

ESTTA Tracking number: **ESTTA1060293**

Filing date: **06/05/2020**

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	Hirsch Gift, Inc
Granted to Date of previous extension	06/06/2020
Address	5121 ASHBROOK DR HOUSTON, TX 77081 UNITED STATES

Attorney information	ZACHARY HILLER LAW OFFICE OF ZACHARY HILLER 1415 NORTH LOOP WEST SUITE 1013 HOUSTON, TX 77008 UNITED STATES zack@zhillerlaw.com 8328308016
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**Applicant Information**

Application No	88736338	Publication date	04/07/2020
Opposition Filing Date	06/05/2020	Opposition Period Ends	06/06/2020
Applicant	Hub Pen Company, LLC 1525 Washington St. Braintree, MA 02184 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Preparation of customized promotional and merchandising materials for others
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
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**Mark Cited by Opposer as Basis for Opposition**

U.S. Application No.	88910679	Application Date	05/11/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	H G		

Design Mark	
Description of Mark	The mark consists of The letters H and G where the letters overlap in a manner where the H and G share a brush stroke and surrounded by a rectangle with rounded edges.
Goods/Services	Class 035. First use: First Use: 1999/12/31 First Use In Commerce: 2006/12/31 On-line wholesale and retail store services featuring promotional products, namely, products in automotive, Awards/Recognition items, Bags, Barware, Drinkware, Home and Lifestyle, Office Essentials, Outdoor Gear, Technology, Travel, and Writing Instruments; Preparation of customized promotional and merchandising materials for others

Attachments	88910679#TMSN.png( bytes ) Opposition.pdf(140879 bytes )
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Signature	/Zachary Hiller/
Name	ZACHARY HILLER
Date	06/05/2020

**ZACHARY HILLER**  
ATTORNEY AT LAW

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June 5, 2020

By Electronic Filing

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Hirsch Gift, Inc.  
Notice of Opposition Against Hub Pen Company, LLC  
Application to register HPG: Serial Number 88/736,338

Dear Commissioner:

Enclosed is a Notice of Opposition against Application Serial No. 88/736,338 published in the Official Gazette on April 7, 2020. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$400 to cover the filing fee.

Respectfully submitted,

/Zachary Hiller/  
Zachary Hiller

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

In re Application Serial No. 88/736,338  
Filed: December 21, 2019  
For Mark: HPG  
Published in the Official Gazette: April 7, 2020

HIRSCH GIFT, INC  
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Opposer, : Opposition No. \_\_\_\_\_  
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v. :  
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HUB PEN COMPANY, LLC :  
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:  
Applicant :

NOTICE OF OPPOSITION

Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer, Hirsch Gift, Inc. (“Opposer”), a Texas corporation with offices at 5121 Ashbrook Dr., Houston, TX 77081, believes that it will be damaged by registration of the mark HPG and Design shown here:



(“Applicant’s Mark”) for “Preparation of customized promotional and merchandising materials for others” in International Class 35 as shown in Application Serial No. 88/736,338 (the “Application”), and having been granted extensions of time to oppose up to and including June 7, 2020, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the mark H G and design shown here:



2. Since long prior to Applicant's filing date on an intent to use application, Opposer has used names or marks comprising or containing the words H G across the middle of an outlined rectangle, without limitation in connection with preparation of customized promotional and merchandising materials for others.

3. Opposer owns U.S. trademark application for Opposer's Mark in International Class 35; namely, U.S. Serial Nos. 88/910679 with a first use date of at least as early as December 31, 2006.

4. Since long prior to July 12, 2019, Applicant's filing date, Opposer has promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's Mark, including, but not limited to on-line wholesale and retail store services featuring promotional products, namely, products in automotive, awards/recognition items, bags, barware, drinkware, home and lifestyle, office essentials, outdoor gear, technology, travel, and writing instruments; and preparation of customized promotional and merchandising materials for others.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's Mark, Opposer has built up highly valuable goodwill in Opposer's Mark, and said goodwill has become closely and uniquely identified and associated with Opposer and which forms an integral part of Opposer's identity.

6. On December 21, 2019, Applicant applied to register the mark HPG and Design



shown here: for "Preparation of customized promotional and merchandising materials for others" in International Class 35 as shown in Application Serial No. 88/736,338.

7. Having filed the Application as an intent to use application, it is believed that Applicant has not yet used Applicant's Mark in commerce.

8. If Applicant were not estopped from seeking registration of Applicant's Mark, Applicant's Mark, which appropriates the Opposer's Mark, so resembles Opposer's Mark as to be likely to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

9. Opposer would be further injured by the granting to Applicant of a certificate of registration for Applicant's Mark because Applicant's Mark, which is near identical to Opposer's Mark, which is an integral part of Opposer's identity and which points uniquely to Opposer, when used by Applicant in connection with the applied-for goods, would falsely suggest a connection between Applicant, which has no connection with or authorization from Opposer, and Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Dated: June 5, 2020

Respectfully submitted,

LAW OFFICE OF ZACHARY HILLER  
Attorneys for Opposer

By:     /Zachary Hiller/      
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