

ESTTA Tracking number: **ESTTA321553**

Filing date: **12/11/2009**

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	Miss Matched, Inc.
Granted to Date of previous extension	12/13/2009
Address	307 7th Avenue Suite 501 New York, NY 10001 UNITED STATES

Attorney information	Alan S. Nemes, Michelle Alvey Husch Blackwell Sanders LLP 190 Carondelet Plaza Suite 600 St. Louis, MO 63105 UNITED STATES jacie.steinkamp@huschblackwell.com, michelle.alvey@huschblackwell.com, jamie.diener@huschblackwell.com, tim.mcfarlin@huschblackwell.com Phone:314-480-1500
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Applicant Information

Application No	77311605	Publication date	06/16/2009
Opposition Filing Date	12/11/2009	Opposition Period Ends	12/13/2009
International Registration No.	NONE	International Registration Date	NONE
Applicant	THOIP 4th Floor Aldwych House, 81 Aldwych London, WC2B4HN UNITED KINGDOM		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; over-coats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for Halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; bathing caps</p>


Class 028.

All goods and services in the class are opposed, namely: Figures representing cartoon characters; games and playthings, namely, soft-sculpture toys; wooden toys, namely, building blocks, alphabet blocks and pull out wooden puzzles; electrical and mechanical action toys; electronic action toys; radio controlled toys; swimming aids, namely, pool rings, arm floats for recreational use, kick board flotation device for recreational use, swim rings, floating recreational lounge chairs, air beds, namely, inflatable float mattresses for recreational use; inflatable ride-on toys; swim fins; beach balls; paddling pools, namely, play swimming pools; play mats containing infant toys; dolls; action figures and play figures; plush toys; beanbag toys; stuffed toy animals; toy figures; puppet toys for babies and infants, namely, rattles, mobiles, play quilts as doll accessory and multiple activity toys; toys designed to be attached to car seats, strollers, cribs, high chairs; play sets designed to interact with dolls, play figures and action figures; make-believe sets, namely, play houses and play tea sets; vehicles for dolls, action figures and play figures; carrying or collecting cases for dolls, play figures and action figures; doll clothing and accessories; children's multiple activity toys, namely, picture activity sets comprised of felt, wipe-away sets comprised of dry erase writing boards and writing surfaces, slate boards for writing, water color boards, decorative glitter sets; children's multiple activity toys, namely, knitting sets comprised of stitch markers, stitch gauges, stitch holders, yarn bobbins, needles, and toy construction sets; jokes and novelty items, namely, paper face masks, rude noise-makers, false faces, false noses, false eyeglasses, false beards, false moustaches, windup toys, water squirting toys, magic tricks; party favors in the nature of small toys; kaleidoscopes; balloons; jigsaw puzzles, manipulative puzzles and cube-type puzzles; tic-tac-toe; domino sets; equipment sold as a unit for board, card and skill action games and floor games; Christmas tree decorations, not including confectionery or illumination articles; knee, elbow and wrist protectors for use in skating and other sports; toy vehicles; construction toys; wooden toy model train sets; ride-on toys; ride on toys, namely, pedal cars and pedal planes; toy bicycles, toy tricycles, toy scooters; gymnastic apparatus; sporting articles, namely, sport balls; tennis, squash, badminton, racquetball, paddle ball and table tennis rackets and racket covers; baseball and softball mitts; baseball and softball gloves, bats, catcher's masks; leg guards for athletic use, athletic supporters and protective cups, shin, thigh, leg, hip, shoulder, rib and arm pads for athletic use; baseball and softball bases; kicking tees; field hockey and lacrosse sticks; mouth guards for athletic use; archery bows, bow strings, arrows, targets, quivers; basketball goals, nets, and backboards; croquet sets; boxing gloves; barbells; skis, ski poles; snowboards; bowling balls; golf equipment and accessories, namely, clubs, bags, golf tees, gloves, ball markers, club head covers, divot repair tools; ice hockey sticks and pucks; shuffleboard sticks; badminton shuttlecocks; volleyball, tennis, and table tennis nets; cricket sticks and wickets; snow sleds for recreational use; surf boards; body boards; skim boards; windsurfing boards; ice skates; roller skates; in-line skates; skate boards; stationery exercise bicycles; flying discs; water skis; dartboards; darts; fishing rods, reels and lures; trampolines; bounce-on inflatable toys; wooden skittles; yo-yos; skipping ropes; kites; toy phones, toy torches; arcade games; coin-operated ride-on toys; confetti; hobby craft sets consisting of felt shapes for making pictures

