

ESTTA Tracking number: **ESTTA309790**

Filing date: **10/05/2009**

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	Torquay Enterprises Limited
Granted to Date of previous extension	10/04/2009
Address	439 East Tamaki Road East Tamaki Auckland, NEW ZEALAND

Attorney information	Scott S. Havlick Holland & Hart LLP P.O. Box 8749 Denver, CO 80201 UNITED STATES docket@hollandhart.com, shavlick@hollandhart.com, achaselfeld@hollandhart.com, cshearer@hollandhart.com Phone:303-473-2700
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Applicant Information

Application No	78803947	Publication date	04/07/2009
Opposition Filing Date	10/05/2009	Opposition Period Ends	10/04/2009
Applicant	Therese Zadra 17442 E. San Tan Blvd. Queen Creek, AZ 85242 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Caps; Hats; Shirts; Socks; T-shirts
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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.	2375503	Application Date	10/28/1999
Registration Date	08/08/2000	Foreign Priority Date	NONE
Word Mark	PUMPKIN PATCH		

Design Mark	PUMPKIN PATCH
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1991/08/00 First Use In Commerce: 1999/07/00 Clothing, namely, headwear; footwear; neckwear; children's and baby's clothing, namely, T-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; outerwear, namely, jackets; and underwear

U.S. Registration No.	3019983	Application Date	04/20/2004
Registration Date	11/29/2005	Foreign Priority Date	NONE

Word Mark	PUMPKIN PATCH
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Design Mark	PUMPKIN PATCH
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Description of Mark	NONE
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Goods/Services	Class 035. First use: Wholesaling, retail store services, electronic retailing, general product merchandising and distributorship services in the field of clothing, footwear, headgear, textiles and textiles goods, games, toys and playthings
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U.S. Registration No.	3039859	Application Date	11/12/2002
Registration Date	01/10/2006	Foreign Priority Date	10/29/2002

Word Mark	PUMPKIN PATCH EST. 1990
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Design Mark	
Description of Mark	The mark consists of a stylized depiction of a pumpkin under the words PUMPKIN PATCH EST. 1990, all within a circle.
Goods/Services	Class 025. First use: Clothing, namely, head wear; footwear; neckwear; children's and baby's clothing, namely, T-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleep wear, swim wear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleep wear; swimwear, socks; outerwear, namely, jackets; and underwear

U.S. Registration No.	2994776	Application Date	06/01/2004
Registration Date	09/13/2005	Foreign Priority Date	NONE

Word Mark	BABY PATCH
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/08/31 First Use In Commerce: 2002/08/31 Headwear; footwear; neckwear; children's and baby's clothing, namely, T-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and tops; skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; outerwear, namely, jackets; and underwear


U.S. Registration No.	3034647	Application Date	06/01/2004
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Registration Date	12/27/2005	Foreign Priority Date	06/01/2004
Word Mark	PATCH MATERNITY		
Design Mark	<p style="text-align: center;">PATCH MATERNITY</p>		
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: Clothing, namely, headwear; footwear; neckwear; children's and baby's clothing, namely, T-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and tops being clothing, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and tops being clothing, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; outerwear, namely, jackets; and underwear</p>		

U.S. Registration No.	3018192	Application Date	02/01/2002
Registration Date	11/22/2005	Foreign Priority Date	NONE
Word Mark	PATCH PRINCESS		
Design Mark	<p style="text-align: center;">PATCH PRINCESS</p>		
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2001/00/00 First Use In Commerce: 2004/09/00 Clothing, namely, headwear; neckwear; children's and babies clothing, namely, t-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, bodysuits and dresses, sleepwear, swimwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, sleepwear, swimwear, socks; outer wear, namely jackets; and underwear</p>		

