

ESTTA Tracking number: **ESTTA389639**

Filing date: **01/23/2011**

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 Brands, Inc.
Granted to Date of previous extension	01/23/2011
Address	1000 Nicollet MallTPS 3185 Minneapolis, MN 55403 UNITED STATES

Attorney information	Timothy J. Cruz Faegre & Benson, LLP 2200 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402 UNITED STATES tcruz@faegre.com, trademarksmpls@faegre.com
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Applicant Information

Application No	77923752	Publication date	07/27/2010
Opposition Filing Date	01/23/2011	Opposition Period Ends	01/23/2011
Applicant	Hatch, Inc. 301 N. Main Street, Suite 101 Winston-Salem, NC 27101 UNITED STATES		

Goods/Services Affected by Opposition

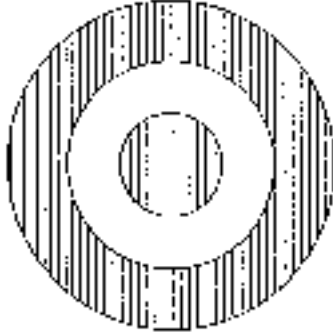
Class 016. First Use: 2008/06/17 First Use In Commerce: 2008/08/01 All goods and services in the class are opposed, namely: Educational kits in the fields of literacy and math consisting primarily of printed instructional activity cards featuring prekindergarten educational standards, teacher guides, educational books and ink stamps, and also containing beginning language skill games, phonological awareness games, letter recognition games, sound matching skill games, alphabet sequencing games, rhyming skill games, educational manipulative toys for teaching math principles in the nature of colored cubes, counters, and blocks for displaying patterns and groupings, manipulative games, manipulative puzzles, puppets, and children's educational music CDs, sold together as a unit, all for early childhood development teachers and children

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	972082	Application Date	05/22/1972
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No.			
Registration Date	10/30/1973	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U101 (International Class 042). First use: First Use: 1968/12/01 First Use In Commerce: 1968/12/01 RETAIL DEPARTMENT STORE, RETAIL GROCERY STORE, [RETAIL LIQUOR STORE,] RETAIL BAKERY, RETAIL PHARMACY STORE, AND RESTAURANT AND SNACK BAR SERVICES		

U.S. Registration No.	1282569	Application Date	09/30/1982
Registration Date	06/19/1984	Foreign Priority Date	NONE
Word Mark	TARGET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1972/00/00 First Use In Commerce: 1972/00/00 MEN'S, WOMEN'S AND CHILDREN'S CLOTHING-NAMELY, [HOSIERY, UNDERWEAR, [JEANS] DIAPERS, SLEEPWEAR, INFANT PLASTIC PANTS,] SHIRTS [AND GLOVES]		

U.S. Registration No.	1386318	Application Date	08/20/1984
Registration Date	03/11/1986	Foreign Priority Date	NONE
Word Mark	TARGET		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1972/00/00 First Use In Commerce: 1972/00/00 RETAIL DEPARTMENT STORE SALES SERVICES, NAMELY, MEN'S, WOMEN'S, CHILDREN'S AND INFANTS' CLOTHING AND ACCESSORIES SALES SERVICES; JEWELRY, CLOCKS AND WATCHES SALES SERVICES; HEALTH AND BEAUTY AIDS SALES SERVICES; PHARMACY AND PRESCRIPTION SALES SERVICES; OPTICAL SUPPLIES SALES SERVICES; CIGARETTES AND TOBACCO SALES SERVICES; RECORDS AND TAPES SALES SERVICES; BOOKS AND MAGAZINES SALES SERVICES; MEN'S, WOMEN'S, CHILDREN'S AND INFANTS' SHOES SALES SERVICES; FURNITURE AND RUGS SALES SERVICES; FOOD AND CANDY SALES SERVICES; TREES, PLANTS AND FLOWERS SALES SERVICES; TOYS AND ATHLETIC SPORTING GOODS SALES SERVICES; HOBBY AND CRAFTS SUPPLIES AND EQUIPMENT SALES SERVICES; TIRE, BATTERY, OIL, ANTIFREEZE AND AUTOMOTIVE ACCESSORY SALES SERVICES; ((GUNS AND)) AMMUNITION SALES SERVICES; BEDDING, LINENS, CURTAINS AND DRAPERIES SALES SERVICES; CAMERAS, CALCULATORS AND TELEPHONE SALES SERVICES; COMPUTER HARDWARE, SOFTWARE AND ACCESSORIES SALES SERVICES; BICYCLE AND BICYCLE ACCESSORIES SALES SERVICES; AUTOMOTIVE MAINTENANCE AND REPAIR SUPPLIES AND EQUIPMENT SALES SERVICES; PET EQUIPMENT AND SUPPLIES SALES SERVICES; GIFTSHOP, HOUSEWARES AND TABLEWARE SALES SERVICES; RADIO, TELEVISION AND SOUND EQUIPMENT SALES SERVICES; VIDEO RECORDERS, VIDEO TAPE AND VIDEO GAME SALES SERVICES; TOOL AND HARDWARE SALES SERVICES; FISHING, BOATING, CAMPING AND HUNTING EQUIPMENT SALES SERVICES; GARDEN, LAWN AND PATIO EQUIPMENT AND SUPPLIES SALES SERVICES; STATIONERY, OFFICE AND SCHOOL SUPPLIES SALES SERVICES; SMALL ELECTRICAL APPLIANCES SALES SERVICES; ELECTRICAL AND PLUMBING MAINTENANCE AND REPAIR SUPPLIES AND EQUIPMENT SALES SERVICES; BAKERY GOODS SALES SERVICES; PICTURES, PICTURE FRAMES AND MIRROR SALES SERVICES; AND CHRISTMAS TREES, ORNAMENTS, DECORATIONS, LIGHTS AND ACCESSORIES SALES SERVICES

