

ESTTA Tracking number: **ESTTA764958**

Filing date: **08/17/2016**

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

| | |
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| Name | Hershey Chocolate & Confectionery Corporation |
| Granted to Date of previous extension | 08/17/2016 |
| Address | 4860 Robb Street, Suite 204 Wheat Ridge, CO 80033 UNITED STATES |

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| Attorney information | Paul C Llewellyn Kaye Scholer LLP 250 West 55th Street New York, NY 10019-9710 UNITED STATES paul.llewellyn@kayescholer.com, john.rynkiewicz@kayescholer.com, tmdocketing@kayescholer.com, kyle.gooch@kayescholer.com Phone:2128367828 |
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Applicant Information

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|------------------------|---|------------------------|------------|
| Application No | 86804173 | Publication date | 04/19/2016 |
| Opposition Filing Date | 08/17/2016 | Opposition Period Ends | 08/17/2016 |
| Applicant | Rese Pilates, LLC 8383 Wilshire Boulevard, Suite 400 Beverly Hills, CA 90211 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 025. First Use: 2011/06/01 First Use In Commerce: 2011/06/01 All goods and services in the class are opposed, namely: Clothing and athletic apparel, namely, shirts, pants, jackets, footwear, hats, caps, hooded pullovers, hooded sweat shirts, long-sleeved shirts, open-necked shirts, over shirts, short sleeved shirts, short-sleeved and long-sleeved t-shirts, shorts, skirts, skorts, tights, leggings, dresses, tops, and sports bras |
| Class 035. First Use: 2011/06/01 First Use In Commerce: 2011/06/01 All goods and services in the class are opposed, namely: On-line retail store services featuring athletic apparel, namely, shirts, pants, jackets, footwear, hats, caps, hooded pullovers, hooded sweat shirts, long-sleeved shirts, open-necked shirts, over shirts, short sleeved shirts, short-sleeved and long-sleeved t-shirts, shorts, skirts, skorts, tights, leggings, dresses, tops, and sports bras |

Grounds for Opposition

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| Priority and likelihood of confusion | Trademark Act Section 2(d) |
| Dilution by blurring | Trademark Act Sections 2 and 43(c) |

Marks Cited by Opposer as Basis for Opposition

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 2850998 | Application Date | 06/27/2003 |
| Registration Date | 06/08/2004 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 003. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 lip balm, lip gloss | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1325483 | Application Date | 09/30/1982 |
| Registration Date | 03/19/1985 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 009. First use: First Use: 1982/05/00 First Use In Commerce: 1982/05/00 DECORATIVE MAGNETS FOR ATTACHMENT TO METAL SURFACES FOR DISPLAYING MESSAGES</p> <p>Class 014. First use: First Use: 1974/04/00 First Use In Commerce: 1974/04/00 [JEWELRY-NAMELY PENDANTS]</p> <p>Class 016. First use: First Use: 1982/06/00 First Use In Commerce: 1982/06/00 [PENCIL POUCHES, PENCIL SHARPENERS, ERASERS, BOOKS-NAMELY, RECIPE AND COOKBOOKS,] PENCILS, MEMO PADS, [CLIPBOARDS, LOOSE-LEAF BINDERS,] PENS, [BULLETIN BOARDS, POSTCARDS, PAPER-WEIGHTS, WRITE-ONWIPE-OFF BULLETIN BOARDS, BUMPER STICKERS]</p> <p>Class 020. First use: First Use: 1979/04/00 First Use In Commerce: 1979/04/00 [PLASTIC FOBS FOR KEY RINGS, SLEEPING BAGS AND PILLOWS]</p> <p>Class 021. First use: First Use: 1982/05/00 First Use In Commerce: 1982/05/00 [RECIPE FILE BOXES,] PLASTIC MUGS AND CUPS [, AND SERVING TRAYS]</p> <p>Class 025. First use: First Use: 1976/10/00 First Use In Commerce: 1976/10/00 CLOTHING FOR ADULTS AND CHILDREN-NAMELY, T-SHIRTS, [SWEAT-SHIRTS, PANTS, JEANS, TOPS, SWEATERS, SHORTS, OVERALLS, JUMPERS, SHIRTS, SKIRTS, BLOUSES, CAPS,] HATS [, SCARVES, CHILDREN'S SLEEPWEAR, SLIPS AND UNDERWEAR]</p> <p>Class 027. First use: First Use: 1982/06/00 First Use In Commerce: 1982/06/00 [PLACEMATS NOT OF PAPER OR LINEN]</p> <p>Class 028. First use: First Use: 1981/08/00 First Use In Commerce: 1981/08/00 [DISC-TYPE TOSS TOYS AND COIN BANKS]</p> | | |