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.	3565830	Application Date	12/12/2003
Registration Date	01/20/2009	Foreign Priority Date	NONE
Word Mark	LITTLEMISSMATCHED		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 016. First use: First Use: 2006/06/30 First Use In Commerce: 2006/06/30 envelopes; bookmarks; drawing instruments; drawing pads; notebooks; note pads; posters; scrapbooks; stationery; stickers; blank writing books Class 028. First use: First Use: 2006/11/14 First Use In Commerce: 2006/11/14 plush toys; skateboards; playing cards

U.S. Registration No.	3518530	Application Date	04/26/2005
Registration Date	10/14/2008	Foreign Priority Date	NONE

Word Mark	LITTLEMISSMATCHED
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 2006/06/30 First Use In Commerce: 2006/06/30 Printed publications, namely, children's books and scrapbooks Class 024. First use: First Use: 2006/09/25 First Use In Commerce: 2006/09/25 Textile and textile goods, namely, bed linen, bed sheets, bed skirts, comforters, curtains, draperies, and pillow cases Class 025. First use: First Use: 2005/10/09 First Use In Commerce: 2005/10/09 Apparel accessories, namely, gloves, mittens, scarves; beachwear, namely, bathing suits and beach coverups; footwear; headwear; shirts; shorts; socks; tanktops; t-shirts; infantwear; hosiery; tights; sleepwear
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U.S. Application No.	78617445	Application Date	04/26/2005
Registration Date	NONE	Foreign Priority Date	NONE

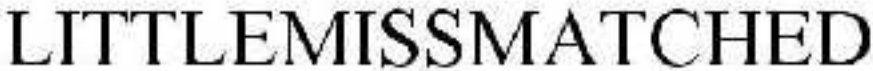
Word Mark	LITTLEMISSMATCHED
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Design Mark	
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Description of Mark	NONE
Goods/Services	<p>Class 016. First use: Printed publications, namely, storybooks</p> <p>Class 024. First use: Textile and textile goods, namely, afghans, bath linen, bath towels, beach towels, bed blankets, bed canopies, bed pads, bed spreads, billiard cloth, chenille fabric, crib bumpers, crib canopies, curtain fabric, dish cloths, drapes, dust ruffles, duvets, duvet covers, eiderdowns; fabric, namely, knitted fabric, nylon fabric, fabric for boots, slippers and shoes, fabric for manufacturing jerseys, flannel; household linen; kitchen towels; linen; linen lining fabric for slippers; mattress covers; mattress pads; net curtains; pillow shams; pot holders; quilts; shams; shower curtains; table linen; textile printers blankets; textile wall hangings; blanket throws; towels; unfitted fabric for furniture covers; upholstery fabrics; velvet and wash cloths</p> <p>Class 025. First use: Apparel accessories, namely, bandanas, belts, earmuffs, snuff, suspenders, sweatbands and wristbands; clothing, namely, aprons, blouses; costumes, namely, masquerade costumes and Halloween costumes; dresses; gabardines; gowns; jeans; jerseys; jumpers; jumpsuits; overalls; pants; pullovers; rainwear and waterproof clothing, namely, raincoats, rain boots, rain jackets and rain suits; short sets comprised of a bottom and top; skirts; smocks; suits; sweaters; sweatpants; sweatsuits; trousers; uniforms and vests; footwear, namely, beach shoes, sandals, shoes, slippers and slippersocks; headwear, namely, hats; lingerie, loungewear and underwear, namely, bathrobes, bras, camisoles, corsets dressing gowns, slips; neckwear; outerwear, namely, coats, jackets, parkas, ponchos, raincoats, shawls and stoles</p>

