

ESTTA Tracking number: **ESTTA298119**

Filing date: **07/29/2009**

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	TBC BRANDS, LLC
Granted to Date of previous extension	07/29/2009
Address	2215 B RENAISSANCE DRIVE LAS VEGAS, NV 89119 UNITED STATES

Attorney information	MARSHA G. GENTNER JACOBSON HOLMAN PLLC 400 - 7TH STREET, N.W. 6th Floor WASHINGTON, DC 20004 UNITED STATES trademark@jhip.com, mgentner@jhip.com Phone:2026386666
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Applicant Information

Application No	78820941	Publication date	03/31/2009
Opposition Filing Date	07/29/2009	Opposition Period Ends	07/29/2009
Applicant	Orteck International, Inc. 7917 G&H Cessna Avenue Gaithersburg, MD 20879 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 2001/04/30 First Use In Commerce: 2001/04/30
All goods and services in the class are opposed, namely: tires for vehicle wheels

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.	1113549	Application Date	06/13/1978
Registration Date	02/20/1979	Foreign Priority Date	NONE
Word Mark	TBC		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 012. First use: First Use: 1978/03/29 First Use In Commerce: 1978/03/29 TIRES
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U.S. Registration No.	2811332	Application Date	02/12/2002
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Registration Date	02/03/2004	Foreign Priority Date	NONE
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Word Mark	TBC PRIVATE BRANDS
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 cardboard floor display units for merchandising products; posters; printed advertising and promotional materials, namely, paper signs, newspaper clip art; publications, namely, product guides feature tires; brochures about tires Class 035. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 wholesale distributorships featuring vehicles part
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U.S. Registration No.	3061728	Application Date	08/12/2004
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Registration Date	02/28/2006	Foreign Priority Date	NONE
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Word Mark	TBC PRIVATE BRANDS
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 CARDBOARD FLOOR DISPLAY UNITS FOR MERCHANDISING PRODUCTS; POSTERS; PRINTED ADVERTISING AND PROMOTIONAL MATERIALS, NAMELY, PAPER SIGNS, NEWSPAPER CLIP ART; PUBLICATIONS, NAMELY, PRODUCT GUIDES FEATURING TIRES; BROCHURES ABOUT TIRES Class 035. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 WHOLESALE DISTRIBUTORSHIPS FEATURING VEHICLE PARTS
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Attachments	76369492#TMSN.gif (1 page)(bytes) 76606744#TMSN.gif (1 page)(bytes) BCT nop.pdf (13 pages)(1018682 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	/Marsha G. Gentner/
Name	MARSHA G. GENTNER
Date	07/29/2009

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

TBC BRANDS, LLC,)
)
 Opposer,)
)
 v.) Opposition No.
)
 ORTECK INTERNATIONAL, INC.)
)
 Applicant.)

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 78/820,941, filed February 22, 2006, in the name of Orteck International, Inc., published for opposition in the Trademark Official Gazette of March 31, 2009, Vol. 1340, No. 5, at page TM 799, for the mark BCT, the Opposer, TBC Brands, LLC, believes it will be damaged by registration of said alleged trademark and hereby opposes same. The grounds for opposition are as follows:

1. The Opposer, TBC Brands LLC, is a limited liability company duly organized and existing under the laws of the State of Delaware and having its place of business at 2215 B Renaissance Drive, Las Vegas, Nevada 89119. Opposer, through its related company, TBC Corporation, markets, distributes and sells, throughout the world and in commerce, a variety of vehicle products and services, at both the wholesale and retail level, including tires; TBC Corporation is the largest vertically integrated marketer of tires for the replacement market in the United States. (Opposer and its related company, TBC Corporation, hereafter collectively are referred to as "TBC".)

2. Since prior to the alleged date of first use in the application opposed herein, TBC has, and is now, engaged in the production, distribution and sale of vehicle products and services, including

tires, in commerce in the United States, under and in connection with the trade name and trademark **TBC**, alone and in conjunction with other words, designs and symbols. TBC continuously has used said Opposer's **TBC** name and mark, in commerce in connection with vehicle products and services, produced, advertised, distributed, marketed, offered for sale, and sold by TBC, and to identify and designate same, and to distinguish those goods, services, and TBC's business, from those of others.