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| U.S. Registration No. | 1834806 | Application Date | 11/25/1991 |
| Registration Date | 05/03/1994 | Foreign Priority | NONE |

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|---------------------|---|------|--|
| | | Date | |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 029. First use: First Use: 1992/01/06 First Use In Commerce: 1992/01/06 peanut butter | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2063826 | Application Date | 04/07/1995 |
| Registration Date | 05/20/1997 | Foreign Priority Date | NONE |
| Word Mark | REESE'S POURABLE | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 029. First use: First Use: 1995/06/09 First Use In Commerce: 1995/06/09 peanut butter in liquid form | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 1074163 | Application Date | 12/22/1975 |
| Registration Date | 09/27/1977 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1975/11/17 First Use In Commerce: 1975/11/17 CANDY-NAMELY, PEANUT BUTTER FLAVORED CHIPS | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1215096 | Application Date | 03/09/1981 |
| Registration Date | 11/02/1982 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1919/00/00 First Use In Commerce: 1919/00/00 Candy | | |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 1928625 | Application Date | 12/21/1993 |
| Registration Date | 10/17/1995 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |

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| Goods/Services | Class 030. First use: First Use: 1994/05/02 First Use In Commerce: 1994/05/02 breakfast cereal | | |
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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 1920030 | Application Date | 07/26/1994 |
| Registration Date | 09/19/1995 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1985/06/19 First Use In Commerce: 1985/06/19 ice cream and ice cream sundaes | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 2322016 | Application Date | 08/28/1995 |
| Registration Date | 02/22/2000 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | REESE'S | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1999/11/08 First Use In Commerce: 1999/11/08 pastries, and bakery goods | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4893075 | Application Date | 06/27/2015 |
| Registration Date | 01/26/2016 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | REESE'S | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 033. First use: First Use: 2013/05/01 First Use In Commerce: 2013/05/01 Alcoholic beverages except beers; Prepared alcoholic cocktail | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 3716293 | Application Date | 06/30/2008 |
| Registration Date | 11/24/2009 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 020. First use: First Use: 2008/10/31 First Use In Commerce: 2008/10/31 [Beds for household pets] Class 028. First use: First Use: 2008/10/31 First Use In Commerce: 2008/10/31 Pet toys | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3576156 | Application Date | 08/25/2008 |
| Registration Date | 02/17/2009 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 2006/08/08 First Use In Commerce: 2006/08/08 Cookies | | |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3741091 | Application Date | 02/27/2009 |
| Registration Date | 01/19/2010 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |

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|---------------------|--|--|--|
| Design Mark | <h1>REESE'S</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Earphones and headphones | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4488051 | Application Date | 07/10/2013 |
| Registration Date | 02/25/2014 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | <h1>REESE'S</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 2012/09/01 First Use In Commerce: 2012/09/01 Cakes; Snack cakes | | |

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|-----------------------|------------------|-----------------------|------------|
| U.S. Registration No. | 4576035 | Application Date | 02/24/2014 |
| Registration Date | 07/29/2014 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark | <h1>REESE'S</h1> | | |

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| Description of Mark | NONE |
| Goods/Services | Class 030. First use: First Use: 2013/06/01 First Use In Commerce: 2013/06/01 Cake mixes; Cookie mixes |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4893065 | Application Date | 06/26/2015 |
| Registration Date | 01/26/2016 | Foreign Priority Date | NONE |

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| Word Mark | REESE'S |
| Design Mark |  |

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| Description of Mark | NONE |
| Goods/Services | Class 030. First use: First Use: 2014/10/17 First Use In Commerce: 2014/10/17 Cocoa-based spreads and dips, chocolate-based spreads and dips with or without nuts, chocolate and peanut butter based spreads and dips |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3743274 | Application Date | 02/27/2009 |
| Registration Date | 01/26/2010 | Foreign Priority Date | NONE |

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| Word Mark | REESE'S PIECES |
| Design Mark |  |