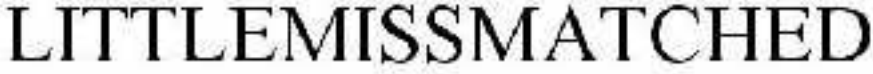
U.S. Application No.	77371114	Application Date	01/14/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	LITTLEMISSMATCHED
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Design Mark	
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Description of Mark	NONE
Goods/Services	<p>Class 025. First use: Clothing and apparel, namely, socks, tights, swimwear, pajamas, underwear, tank tops, shirts, t-shirts, skirts, dresses, leg warmers, one-piece garments for infants, kimonos, cloth coveralls, cloth bibs; pants, boxer shorts; Footwear; Headwear; Accessories, namely, gloves, mittens, scarves</p>

U.S. Registration No.	3475092	Application Date	07/20/2007
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Registration Date	07/29/2008	Foreign Priority Date	NONE
Word Mark	LITTLEMISSMATCHED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2006/04/04 First Use In Commerce: 2006/04/04 Furniture		

U.S. Registration No.	3565831	Application Date	12/30/2003
Registration Date	01/20/2009	Foreign Priority Date	NONE
Word Mark	LITTLEMISSMATCHED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2007/01/08 First Use In Commerce: 2007/01/08 Decorative pillows Class 024. First use: First Use: 2006/09/25 First Use In Commerce: 2006/09/25 TEXTILE AND TEXTILE GOODS, NAMELY, BED LINEN, BED SHEETS, BED SKIRTS, COMFORTERS, CURTAINS, DRAPERIES, PILLOWS CASES		

Attachments	78340021#TMSN.jpeg (1 page)(bytes) 78980525#TMSN.jpeg (1 page)(bytes) 78617445#TMSN.jpeg (1 page)(bytes) 77371114#TMSN.jpeg (1 page)(bytes) 77235100#TMSN.jpeg (1 page)(bytes) 78346652#TMSN.jpeg (1 page)(bytes) NotcOpp.pdf (8 pages)(263877 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	/Michelle Alvey/
Name	Michelle Alvey
Date	12/11/2009

CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on December 11, 2009.

Jacinda Steinkamp

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

Mark: LITTLE MISS NAUGHTY
U.S. Application Serial No. 77/311,605

Miss Matched, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
)	U.S. App. No. 77/311,605
THOIP, a UK Company)	
)	
Applicant.)	

NOTICE OF OPPOSITION
TO APPLICATION SERIAL NO. 77/311,605

Opposer Miss Matched, Inc. ("Opposer") is a Delaware corporation with its business located at 307 7th Avenue, Suite 501, New York, NY 10001. Opposer is being and will be damaged by the use and/or registration of the mark shown at U.S. Application Serial No. 77/311,605 in Class 25 and Class 28 and hereby opposes the same. As grounds for its opposition, Opposer states:

1. Applicant ("Applicant"), in U.S. Application Serial No. 77/311,605 (the "Application"), applied for registration of the trademark LITTLE MISS NAUGHTY for various goods and services, including: Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers,

vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; over-coats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for Halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; bathing caps in Class 25 and Figures representing cartoon characters; games and playthings, namely, soft-sculpture toys; wooden toys, namely, building blocks, alphabet blocks and pull out wooden puzzles; electrical and mechanical action toys; electronic action toys; radio controlled toys; swimming aids, namely, pool rings, arm floats for recreational use, kick board flotation device for recreational use, swim rings, floating recreational lounge chairs, air beds, namely, inflatable float mattresses for recreational use; inflatable ride-on toys; swim fins; beach balls; paddling pools, namely, play swimming pools; play mats containing infant toys; dolls; action figures and play figures; plush toys; beanbag toys; stuffed toy animals; toy figures; puppet toys for babies and infants, namely, rattles, mobiles, play quilts as doll accessory and multiple activity toys; toys designed to be attached to car seats, strollers, cribs, high chairs; play sets designed to interact with dolls, play figures and action figures; make-believe sets, namely, play houses and play tea sets; vehicles for dolls, action figures and play figures; carrying or collecting cases for dolls, play figures and action figures; doll clothing and accessories; children's multiple activity toys, namely, picture activity sets