3. Opposer is the owner of, and will rely on herein, the following U.S. trademark registrations for its **TBC** name and mark:

REGISTRATION NO.	ISSUE DATE
1,113,549	February 20, 1979
2,811,332	February 3, 2004
3,061,728	February 28, 2006

Said registrations are valid and subsisting, and constitute conclusive and/or *prima facie* evidence of Opposer's ownership of Opposer's **TBC** name and mark, and exclusive right to use same in commerce in connection with the goods and services set forth in said registrations. Attached hereto is a current printout of information from the electronic database records of the U.S. Patent and Trademark Office showing the current status and title of the aforementioned registrations.

4. On February 22, 2006, Applicant filed an application to register the mark BCT. Said application was accorded Serial No. 78/820,941, and was published for opposition in the Official Gazette of March 31, 2009, at page TM 799, identifying the goods as "tires for vehicle wheels."

5. Applicant's BCT mark sought to be registered by Applicant is a colorable imitation of, and is confusingly similar to, Opposer's prior and aforesaid **TBC** name and mark.

6. The goods set forth in the application opposed herein are the same, similar and/or related to the goods and services in connection with which TBC uses Opposer's **TBC** name and mark, and on information and belief, the goods set forth in the opposed application are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which TBC's products and services are marketed and/or sold.

7. The registration and/or use of the BCT mark, as set forth in the opposed application, is likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Applicant's goods sold under the BCT mark sought to be registered by Applicant vis-a-vis TBC and/or Opposer's **TBC** mark, and/or to mislead purchasers of Applicant's and/or TBC's goods, and/or the public in general, into believing that Applicant's goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with TBC, and/or Opposer's **TBC** name and mark, and/or TBC's products, services and/or business, or vice versa, to the damage and detriment of TBC.

8. By virtue of the foregoing, TBC believes it will be damaged by the registration by Applicant of the BCT mark, as set forth in application Serial No. 78/820,941.

9. If Applicant is granted the registration opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicant will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

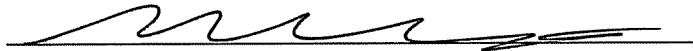
WHEREFORE, this Opposer, TBC Brands, LLC, believes and alleges that it will be damaged by registration of the BCT mark of application Serial No. 78/820,941, as aforesaid, and prays that:

A. judgment in the present opposition be entered in favor of Opposer;

- B. the present opposition be sustained;
- C. registration of application Serial No. 78/820,941 be rejected and refused.

Respectfully submitted,

TBC BRANDS, LLC

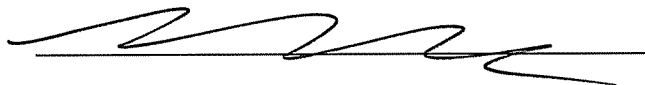
By: 
Marsha G. Gentner
JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666

Date: July 29, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of July, 2009, the foregoing Notice of Opposition was served, by mailing same first class and postage prepaid, on the following correspondent as set forth in the records of the U.S. Patent and Trademark Office:

Thomas M. Champagne
IP Strategies
1048 Dead Run Drive
McLean, Virginia 22101



Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-07-29 16:58:44 ET

Serial Number: 73174209 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1113549

Mark (words only): TBC

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 1998-10-29

Filing Date: 1978-06-13

Transformed into a National Application: No

Registration Date: 1979-02-20

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2009-03-10

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TBC BRANDS, LLC

Address:

TBC BRANDS, LLC
2215-B RENAISSANCE DRIVE SUITE 5
LAS VEGAS, NV 89119
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 012

Class Status: Active

TIRES

Basis: 1(a)**First Use Date:** 1978-03-29**First Use in Commerce Date:** 1978-03-29

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-03-10 - Post Registration action mailed Sections 8 & 9

2009-02-19 - Assigned To Paralegal

2009-02-17 - TEAS Section 8 & 9 Received

2008-01-15 - Case File In TICRS

2006-09-10 - Review Of Correspondence Complete

2004-06-29 - PAPER RECEIVED

1998-10-29 - First renewal 10 year

1998-08-31 - Section 9 filed/check record for Section 8

1985-01-10 - Section 8 (6-year) accepted

1984-07-26 - Section 8 (6-year) filed

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MARSHA G GENTNER

CorrespondentMARSHA G GENTNER
JACOBSON HOLMAN PLLC
Suite 600
400 Seventh Street, N.W.