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| Description of Mark | NONE |
| Goods/Services | Class 009. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Earphones and headphones |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4432557 | Application Date | 04/22/2013 |
| Registration Date | 11/12/2013 | Foreign Priority Date | NONE |

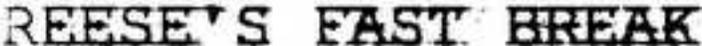
| | |
|---------------------|--|
| Word Mark | REESE'S PUFFS |
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | Class 030. First use: First Use: 2012/07/15 First Use In Commerce: 2012/07/15 Muffin mixes |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2194988 | Application Date | 04/11/1997 |
| Registration Date | 10/13/1998 | Foreign Priority Date | NONE |

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| Word Mark | REESE'S |
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | Class 030. First use: First Use: 1996/12/27 First Use In Commerce: 1996/12/27 candy |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 1391774 | Application Date | 08/05/1985 |
| Registration Date | 04/29/1986 | Foreign Priority Date | NONE |
| Word Mark | REESE'S CHOCOLATE COVERED PEANUT BUTTEREGG | | |

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|---------------------|---|--|--|
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1969/12/00 First Use In Commerce: 1969/12/00 CANDY | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2689422 | Application Date | 09/06/2000 |
| Registration Date | 02/18/2003 | Foreign Priority Date | NONE |
| Word Mark | REESE'S FAST BREAK | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 2001/11/05 First Use In Commerce: 2001/11/05 candy | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2239386 | Application Date | 12/18/1996 |
| Registration Date | 04/13/1999 | Foreign Priority Date | NONE |
| Word Mark | REESE'S MILK CHOCOLATE COVERED PEANUT BUTTER PUMPKIN | | |

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|---------------------|---|--|--|
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1995/01/00 First Use In Commerce: 1995/01/00 candy | | |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 925609 | Application Date | 10/05/1970 |
| Registration Date | 12/14/1971 | Foreign Priority Date | NONE |

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| Word Mark | REESE'S MILK CHOCOLATE PEANUT BUTTER CUPS |
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|---------------------|--|--|--|
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1969/12/15 First Use In Commerce: 1969/12/15 PEANUT BUTTER CUPS | | |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3457242 | Application Date | 10/18/2007 |
| Registration Date | 07/01/2008 | Foreign Priority Date | NONE |

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| Word Mark | REESE'S PERFECT |
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|---------------------|---|--|--|
| Design Mark | REESE'S PERFECT | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 2007/09/01 First Use In Commerce: 2007/09/01 Candy | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1141906 | Application Date | 09/27/1978 |
| Registration Date | 11/25/1980 | Foreign Priority Date | NONE |
| Word Mark | REESE'S PIECES | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1978/09/12 First Use In Commerce: 1978/09/12 Confection Consisting of Peanut Meal and Other Ingredients in a Candy Shell | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2491191 | Application Date | 02/23/1999 |
| Registration Date | 09/18/2001 | Foreign Priority Date | NONE |
| Word Mark | REESE'S PUFFS | | |
| Design Mark | REESE ' S PUFFS | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 2000/07/09 First Use In Commerce: 2000/07/09 breakfast cereal | | |

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|-----------------------|-------------|-----------------------|------------|
| U.S. Registration No. | 2174012 | Application Date | 04/25/1997 |
| Registration Date | 07/14/1998 | Foreign Priority Date | NONE |
| Word Mark | REESESTICKS | | |
| Design Mark | | | |
| Description of | NONE | | |

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|----------------|---|
| Mark | |
| Goods/Services | Class 030. First use: First Use: 1998/02/09 First Use In Commerce: 1998/02/09 candy |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 1900044 | Application Date | 06/24/1993 |
| Registration Date | 06/13/1995 | Foreign Priority Date | NONE |
| Word Mark | THERE'S NO WRONG WAY TO EAT A REESE'S | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1993/11/29 First Use In Commerce: 1993/11/29 candy [and confectionery chips for baking] | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 3299952 | Application Date | 05/03/2006 |
| Registration Date | 09/25/2007 | Foreign Priority Date | NONE |
| Word Mark | REESE'S XTREME CUP CHALLENGE | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 041. First use: First Use: 2006/05/05 First Use In Commerce: 2006/05/05 Entertainment in the nature of an amusement park ride | | |