comprised of felt, wipe-away sets comprised of dry erase writing boards and writing surfaces, slate boards for writing, water color boards, decorative glitter sets; children's multiple activity toys, namely, knitting sets comprised of stitch markers, stitch gauges, stitch holders, yarn bobbins, needles, and toy construction sets. jokes and novelty items, namely, paper face masks, rude noise-makers, false faces, false noses, false eyeglasses, false beards, false moustaches, windup toys, water squirting toys, magic tricks; party favors in the nature of small toys; kaleidoscopes; balloons; jigsaw puzzles, manipulative puzzles and cube-type puzzles; tic-tac-toe; domino sets; equipment sold as a unit for board, card and skill action games and floor games; Christmas tree decorations, not including confectionery or illumination articles; knee, elbow and wrist protectors for use in skating and other sports; toy vehicles; construction toys; wooden toy model train sets; ride-on toys; ride on toys, namely, pedal cars and pedal planes; toy bicycles, toy tricycles, toy scooters; gymnastic apparatus; sporting articles, namely, sport balls; tennis, squash, badminton, racquetball, paddle ball and table tennis rackets and racket covers; baseball and softball mitts; baseball and softball gloves, bats, catcher's masks; leg guards for athletic use, athletic supporters and protective cups, shin, thigh, leg, hip, shoulder, rib and arm pads for athletic use; baseball and softball bases; kicking tees; field hockey and lacrosse sticks; mouth guards for athletic use; archery bows, bow strings, arrows, targets, quivers; basketball goals, nets, and backboards; croquet sets; boxing gloves; barbells; skis, ski poles; snowboards; bowling balls; golf equipment and accessories, namely, clubs, bags, golf tees, gloves, ball markers, club head covers, divot repair tools; ice hockey sticks and pucks; shuffleboard sticks; badminton shuttlecocks; volleyball, tennis, and table tennis nets; cricket sticks and wickets; snow sleds for recreational use; surf boards; body boards; skim boards. windsurfing boards; ice skates; roller skates; in-line skates; skate boards; stationery exercise bicycles; flying discs; water skis;

dartboards; darts; fishing rods, reels and lures; trampolines; bounce-on inflatable toys; wooden skittles; yo-yos; skipping ropes; kites; toy phones, toy torches; arcade games; coin-operated ride-on toys; confetti; hobby craft sets consisting of felt shapes for making pictures in Class 28 (“Applicant’s Goods”). The application was filed on October 23, 2007. The basis for the application is Section 1(b) and Section 44(e) with an alleged priority date of September 6, 2007.

2. Opposer owns common law rights throughout the United States for the trademark LITTLEMISSMATCHED. Opposer is also the owner of numerous United States Trademark Registrations and Applications, including but not limited to those noted below:

MARK	REG. NO./ APPL. NO.	GOODS
LITTLEMISSMATCHED	RN: 3,565,830	Class 28: plush toys; skateboards; playing cards.
LITTLEMISSMATCHED & DESIGN	RN: 3,518,530	Class 25: Apparel accessories, namely, gloves, mittens, scarves; beachwear, namely, bathing suits and beach coverups; footwear; headwear; shirts; shorts; socks; tanktops; t-shirts; infantwear; hosiery; tights; sleepwear.