U.S. Application No.	77136240	Application Date	03/21/2007
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Registration Date	NONE	Foreign Priority Date	09/22/2006
Word Mark	THE PATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: Children's and babies' clothing, namely, t-shirts, shorts, bike pants, leggings, pants, jeans, dresses, cloth bibs, jackets, singlets, overalls, shirts, sweat shirts, track suits, body suits, gloves, skirts, socks, blouses, underwear, beachwear, rainwear, sleepwear, swim wear; maternity clothing, namely, tops, t-shirts, shorts, rompers, bike pants, leggings, pants, jeans, dresses, jackets, overalls, shirts, sweat shirts, track suits, skirts, blouses, underwear, beachwear, rainwear, sleepwear, swim wear, lingerie, hosiery; footwear; headwear</p> <p>Class 035. First use: Retail store and wholesale store services featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings; retail store services provided over the internet featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings; business information, advisory and consultancy services in relation to retail store, wholesale store, and online shopping stores featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings</p>		
U.S. Application No.	77136248	Application Date	03/21/2007
Registration Date	NONE	Foreign Priority Date	10/02/2006

Word Mark	PATCH
Design Mark	
Description of Mark	The mark consists of the word Patch in script form.
Goods/Services	<p>Class 025. First use: Children's and babies' clothing, namely, t-shirts, shorts, bike pants, leggings, pants, jeans, dresses, cloth bibs, jackets, singlets, overalls, shirts, sweat shirts, track suits, body suits, gloves, skirts, socks, blouses, underwear, beachwear, rainwear, sleepwear, swim wear; maternity clothing, namely, tops, t-shirts, shorts, rompers, bike pants, leggings, pants, jeans, dresses, jackets, overalls, shirts, sweat shirts, track suits, skirts, blouses, underwear, beachwear, rainwear, sleepwear, swim wear, lingerie, hosiery; footwear; headwear</p> <p>Class 035. First use: Retail store and wholesale store services featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings; retail store services provided over the internet featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings; business information, advisory and consultancy services in relation to retail store, wholesale store, and online shopping stores featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings</p>

Attachments	75833879#TMSN.gif (1 page)(bytes) 78404763#TMSN.jpeg (1 page)(bytes) 78183951#TMSN.jpeg (1 page)(bytes) 78428208#TMSN.jpeg (1 page)(bytes) 78428218#TMSN.jpeg (1 page)(bytes)
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	76366569#TMSN.gif (1 page)(bytes) 77136240#TMSN.jpeg (1 page)(bytes) 77136248#TMSN.jpeg (1 page)(bytes) Notice of Opposition to PATCHEZ application 78803947.pdf (11 pages) (445875 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	/Annie C. Haselfeld/
Name	Annie Chu Haselfeld
Date	10/05/2009

**In the matter of Application Serial No. 78/803,947
Published on April 7, 2009**

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

Torquay Enterprises Limited,)	
)	
Opposer,)	Opposition No. _____
)	
vs.)	
)	Mark: PATCHEZ
Therese Zadra,)	
)	
Applicant.)	Serial No. 78/803,947

NOTICE OF OPPOSITION

Torquay Enterprises Limited, a New Zealand company with an address at 439 East Tamaki Road, East Tamaki, Auckland, New Zealand, believes it will be damaged by the issuance of a registration for the mark PATCHEZ for “Caps; Hats; Shirts; Socks; T-shirts” in International Class 25 (the “PATCHEZ Mark”), as applied for in U.S. Trademark App. Ser. No. 78/803,947, by Theresa Zadra (“Applicant”) and published in the Official Gazette on April 7, 2009, and hereby opposes the same in Class 25.


As grounds for this opposition, Opposer alleges the following:

1. For many years, and since long before Applicant’s actual or constructive first use of the PATCHEZ Mark, Opposer Torquay Enterprises Limited, together with its predecessors-in-interest, affiliated entities, and licensees (collectively referred to as “Torquay”), has continuously used, and presently uses, various trademarks and service marks consisting of the inherently distinctive designation PATCH, or incorporating the

inherently distinctive designation PATCH together with other words and/or design elements, in interstate commerce throughout the United States in connection with the provision and sale of goods and services in the field of, among other things, clothing (hereinafter collectively referred to as the “PATCH Marks”).