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|-----------------------|------------------------------|-----------------------|------------|
| U.S. Registration No. | 4101179 | Application Date | 01/10/2011 |
| Registration Date | 02/21/2012 | Foreign Priority Date | NONE |
| Word Mark | REESE'S PIECES PEANUT BUTTER | | |

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| Design Mark |  |
| Description of Mark | <p>The mark consists of a brown single line triangle within which is a design of green grass at the top of the triangle. At the bottom is a design of orange candy. On the design of the orange candy are the words "REESE'S" in yellow with a brown border, the words "PIECES" in yellow with a brown and white border, the words "PEANUT BUTTER CANDY IN A CRUNCHY SHELL" in white on a brown background. The color white which appears between the grass and candy design and between the single line triangle outline shape of the packaging and the candy and grass design is a transparent area and is not part of the mark.</p> |
| Goods/Services | <p>Class 030. First use: First Use: 2010/04/01 First Use In Commerce: 2010/04/01 Candy</p> |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3601728 | Application Date | 08/12/2008 |
| Registration Date | 04/07/2009 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark |  | | |
| Description of Mark | <p>The mark consists of the word "REESE'S" in yellow stylized script letters key lined in the color brown.</p> | | |
| Goods/Services | <p>Class 029. First use: First Use: 1958/12/31 First Use In Commerce: 1958/12/31 Peanut butter; Peanut butter toppings</p> | | |

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|-----------------------|---|-----------------------|------------|
| | Class 030. First use: First Use: 1958/12/31 First Use In Commerce: 1958/12/31 Candy; Candy bars; Confectionery chips for baking; Peanut butter confectionery chips | | |
| U.S. Registration No. | 3682712 | Application Date | 02/24/2009 |
| Registration Date | 09/15/2009 | Foreign Priority Date | NONE |
| Word Mark | REESE'S | | |
| Design Mark |  | | |
| Description of Mark | The mark consists of the word "REESE'S" in yellow stylized script letters outlined in the color brown. | | |
| Goods/Services | Class 020. First use: First Use: 2008/10/31 First Use In Commerce: 2008/10/31 Beds for household pets Class 028. First use: First Use: 2008/10/31 First Use In Commerce: 2008/10/31 Pet toys | | |

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| Attachments | 74721537#TMSN.png(bytes) 86676427#TMSN.png(bytes) 77510922#TMSN.png(bytes) 77555028#TMSN.png(bytes) 77680606#TMSN.png(bytes) 86006556#TMSN.png(bytes) 86201794#TMSN.png(bytes) 86675631#TMSN.png(bytes) 77680632#TMSN.png(bytes) 85910454#TMSN.png(bytes) 75272861#TMSN.png(bytes) 73551973#TMSN.png(bytes) 78024620#TMSN.png(bytes) 75215360#TMSN.png(bytes) 72372548#TMSN.png(bytes) 77306982#TMSN.png(bytes) 75645051#TMSN.png(bytes) 78874993#TMSN.png(bytes) 85213855#TMSN.png(bytes) 77545117#TMSN.png(bytes) 77676710#TMSN.png(bytes) Rese Pilates Notice of Opposition.pdf(81840 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 | /paul c llewellyn/ |
| Name | Paul C Llewellyn |
| Date | 08/17/2016 |

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

HERSHEY CHOCOLATE & CONFECTIONERY
CORPORATION,

Opposer,

v.

RESE PILATES, LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Applicant Serial No: 86/804,173
Filed: October 29, 2015
Published for Opposition: April 19, 2016
Mark: RESE

Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer Hershey Chocolate & Confectionery Corporation (“HC&CC”), a Delaware corporation located and doing business at 4860 Robb Street, Suite 204, Wheat Ridge, Colorado, believes that it will be damaged by the registration of the mark RESE shown in Application Serial No. 86/804,173, and hereby opposes the same.

As grounds for its opposition, Opposer alleges that:

1. HC&CC is the owner of the famous REESE’S[®] trademark and family of trademarks, which is widely used on a variety of goods and services, including clothing and sports-related goods, and services as well as candy, confectionery, and various other products, all manufactured or licensed by HC&CC’s licensee, The Hershey Company (together with HC&CC, “Hershey”).

