy magnifying glass; Toy wooden press for holding leaf and flower samples; puzzles and card games in travel cases; decorations for Christmas trees, plush toys, teddy bears and dolls, playing card cases” in International Class 28.

5. The application for this registration was filed on February 10, 2012.

6. Together, the above registrations protect Opposer’s wooden toy products (collectively, Opposer’s Marks”). Copies of these registration certificates are attached at **Exhibit A**. Certified copies of these properties will be made of record during Opposer’s testimony period. Opposer currently distributes its products in commerce under the JANOD marks both within the United States, as well as internationally.

7. On or about December 19, 2014, Applicant filed an application to register the mark J’ADORE & Design (Application No. 86/486,087) for the following services:

“Wooden or plastic toys and playthings, namely, dolls, construction toys, pull toys, ride-on toys, parlor and table games, puzzles, doll houses and accessories therefor, doll furniture, puppets, building blocks, links and rods interconnecting building blocks for construction toys, toy cars and trucks, toy tools and work benches, toy xylophones, toy trains, children's multiple activity toys, infant's toys, musical toys, pop-up toys, stacking toys” in International Class 28.

The application is based on an intent to use the mark in United States commerce. A copy of the TESS page for Application Serial No. 86/486087 is attached at **Exhibit B**.

8. Opposer’s registrations pre-date the filing date of Applicant’s Mark.

9. Upon information and belief, Applicant is a Swiss corporation marketing Chinese made toys featuring a French word in the United States. This modified version uses a marginally different form of the trademark J’ADORE within a block design that is substantially and

confusingly similar to Opposer's block and rabbit design in Registration No. 4,285,115 for JANOD & Design.

10. Applicant's Mark so closely resembles Opposer's Marks in appearance, sound and in overall commercial impression it imparts on consumers that it is likely to cause confusion, mistake or deception among the buying public as to source if registered with the goods identified in the application opposed herein, in violation of 15 U.S.C. § 1052(d).

11. Foremost, Applicant's Mark is similar in overall commercial impression to Opposer's Marks. More precisely, each invokes the connotation of something exotic and foreign, particularly French sounding. The overall differences in Applicant's Mark is insufficient to preclude likely confusion.

12. The goods covered by the Applicant's Mark are identical, similar or closely related to the goods on which Opposer has used and continues to use the JANOD trademarks and Applicant's and Opposer's goods are therefore likely to be encountered by overlapping purchasers in the same channels of distribution.

13. Applicant's Mark so closely resembles Opposer's Marks, and Applicant's Mark conveys a nearly identical and very similar commercial impression as Opposer's Marks that it is likely to cause confusion, mistake or deception within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

14. Opposer has not authorized or consented to Applicant's use or registration of Applicant's Mark in the United States.

15. Based on the similarities of the parties' respective marks, channels of trade and services, Applicant's use of Applicant's Mark will cause the public to falsely associate Applicant's J'ADORE branded goods with Opposer or with Opposer's goods; to falsely believe

that Applicant's goods emanate from or are sponsored, endorsed or licensed by Opposer, and to falsely believe that there is some relationship between Applicant and Opposer, all in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

16. Furthermore, any defect, objection or fault found with Applicant's goods would necessarily reflect on and seriously injure the reputation that Opposer has established under the Opposer's Marks and the goods sold and services provided thereunder.

17. If Applicant were to be granted registration for the mark herein opposed, it would obtain at least a *prima facie* exclusive right to use the mark for Applicant's goods in the United States. Such registration would irreparably harm Opposer.

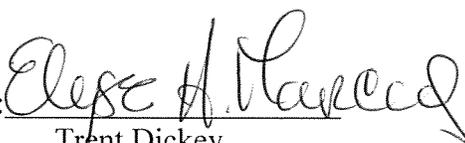
WHEREFORE, it is respectfully submitted that this opposition be sustained and that the registration in Class 28 sought by Application Serial No. 86/486087 be denied.

Please deduct the Opposition fee in the amount of \$300.00 for one class, along with any deficiency, from Opposer's attorneys' Deposit Account No. 03-1250.

Respectfully Submitted,

Dated: July 1, 2015

SILLS CUMMIS & GROSS P.C.

By: 
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Attorneys for Opposer Juratoys

Certificate of Service

I hereby certify that on July 1, 2015, I caused a true and correct copy of the within Notice of Opposition to be served by first class mail, postage prepaid, in an envelope addressed to:

Donald Dennison, Esq.
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Alexandria, Virginia 22314


Francine Waldbaum