U.S. Registration No.	2473434	Application Date	05/15/2000
Registration Date	07/31/2001	Foreign Priority Date	NONE

Word Mark	NONE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 1962/04/30 First Use In Commerce: 1968/12/01
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	retail department store services		
U.S. Registration No.	2762669	Application Date	03/27/2002
Registration Date	09/09/2003	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/05/08 First Use In Commerce: 2003/05/08 MEN'S, WOMEN'S AND CHILDREN'S APPAREL, NAMELY, PANTS, SHIRTS, COATS, HEADWEAR, SWIMSUITS, JACKETS, SHOES, UNDERWEAR, AND SOCKS		

Attachments	72425130#TMSN.gif (1 page)(bytes) 73397606#TMSN.gif (1 page)(bytes) 73495553#TMSN.gif (1 page)(bytes) 76052624#TMSN.gif (1 page)(bytes) 76387394#TMSN.gif (1 page)(bytes) HATCH.pdf (5 pages)(10061 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	/tjc/
Name	Timothy J. Cruz
Date	01/23/2011

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

In the Matter of Serial No.: 77/923,752
For the Mark: “Right on Target” and bullseye design
Filed: January 29, 2010
Published: July 27, 2010

TARGET BRANDS, INC.)	Opposition No. _____
)	
Opposer,)	
)	
v.)	<u>NOTICE OF OPPOSITION</u>
)	
HATCH, INC.)	
)	
Applicant.)	
)	

Opposer Target Brands, Inc. (“TBI”) is a Minnesota corporation having its principal place of business at 1000 Nicollet Mall, Minneapolis, MN 55403.

TBI believes that it will be damaged by the registration of the mark in Trademark Application Serial No. 77/923,752 (the “752 Application”), and hereby opposes the same.

As grounds of this opposition, it is alleged that:

1. TBI is a wholly-owned subsidiary of Target Corporation (“Target”).
2. Target operates, among other things, a chain of family-oriented TARGET®

discount retail department stores, now numbering more than 1,700 stores in 49 states. Target also offers on-line discount retail department stores services at *www.target.com*.

3. Target has since at least as early as 1962 made extensive use of TARGET and “Bullseye” Design marks in connection with many goods and services. Target is actively involved in promoting literacy through its many educational programs, including “Read Across America,” and education in general, with programs such as Take Charge of Education® and its online teacher resources and educational grants.

4. TBI is the owner of a number of federal registrations for the Bullseye Design mark, alone or in combination with the TARGET mark, including but not limited to United States Registration Nos. 972,082, 1,282,569, 1,386,318, 2,473,434, and 2,762,669.

5. TBI licenses the TARGET and Bullseye Design marks for use by Target.

6. The TARGET and Bullseye Design marks are featured prominently at Target’s e-commerce web site at *target.com*.

7. Target and TBI have invested great sums of money and substantial effort in establishing, promoting and protecting the TARGET and Bullseye Design marks.

8. Through extensive use and promotion of the TARGET and Bullseye Design marks by Target, substantial and valuable goodwill and public recognition have been built up in the TARGET and Bullseye Design marks.

9. TBI’s Bullseye Design mark is among the most famous marks used in the United States. Consumers recognize and associate Bullseye Design with Target. Indeed, Advertising Age in a December 2000 article categorized the Bullseye Design mark as an “advertising icon in a class with . . . McDonald’s arches and Nike’s swoosh.”

10. Upon information and belief, applicant Hatch, Inc. (“Applicant”) is a North Carolina company with an address at 301 N. Main Street, Suite 101 Winston-Salem, NC 27101.

11. Applicant, on or about January 29, 2010 filed the ‘752 Application to register the mark “Right on Target” and bullseye design for use in connection with services in International Classes 16.

12. The actual, continuous, and continuing use of TBI’s TARGET and Bullseye Design marks began prior to the filing of Applicant’s ‘752 Application. Upon information and belief, the actual, continuous, and continuing use of TBI’s TARGET and Bullseye Design marks began prior to any use by Applicant of the mark shown in the ‘752 Application.

13. The mark claimed in Applicant’s ‘752 Application so resembles TBI’s Bullseye Design mark as to be likely, when used in connection with services in International Class 16 identified in Applicant’s ‘752 Application, to cause confusion, to cause mistake, and/or to deceive.

14. The mark claimed in Applicant’s ‘752 Application so resembles TBI’s famous TARGET and Bullseye Design marks as to be likely, when used in connection with services in International Class 16 identified in Applicant’s ‘752 Application, particularly if used in red or black, to cause dilution of TBI’s famous Bullseye Design mark.

15. The mark in Applicant’s ‘752 Application cannot be registered consistent with the provisions of 15 U.S.C. § 1052(d) or 15 U.S.C. § 1063.

WHEREFORE, TBI believes that it would be damaged by registration of the mark shown in Applicant’s ‘752 Application within International Class 16, and prays that

Application Serial No. 77/923,752, be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of TBI.

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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2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

Dated: January 23, 2011

FAEGRE & BENSON LLP

By /s/ Timothy J. Cruz
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Minneapolis, Minnesota 55402
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Attorneys for Target Brands, Inc.

CERTIFICATE OF SERVICE

I, Timothy J. Cruz, do hereby certify that I caused to be delivered by United States Mail a true and correct copy of the above and foregoing document to the following addressee:

KENNETH C OTIS
HENDRICK BRYANT & NERHOOD, LP
723 COLISEUM DRIVE SUITE 101
WINSTON SALEM, NC 27103

on this 24th day of January, 2011.

/s Timothy J. Cruz
Timothy J. Cruz