2. HC&CC owns a registration, No. 1,325,483, for the REESE'S[®] mark for clothing for adults and children, namely t-shirts and hats. Hershey has extensively used the mark REESE'S[®] and other marks featuring the term REESE'S[®] (such as REESE'S[®] RACING) for a variety of clothing products, including t-shirts, sweatshirts, jackets, hats, belt buckles, flip flops, socks, cycling shirts, and automotive racing "pit crew" shirts. Over the past ten years, Hershey and its licensees have sold tens of millions of dollars of REESE'S[®]-branded apparel.

3. Hershey is an official sponsor of the United States Olympic Team, and uses the REESE'S[®] mark in advertisements displayed and broadcast in connection with the United States Olympic Team, the 2016 Olympic Games, and United States Olympics athletes such as skier Lindsay Vonn.

4. For a number of years, Hershey has been an official sponsor of the National Collegiate Athletic Association ("NCAA"), and uses the REESE'S[®] mark in advertisements displayed and broadcast in connection with a number of popular NCAA sporting events, including the NCAA's "March Madness" basketball tournaments (including "REESE'S Final Four Friday"), the "REESE'S Senior Bowl" college football tournament, and the "REESE'S College Basketball All-Star Game."

5. Hershey's REESE'S[®] brand also is an official sponsor at National Association for Stock Car Auto Racing (NASCAR) sports racing events, which includes sponsorship of REESE'S[®]-branded race cars on the national NASCAR racing circuit, as well other REESE'S[®] advertising at nationally televised NASCAR events.

6. Hershey's REESE'S[®] brand also is an official sponsor of National Hockey League ("NHL") hockey, including the Pittsburgh Penguins NHL team.

7. In addition, the REESE'S[®] mark is featured in advertising in connection with

other sporting events at various locations in the United States, including in stadium advertising at sports venues.

8. Hershey also has extensively used and uses the mark REESE’S® in connection with backpacks and tote bags.

9. In addition to the use of HC&CC’s famous REESE’S® marks on clothing and sports-related goods and services, Hershey also has made extensive use of its REESE’S® marks on a variety of well-known candy products. Hershey’s REESE’S® trademark has been in continuous use for such products since 1919, and is a famous trademark which identifies The Hershey Company’s confectionery products sold under HC&CC’s marks, as well as a variety of other goods sold by or under license from Hershey.

10. As set forth in the chart below, in addition to Reg. No. 1,325,483 for the REESE’S® mark for clothing for adults and children, namely t-shirts and hats, HC&CC owns a number of other federally registered (or soon-to-be registered) trademarks within its REESE’S® family of trademarks:

| Trademark | Reg. No. | Class & Goods/Services | Registration Date |
|------------------|-----------------|--|--------------------------|
| REESE’S | 2,850,998 | (Int’l Class: 3) Lip balm, lip gloss | June 8, 2004 |
| REESE’S | 1,325,483 | (Int’l Class: 9) Decorative magnets for attachment to metal surfaces for displaying messages (Int’l Class: 16) Books-namely, recipe and cookbooks, pencils, memo pads, pens, postcards, (Int’l Class: 21) plastic mugs and cups (Int’l Class: 25) Clothing for adults and children-namely, t-shirts, hats | March 19, 1985 |

| Trademark | Reg. No. | Class & Goods/Services | Registration Date |
|------------------|-----------------|---|--------------------------|
| REESE'S | 1,834,806 | (Int'l Class: 29) Peanut butter | May 3, 1994 |
| REESE'S POURABLE | 2,063,826 | (Int'l Class: 29) Peanut butter in liquid form | May 20, 1997 |
| REESE'S | 1,074,163 | (Int'l Class: 30) Candy-namely, peanut butter flavored chips | September 27, 1977 |
| REESE'S | 1,215,096 | (Int'l Class: 30) Candy | November 2, 1982 |
| REESE'S | 1,928,625 | (Int'l Class: 30) Breakfast cereal | October 17, 1995 |
| REESE'S | 1,920,030 | (Int'l Class: 30) Ice cream and ice cream sundaes | September 19, 1995 |
| REESE'S | 2,322,016 | (Int'l Class: 30) Pastries, and bakery goods | February 22, 2000 |
| REESE'S | 4,893,075 | (Int'l Class: 33) Alcoholic beverages except beers; Prepared alcoholic cocktail | January 26, 2016 |
| REESE'S | 3,716,293 | (Int'l Class: 28) Pet toys | November 24, 2009 |
| REESE'S | 3,576,156 | (Int'l Class: 30) Cookies | February 17, 2009 |
| REESE'S | 3,741,091 | (Int'l Class: 9) Ear phones and headphones | January 19, 2010 |
| REESE'S | 4,488,051 | (Int'l Class: 30) Cakes; Snack cakes | February 25, 2014 |
| REESE'S | 4,576,035 | (Int'l Class: 30) Cake mixes; Cookie mixes | July 29, 2014 |
| REESE'S | 4,893,065 | (Int'l Class: 30) Cocoa-based spreads and dips, chocolate-based spreads and dips with or without nuts, chocolate and peanut butter based spreads and dips | January 26, 2016 |
| REESE'S PIECES | 3,743,274 | (Int'l Class: 9) Earphones and headphones | January 26, 2010 |
| REESE'S PUFFS | 4,432,557 | (Int'l Class: 30) Muffin mixes | November 12, 2013 |