LITTLEMISSMATCHED & DESIGN	SN: 78/617,445	Class 25: Apparel accessories, namely, bandanas, belts, earmuffs, snuff, suspenders, sweatbands and wristbands; clothing, namely, aprons, blouses; costumes, namely, masquerade costumes and Halloween costumes; dresses; gabardines; gowns; jeans; jerseys; jumpers; jumpsuits; overalls; pants; pullovers; rainwear and waterproof clothing, namely, raincoats, rain boots, rain jackets and rain suits; short sets comprised of a bottom and top; skirts; smocks; suits; sweaters; sweatpants; sweatsuits; trousers; uniforms and vests; footwear, namely, beach shoes, sandals, shoes, slippers and slippersocks; headwear, namely, hats; lingerie, loungewear and underwear, namely, bathrobes, bras, camisoles, corsets dressing gowns, slips; neckwear; outerwear, namely, coats, jackets, parkas, ponchos, raincoats, shawls and stoles
LITTLEMISSMATCHED	SN: 77,371,114	Class 25: Clothing and apparel, namely, socks, tights, swimwear, pajamas, underwear, tank tops, shirts, t-shirts, skirts, dresses, leg warmers, one-piece garments for infants, kimonos, cloth coveralls, cloth bibs; pants, boxer shorts; Footwear; Headwear; Accessories, namely, gloves, mittens, scarves.
LITTLEMISSMATCHED	RN: 3,475,092	Class 20: Furniture.
LITTLEMISSMATCHED	RN: 3,565,831	Class 20: Decorative pillows. Class 24: Textile and Textile goods, namely, bed linen, bed sheets, bed skirts, comforters, curtains, draperies, pillows cases.

For purposes of this Notice, all of the LITTLEMISSMATCHED trademarks of Opposer, including the above referenced U.S. trademark Registrations and Applications, will be referred to as the "LITTLEMISSMATCHED Marks".

3. Since prior to Applicant's filing date and its alleged priority date, Opposer (or its predecessors-in-interest) has used the LITTLEMISSMATCHED Marks in commerce on or in connection with goods, and retail services featuring goods, that are identical or closely related to Applicant's Goods ("Opposer's Goods and Services").

4. Opposer has promoted and continues to promote the LITTLEMISSMATCHED Marks in interstate commerce within the United States for identifying Opposer's Goods and Services.

5. Opposer's LITTLEMISSMATCHED Marks are inherently distinctive and uniquely associated with Opposer in connection with Opposer's Goods and Services offered under the LITTLEMISSMATCHED Marks by reason of Opposer's extensive advertising, promotion and use. Such advertising, promotion and use occurred prior to the filing date and alleged priority date of the Application.

6. Applicant's LITTLE MISS NAUGHTY mark so resembles Opposer's LITTLEMISSMATCHED Marks as to be likely, if used in conjunction with Applicant's Goods, to cause confusion, mistake, and to deceive customers.

7. Applicant's Goods are directed to the same or related class of customers as those for Opposer's Goods and Services and or will be sold in the same channels of trade.

Accordingly, Applicant's LITTLE MISS NAUGHTY mark is confusingly and deceptively similar to Opposer's LITTLEMISSMATCHED Marks when used in connection with Applicant's Goods.

8. Applicant's use of its LITTLE MISS NAUGHTY mark under the Application, which so resembles and is colorably imitative of Opposer's LITTLEMISSMATCHED Marks, is likely to cause confusion, mistake or deception of purchasers as to the source of Applicant's Goods and will falsely suggest that Applicant's Goods are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer.

9. Opposer will be damaged by the registration sought by Applicant in Class 25 and Class 28.

WHEREFORE, Opposer respectfully requests that Application Serial No. 77/311,605 be rejected in Class 25 and Class 28, that no registration be issued thereon to Applicant in Class 25 and Class 28, and that this Opposition be sustained in favor of Opposer.

Opposer requests that, if there is any insufficiency in the payment of the statutory filing fee, such amount be debited from our Deposit Account No. 11-0160.

DATED: December 11, 2009.

MISS MATCHED, INC.

By: /s/ Michelle Alvey
Michelle Alvey, Esq.
Alan Nemes, Esq.
HUSCH BLACKWELL SANDERS LLP
The Plaza in Clayton Office Tower
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Telephone: (314) 480-1500
Facsimile: (314) 480-1505

Attorneys for Opposer Miss Matched, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Notice of Opposition has been duly served on the Applicant by mailing a copy of same via first class mail, postage prepaid, to its attorney/correspondent of record, Martin Schwimmer, Moses & Singer LLP., The Chrysler Building, 405 Lexington Avenue, New York, New York 10174-1299, on this 11th day of December, 2009:


Jacinda Steinkamp