WASHINGTON DC 20004
Phone Number: 202 638 6666
Fax Number: 202 393 5350

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-07-29 16:59:27 ET

Serial Number: 76369492 Assignment Information Trademark Document Retrieval

Registration Number: 2811332

Mark



(words only): TBC PRIVATE BRANDS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-02-03

Filing Date: 2002-02-12

Transformed into a National Application: No

Registration Date: 2004-02-03

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-03-25

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TBC Brands LLC

Composed Of:

C

Address:

TBC Brands LLC
639 Isbell Road, Suite 390
Reno, NV 89502
United States

Legal Entity Type: Limited Partnership
State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 016

Class Status: Active

cardboard floor display units for merchandising products; posters; printed advertising and promotional materials, namely, paper signs, newspaper clip art; publications, namely, product guides feature tires; brochures about tires

Basis: 1(a)

First Use Date: 2002-01-00

First Use in Commerce Date: 2002-01-00

International Class: 035

Class Status: Active

wholesale distributorships featuring vehicles part

Basis: 1(a)

First Use Date: 2002-01-00

First Use in Commerce Date: 2002-01-00

ADDITIONAL INFORMATION

Disclaimer: PRIVATE BRANDS

Design Search Code(s):

26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles

26.01.20 - Circles within a circle

Prior Registration Number(s):

1113549

1345491

2114992

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-09-10 - Review Of Correspondence Complete

2004-06-29 - PAPER RECEIVED
2004-02-03 - Registered - Principal Register
2003-12-04 - Allowed for Registration - Principal Register (SOU accepted)
2003-12-02 - Assigned To Examiner
2003-12-01 - Case File In TICRS
2003-11-17 - Statement of use processing complete
2003-10-16 - Amendment to Use filed
2003-10-16 - PAPER RECEIVED
2003-07-16 - Extension 1 granted
2003-06-27 - Extension 1 filed
2003-06-27 - PAPER RECEIVED
2002-12-31 - Noa Mailed - SOU Required From Applicant
2002-10-08 - Published for opposition
2002-09-18 - Notice of publication
2002-07-22 - Approved for Pub - Principal Register (Initial exam)
2002-06-05 - Communication received from applicant
2002-05-03 - Non-final action mailed
2002-04-29 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MARSHA G. GENTNER

Correspondent

MARSHA G. GENTNER
JACOBSON HOLMAN PLLC
THE JENIFER BUILDING
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004-2201
Phone Number: (202) 638-6666

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-07-29 16:59:46 ET

Serial Number: 76606744 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3061728

Mark

TBC PRIVATE BRANDS

(words only): TBC PRIVATE BRANDS

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-02-28

Filing Date: 2004-08-12

Transformed into a National Application: No

Registration Date: 2006-02-28

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-02-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TBC Brands, LLC

Address:

TBC Brands, LLC
2215 B Renaissance Drive, Suite 5
Las Vegas, NV 89119
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 016

Class Status: Active

CARDBOARD FLOOR DISPLAY UNITS FOR MERCHANDISING PRODUCTS; POSTERS; PRINTED ADVERTISING AND PROMOTIONAL MATERIALS, NAMELY, PAPER SIGNS, NEWSPAPER CLIP ART; PUBLICATIONS, NAMELY, PRODUCT GUIDES FEATURING TIRES; BROCHURES ABOUT TIRES

Basis: 1(a)

First Use Date: 2002-01-00

First Use in Commerce Date: 2002-01-00

International Class: 035

Class Status: Active

WHOLESALE DISTRIBUTORSHIPS FEATURING VEHICLE PARTS

Basis: 1(a)

First Use Date: 2002-01-00

First Use in Commerce Date: 2002-01-00

ADDITIONAL INFORMATION

Disclaimer: "private brands"

Prior Registration Number(s):

1345491

2114992

2811332

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-02-28 - Registered - Principal Register

2005-02-16 - Assigned To Examiner

2006-02-15 - Assigned To Examiner

2005-12-06 - Published for opposition

2005-11-16 - Notice of publication

2005-10-20 - Law Office Publication Review Completed
2005-10-14 - Assigned To LIE
2005-10-13 - Approved for Pub - Principal Register (Initial exam)
2005-10-13 - Amendment From Applicant Entered
2005-09-21 - Communication received from applicant
2005-09-21 - TEAS Response to Office Action Received
2005-03-24 - Non-final action mailed
2005-03-23 - Non-Final Action Written
2005-03-16 - Assigned To Examiner
2004-08-24 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

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400 SEVENTH STREET, N.W.
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Fax Number: (202) 393-5350