| Trademark | Reg. No. | Class & Goods/Services | Registration Date |
|--|-----------|---|----------------------|
| REESE'S and Design  | 2,194,988 | (Int'l Class: 30) Candy | October 13, 1998 |
| REESE'S CHOCOLATE COVERED PEANUT BUTTER EGG and Design  | 1,391,774 | (Int'l Class: 30) Candy | April 29, 1986 |
| REESE'S FAST BREAK | 2,689,422 | (Int'l Class: 30) Candy | February 18, 2003 |
| REESE'S MILK CHOCOLATE COVERED PEANUT BUTTER PUMPKIN and Design  | 2,239,386 | (Int'l Class: 30) Candy | April 13, 1999 |
| REESE'S MILK CHOCOLATE PEANUT BUTTER CUPS and Design  | 925,609 | (Int'l Class: 30) Peanut butter cups | December 14, 1971 |
| REESE'S PERFECT REESE'S PERFECT | 3,457,242 | (Int'l Class: 30) Candy | July 1, 2008 |

| Trademark | Reg. No. | Class & Goods/Services | Registration Date |
|--|-----------|---|--------------------|
| REESE'S PIECES | 1,141,906 | (Int'l Class: 30) Confection consisting of peanut meal and other ingredients in a candy shell | November 25, 1980 |
| REESE'S PUFFS | 2,491,191 | (Int'l Class: 30) Breakfast cereal | September 18, 2001 |
| REESESTICKS | 2,174,012 | (Int'l Class: 30) Candy | July 14, 1998 |
| THERE'S NO WRONG WAY TO EAT A REESE'S | 1,900,044 | (Int'l Class: 30) Candy [and confectionery chips for baking] | June 13, 1995 |
| REESE'S XTREME CUP CHALLENGE REESE'S XTREME CUP CHALLENGE | 3,299,952 | (Int'l Class: 41) Entertainment in the nature of an amusement park ride | September 25, 2007 |
| REESE'S PIECES PEANUT BUTTER  | 4,101,179 | (Int'l Class: 30) Candy | February 21, 2012 |
| REESE'S  | 3,601,728 | (Int'l Class: 29) Peanut butter; Peanut butter toppings (Int'l Class: 30) Candy; Candy bars; Confectionery chips for baking; Peanut butter confectionery chips | April 7, 2009 |
| REESE'S  | 3,682,712 | (Int'l Class: 29) Pet toys | September 15, 2009 |

11. As a result of the long use, promotion and advertising under HC&CC's REESE'S[®] family of trademarks, the REESE'S[®] trademarks have become valuable assets of

HC&CC, serving as a symbol for HC&CC and its licensees' goods and services and of the goodwill which is associated with those goods and services.

12. Despite HC&CC's long prior common law and statutory rights in the mark REESE'S[®] and the REESE'S[®] family of trademarks in connection with clothing, sports-related goods and services, candy, and other products, Applicant, with both constructive and actual notice of HC&CC's federal registrations, and long after HC&CC established rights in and to the mark REESE'S[®] and the REESE'S[®] family of trademarks, adopted and filed an application for registration of the mark REESE for a variety of goods and services in International Classes 25 and 35, including clothing and athletic apparel and retail services featuring such goods, as set forth below:

International Class 25: Clothing and athletic apparel, namely, shirts, pants, jackets, footwear, hats, caps, hooded pullovers, hooded sweat shirts, long-sleeved shirts, open-necked shirts, over shirts, short sleeved shirts, short-sleeved and long-sleeved t-shirts, shorts, skirts, skorts, tights, leggings, dresses, tops, and sports bras.