2. Torquay owns the following registrations that incorporate the term PATCH on the Principal Register of the United States Patent and Trademark Office (the “PTO”), together with all right, title, and interest in these trademarks, and all of the business and goodwill associated with these marks (collectively referred to as the “PATCH Registrations”):

Trademark	Reg. No.	Reg. Date	Goods and/or Services
PUMPKIN PATCH	2,375,503	August 8, 2000	(Int'l Class: 25) Clothing, namely, headwear; footwear; neckwear; children's and baby's clothing, namely, t-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; outerwear, namely, jackets; and underwear
PUMPKIN PATCH	3,019,983	November 29, 2005	(Int'l Class: 35) Wholesaling, retail store services, electronic retailing, general product merchandising and distributorship services in the field of clothing, footwear, headgear, textiles and textiles goods, games, toys and playthings

Trademark	Reg. No.	Reg. Date	Goods and/or Services
	3,039,859	January 10, 2006	(Int'l Class: 25) Clothing, namely, head wear; footwear; neckwear; children's and baby's clothing, namely, t-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleep wear, swim wear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleep wear; swimwear, socks; outerwear, namely, jackets; and underwear
BABY PATCH	2,994,776	September 13, 2005	(Int'l Class: 25) Headwear; footwear; neckwear; children's and baby's clothing, namely, t-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and tops; skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and tops, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; outerwear, namely, jackets; and underwear

Trademark	Reg. No.	Reg. Date	Goods and/or Services
PATCH MATERNITY	3,034,647	December 27, 2005	(Int'l Class: 25) Clothing, namely, headwear; footwear; neckwear; children's and baby's clothing, namely, t-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and tops being clothing, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and tops being clothing, skirts, sweatshirts, tracksuits, underwear, jackets, body suits and dresses, sleepwear, swimwear, footwear, socks; outerwear, namely, jackets; and underwear
PATCH PRINCESS	3,018,192	November 22, 2005	(Int'l Class: 25) Clothing, namely, headwear; neckwear; children's and babies clothing, namely, t-shirts, shorts, rompers, bike pants and leggings, pants and jeans, dresses, cloth bibs, overalls, shirts and blouses, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, jackets, bodysuits and dresses, sleepwear, swimwear, socks; maternity clothing, namely, maternity dresses, bodysuits, jackets, knit shirts and other tops, skirts, sweatshirts, tracksuits, underwear, sleepwear, swimwear, socks; outer wear, namely jackets; and underwear

3. The above-listed PATCH Registrations remain valid, subsisting, uncancelled, and in full force and effect.

4. Each of the PATCH Marks shown in the PATCH Registrations has been used by Torquay in commerce in connection with clothing-related goods and services continuously since before any use, actual or constructive, by Applicant of the PATCHEZ Mark.

5. In addition, Torquay owns pending applications for marks that consist of or incorporate the word “PATCH,” together with all right, title, and interest in these marks, and all business and goodwill associated with these marks. Included among these pending applications owned by Torquay are the following (collectively referred to as the “PATCH Applications”):

Trademark	App. Serial No.	Filing Date	Goods and/or Services
THE PATCH	77/136,240	March 21, 2007	<p>(Int'l Class: 25) Children's and babies' clothing, namely, t-shirts, shorts, bike pants, leggings, pants, jeans, dresses, cloth bibs, jackets, singlets, overalls, shirts, sweat shirts, track suits, body suits, gloves, skirts, socks, blouses, underwear, beachwear, rainwear, sleepwear, swim wear; maternity clothing, namely, tops, t-shirts, shorts, rompers, bike pants, leggings, pants, jeans, dresses, jackets, overalls, shirts, sweat shirts, track suits, skirts, blouses, underwear, beachwear, rainwear, sleepwear, swim wear, lingerie, hosiery; footwear; headwear</p> <p>(Int'l Class: 35) Retail store and wholesale store services featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories,</p>

Trademark	App. Serial No.	Filing Date	Goods and/or Services
			beach mats, toys, games and playthings; retail store services provided over the internet featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings. business information, advisory and consultancy services in relation to retail store, wholesale store, and online shopping stores featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings
<i>patch</i>	77/136,248	March 21, 2007	(Int'l Class: 25) Children's and babies' clothing, namely, t-shirts, shorts, bike pants, leggings, pants, jeans, dresses, cloth bibs, jackets, singlets, overalls, shirts, sweat shirts, track suits, body

