

ESTTA Tracking number: **ESTTA230150**

Filing date: **08/13/2008**

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	Target Corporation
Granted to Date of previous extension	08/13/2008
Address	1000 Nicollet Mall Minneapolis, MN 55403 UNITED STATES
Correspondence information	Timothy J. Cruz Faegre & Benson, LLP 2200 WFC 90 South 7th Street Minneapolis, MN 55402 UNITED STATES trademarksmpls@faegre.com, shouse@faegre.com, tcruz@faegre.com Phone:612-766-7000

Applicant Information

Application No	77179030	Publication date	04/15/2008
Opposition Filing Date	08/13/2008	Opposition Period Ends	08/13/2008
Applicant	Vallavista Corporation 3541 Wilkinson Lane Lafayette, CA 94549 UNITED STATES		

Goods/Services Affected by Opposition

Class 018. First Use: 1988/07/06 First Use In Commerce: 1988/07/29 All goods and services in the class are opposed, namely: Leather bags, suitcases and wallets; Pocket wallets; Wallets; Wallets with card compartments; Billfolds; Change purses; Clutch purses; Coin purses; Coin purses, not of precious metals; Leather purses; Multi-purpose purses; Purses
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Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments	Notice of Opposition.pdf (5 pages)(6811746 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	/s/ tjc
Name	Timothy J. Cruz
Date	08/13/2008

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

In the Matter of Serial No.: 77/179,030
For the Mark: TAXI WALLET
Filed: May 11, 2007
Published: April 15, 2008

TARGET CORPORATION)	Opposition No.
)	
Opposer,)	
)	
v.)	<u>NOTICE OF OPPOSITION</u>
)	
VALLAVISTA CORPORATION)	
)	
Applicant.)	
)	

Opposer Target Corporation ("Target") is a Minnesota corporation having its principal place of business at 1000 Nicollet Mall, Minneapolis, MN 55403.

Target believes that it will be damaged by the registration of the mark that is the subject of Trademark Application Serial No. 77/179,030, and hereby opposes the same.

As grounds of this opposition, it is alleged that:

1. Upon information and belief, applicant Vallavista Corporation ("Applicant") is a California Corporation with its principal place of business located at 3541 Wilkinson Lane, Lafayette, CA 94549.
2. On May 11, 2007, Applicant filed a use-based application, Serial No. 77/179,030 (the "'030 Application"), to register the mark TAXI WALLET in connection with "Leather bags, suitcases and wallets; Pocket wallets; Wallets; Wallets with card compartments; Billfolds;

Change purses; Clutch purses; Coin purses; Coin purses, not of precious metals; Leather purses; Multi-purpose purses; Purses” within International Class 18.

3. On October 19, 2007, Applicant filed a lawsuit against Target in the Northern District of California alleging, among other things, that Target’s use of the phrase “taxi wallet” in connection with shelf labels infringed and diluted Applicant’s rights in the TAXI WALLET mark. If Applicant’s mark is federally registered, it will be able to rely on the statutory presumptions that the mark is valid, that Applicant is the owner of the mark, and that Applicant has the exclusive right to use the mark in the on-going litigation. Each of these presumptions would damage Target by making it more difficult for Target to defend itself in the on-going litigation. If Applicant is successful in the on-going litigation, Target would be precluded from using the phrase “taxi wallet” descriptively in connection with wallets that it offers for sale. Thus, Target has standing to oppose the ‘030 Application.

4. Upon information and belief, the phrase “taxi wallet” that comprises the mark that is the subject of the ‘030 Application is not inherently distinctive because it directly and immediately conveys characteristics of certain of the goods recited in the ‘030 Application. It is, therefore, merely descriptive of the goods.

5. Upon information and belief, Applicant’s use of the mark TAXI WALLET has not been substantially exclusive for the past five years as numerous third parties have long used the phrase “taxi wallet” to describe their own “taxi-style” wallets. Upon information and belief, because the phrase “taxi wallet” is commonly used within the wallet industry to describe a particular style of wallet, the phrase has not acquired distinctiveness or secondary meaning sufficient to identify Applicant as the source for the wallet products included in the ‘030 Application in the minds of the relevant consuming public.

6. Upon information and belief, the mark that is the subject of Applicant's '030 Application cannot be registered consistent with Section 2(e) of the Lanham Act, 15 U.S.C. § 1052(e).

7. Upon information and belief, prior to the May 11, 2007 filing date of the '030 Application, Applicant had not used the TAXI WALLET mark in connection with all of the goods described in the '030 Application. Specifically, and upon information an belief, Applicant did not use the TAXI WALLET mark in connection with at least leather bags, suitcases, and purses prior to the filing date of the '030 Application.

8. Upon information and belief, Applicant, as of May 11, 2007, knew or should have known that Applicant had not used the TAXI WALLET mark in connection with all of the goods described in the '030 Application, including, for example, leather bags, suitcases, and purses.

9. Upon information and belief, the examiner, in allowing the '030 Application, relied upon Applicant's statement that it has used the TAXI WALLET mark in connection with all of the goods described in the '030 Application since at least prior to the filing date of the '030 Application.

10. Upon information and belief, Applicant has, by its prosecution of the '030 Application, committed fraud on the United States Patent and Trademark Office.

11. Upon information and belief, the '030 Application is *void ab initio* as a result of Applicant's fraud.

WHEREFORE, Target believes that it would be damaged by registration of the mark shown in Applicant's '030 Application and prays that Application Serial No. 77/179,030 be rejected and that this opposition be sustained in favor of Target.

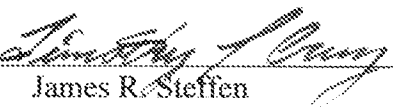
The requisite filing fee of \$300.00 is submitted herewith. If the amount submitted is determined to be incorrect, the Commissioner may charge any additional fees or to credit any over payment to Deposit Account No. 06-0029.

Please address all correspondence to:

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Dated: August 13, 2008

FAEGRE & BENSON LLP

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Attorneys for Target Corporation


fn.us.3115977.01

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing **Notice of Opposition** was served on counsel for Applicant, this 13th day of August, 2008 by sending same via US Mail, postage prepaid to:

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