International Class 35: On-line retail store services featuring athletic apparel, namely, shirts, pants, jackets, footwear, hats, caps, hooded pullovers, hooded sweat shirts, long-sleeved shirts, open-necked shirts, over shirts, short sleeved shirts, short-sleeved and long-sleeved t-shirts, shorts, skirts, skorts, tights, leggings, dresses, tops, and sports bras.

13. Applicant's REESE mark is virtually identical to or highly similar to the mark REESE'S[®] and the REESE'S[®] family of trademarks adopted and used by Hershey through the years in connection with clothing, sports-related goods and services, confectionery products and other goods and services.

14. Applicant's goods, as described in its application opposed herein, are or would be offered through the same or similar channels of trade to the same or similar customers or users as those goods rendered by Hershey and their licensees under the mark REESE'S[®] and the

REESE'S[®] family of trademarks, and are highly related to Hershey's goods.

15. Opposer believes and therefore alleges that use and registration of the mark covered by Application Serial No. 86/804,173 will damage Opposer, for the following reasons among others:

- a. customers and purchasers of the respective goods and services would be confused, mistaken, or deceived as to the source and origin of Applicant's goods rendered under the RESE mark;
- b. customers and purchasers of the respective goods and services will assume, contrary to fact, that Applicant's goods and services come from, are associated with, sponsored by, approved by, or otherwise related to or affiliated with Opposer; and
- c. Applicant's use of the mark RESE causes or is likely to cause dilution by blurring of the famous REESE'S[®] mark and the famous REESE'S[®] family of trademarks, by creating an association with those famous marks that impairs the distinctiveness of those famous marks.

16. Applicant's applied-for mark RESE so resembles Opposer's previously used and registered mark REESE'S[®] as well as the REESE'S[®] family of trademarks, as to be likely, when applied to the goods and services set forth in Applicant's application, to cause confusion, mistake or deception within the meaning of 15 U.S.C. § 1052(d).

17. Opposer previously has used in commerce, in connection with its registered mark REESE'S[®] as well as the REESE'S[®] family of trademarks, the trademark and name REESE'S, such that REESE'S has become a name or identity of substantial reputation that is closely identified with Opposer. Applicant's applied-for mark RESE is highly similar to REESE'S, so

as to be likely, when applied to the goods and services set forth in the application at issue, to point uniquely to Opposer and to falsely suggest a connection with Opposer within the meaning of 15 U.S.C. § 1052(a).

18. Applicant's applied-for mark RESE is likely to cause dilution by blurring of Opposer's famous, distinctive and federally-registered mark REESE'S[®] as well as the famous, distinctive REESE'S[®] family of trademarks, within the meaning of 15 U.S.C. § 1125(c) and 15 U.S.C. § 1063(a), be lessening the distinctiveness of the REESE'S[®] mark and the REESE'S[®] family of trademarks.

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration to Applicant be refused.

The Patent & Trademark Office and Trademark Trial and Appeal Board are hereby authorized to collect any fees necessitated by this Notice of Opposition from the deposit account of Opposer's attorneys, Kaye Scholer LLP, Deposit Account No. 11-0228.

Dated: August 17, 2016

Respectfully submitted,



Paul C. Llewellyn
Kyle D. Gooch
KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10019-9710
Telephone: (212) 836-8000

John P. Rynkiewicz
KAYE SCHOLER LLP
901 Fifteenth Street, N.W.
Washington, DC 20005
Telephone: (202) 682-3671

*Attorneys for Opposer Hershey
Chocolate & Confectionery Corporation*

CERTIFICATE OF SERVICE

I certify that on August 17, 2016, I caused a true and correct copy of the foregoing Notice of Opposition to be served by U.S. first-class mail, postage prepaid, upon the following attorney of record for Applicant:

David J. Steele, Esq.
Tucker Ellis LLP
515 South Flower Street, 42nd Floor
Los Angeles, CA 90071-2223

/Jennifer Worksman/
Jennifer Worksman