Trademark	App. Serial No.	Filing Date	Goods and/or Services
			<p>suits, gloves, skirts, socks, blouses, underwear, beachwear, rainwear, sleepwear, swim wear; maternity clothing, namely, tops, t-shirts, shorts, rompers, bike pants, leggings, pants, jeans, dresses, jackets, overalls, shirts, sweat shirts, track suits, skirts, blouses, underwear, beachwear, rainwear, sleepwear, swim wear, lingerie, hosiery; footwear; headwear</p> <p>(Int'l Class: 35) Retail store and wholesale store services featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings; retail store services provided over the internet featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers,</p>

Trademark	App. Serial No.	Filing Date	Goods and/or Services
			pillow cases, blankets, hair accessories, beach mats, toys, games and playthings. business information, advisory and consultancy services in relation to retail store, wholesale store, and online shopping stores featuring clothing, footwear, headgear, cosmetics, perfumery, essential oils, preparations for the bath and shower, toiletries, key rings, money boxes, radios, eyewear, cases for eyewear, jewelry, watches, clocks, printed matter, publications, stationery, stickers, toilet and cosmetic bags, wallets, purses, backpacks, suitcases, sports bags, schoolbags, umbrellas, photo frames, furniture, beds, mirrors, lunchboxes, drink bottles, combs, brushes, pillows, cushions, linen including sheets, duvets, duvet covers, pillow cases, blankets, hair accessories, beach mats, toys, games and playthings

6. Applicant filed Application No. 78/803,947 on January 31, 2006 to register the PATCHEZ Mark for goods now described as “Caps; Hats; Shirts; Socks; T-shirts” in International Class 25 (the “PATCHEZ Application”).

7. Applicant’s PATCHEZ Mark is confusingly similar in sight, sound, meaning, and commercial impression to Torquay’s PATCH Marks.

8. The goods identified in the PATCHEZ Application are related to, or used in connection with, the goods and services on which Torquay has previously used and is using the PATCH Marks.

9. Applicant's PATCHEZ Mark is confusingly similar in sight, sound, meaning, and commercial impression to the registered marks shown in Torquay's PATCH Registrations.

10. The goods identified in the PATCHEZ Application are related to, or used in connection with, the goods and services identified in Torquay's PATCH Registrations.

11. Applicant's PATCHEZ Mark, when used in connection with Applicant's goods as identified in the PATCHEZ Application, so resembles Torquay's PATCH Marks as to be likely to cause confusion, to cause mistake, and/or to deceive, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), with consequent injury to Torquay, the public, and the trade.

12. Applicant's PATCHEZ Mark, when used in connection with Applicant's goods as identified in the PATCHEZ Application, so resembles the marks shown in Torquay's previously registered PATCH Registrations, as to be likely to cause confusion, to cause mistake, and/or to deceive, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), with consequent injury to Torquay, the public, and the trade.

13. The registration of the PATCHEZ Mark would prevent Opposer Torquay from exercising exclusive control over the goodwill and reputation associated with the PATCH Marks. Therefore, the registration of Applicant's PATCHEZ Mark would damage and injure Opposer Torquay.

14. Opposer timely files this opposition. The PATCHEZ Application was filed January 31, 2006. The opposition deadline is October 5, 2009.

WHEREFORE, Torquay believes it will be damaged by registration of Applicant's PATCHEZ Mark and prays that such registration not be allowed.

The filing fee in the amount of \$300 is being transmitted electronically with this submission. Any deficiency in the fee should be charged to Deposit Account No. 08-2623.

Please recognize Scott S. Havlick and Annie Haselfeld and the law firm of Holland & Hart LLP as attorneys for Torquay in connection with this opposition proceeding. Please address all correspondence regarding this proceeding to:

Annie Haselfeld
Holland & Hart LLP
1800 Broadway, Suite 300
Boulder, CO 80302

This the 5th day of October, 2009.



Scott S. Havlick
Annie Haselfeld
Attorneys for Opposer
Torquay Enterprises Limited
Holland & Hart LLP
1800 Broadway, Suite 300
Boulder, CO 80302
Telephone: (303) 473-2700
Fax: (303) 473-2720

CERTIFICATE OF SERVICE

I hereby certify that on this date I served the foregoing Notice of Opposition upon Applicant's counsel of record by causing a copy thereof to be delivered by first class U.S. Mail to the following:

Anthony D. Logan
Venable, Campillo, Logan & Meaney, P.C.
1938 E. Osborn Rd.
Phoenix, Arizona 85016

Date: October 5, 2009



Chris Shearer