

ESTTA Tracking number: **ESTTA1136157**

Filing date: **05/25/2021**

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	Hoist Fitness Systems, Inc.
Granted to Date of previous extension	05/26/2021
Address	11900 COMMUNITY ROAD POWAY, CA 92064 UNITED STATES
Attorney information	SUSAN B. MEYER GORDON REES SCULLY MANSUKHANI LLP 101 WEST BROADWAY, SUITE 2000 SAN DIEGO, CA 92101 UNITED STATES Primary Email: ipdocket@grsm.com Secondary Email(s): smeyer@grsm.com, klaw@grsm.com, hzuercher@grsm.com, rkirkbaumer@grsm.com 619-696-6700
Docket Number	BHFIT

**Applicant Information**

Application No.	88857657	Publication date	01/26/2021
Opposition Filing Date	05/25/2021	Opposition Period Ends	05/26/2021
Applicant	World Sports Products, Inc. 95 WEST 650 SOUTH ST. GEORGE, UT 84770 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 028. First Use: 2018/03/23 First Use In Commerce: 2018/03/23  
All goods and services in the class are opposed, namely: Baseball batting tees

**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.	3722061	Application Date	05/13/2009
Registration Date	12/08/2009	Foreign Priority	NONE

		Date	
Word Mark	ROC · IT		
Design Mark			
Description of Mark	The mark consists of a circular configuration comprised of round and crescent shaped elements to the left of the words "ROC" and "IT" with a circular element also between the word elements "ROC" and "IT".		
Goods/Services	Class 028. First use: First Use: 2008/12/31 First Use In Commerce: 2008/12/31 Stationary exercise machines		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ROC-IT		
Goods/Services	stationary exercise machines		

Attachments	77736443#TMSN.png( bytes ) Notice of Opposition - ROCK-IT 88857657.pdf(30077 bytes )
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Signature	/Susan B. Meyer/
Name	SUSAN B. MEYER
Date	05/25/2021

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

In the matter of Application No. 88857657 )  
For the Trademark **ROCK-IT** )  
Filed April 2, 2020 )  
Published January 26, 2021 ) Opposition No. \_\_\_\_\_  
By World Sports Products, Inc. )  
 )  
Hoist Fitness Systems, Inc., )  
 )  
 )  
Petitioner, )  
 )  
v. )  
 )  
World Sports Products, Inc., dba Heater Sports, Play )  
Sports, Trend Sports )  
 )  
 )  
Applicant. )

**NOTICE OF OPPOSITION**

The Opposer, Hoist Fitness Systems, Inc., a California corporation, having an address of 11900 Community Road, Poway, California 92064 (hereinafter “Opposer” or “Hoist”), believes that it would be damaged by the registration of the mark ROCK-IT as shown in Serial No. 88/857,657 filed by World Sports Products, Inc., dba Heater Sports, Play Sports, Trend Sports (“Applicant” or “World Sports”), and opposes the same, pursuant to 15 U.S.C. § 1063(a).

As for grounds for opposition, Opposer alleges that:


**A. Opposer Hoist Fitness Systems, Inc.**

1. Hoist was founded in 1986 and is a leader in the fitness and strength training product market. Hoist launched its ROC-IT line of fitness equipment in 2008 and has garnered considerable acclaim and recognition for its products.

2. Since the launch of the ROC-IT brand, Hoist has advertised its products

through multiple channels and has gained recognition throughout the world. Moreover, its products are featured in health clubs, colleges & universities, professional sports gyms, YMCAs, community centers, hotels, multi-family homes, personal training facilities, corporate fitness centers, government facilities and military installations, as well as consumers' homes across the United States and around the world.

3. Hoist is the owner of U.S. Registration No. 3,722,061 for the design mark

ROC-IT  (hereinafter the "Design Mark") to identify the following goods in International Class 028: Stationary exercise machines.

4. Since at least as early as December 31, 2008, Opposer has continuously used the Design Mark in commerce.

5. Hoist is now, and has since 2008, used the mark ROC-IT in standard character form as a source identifier for stationary exercise machines in the United States, thus achieving common law rights in the word mark (hereinafter, together with the design mark, "the Marks").

6. Hoist's products are widely known in the fitness and athletic community. Many of its products are featured in sports training gyms and used by athletes, including baseball and softball players. Thus, products such as "baseball batting tees," also identified under International Class 28, are in the same field and/or constitute a natural zone of expansion for Opposer's ROC-IT brand.

7. By virtue of the popularity of Opposer's products offered in connection with the ROC-IT mark, and its advertising and promotion of the ROC-IT mark, Opposer has acquired considerable and valuable goodwill and recognition as well as fame with its ROC-IT mark.

**B. Applicant World Sports Products, Inc.**

8. Upon information and belief, World Sports is a Nevada Corporation, having a business address of 95 West 650 South, St. George, Utah 84770 (“Applicant” or “World Sports”).

9. Upon information and belief, World Sports, on April 2, 2020, filed trademark Application Serial No. 88/857,657 to register the proposed mark ROCK-IT for “baseball batting tees” in class 28 (hereinafter “Applicant’s Mark”).

10. Upon information and belief, Applicant began use of Applicant’s Mark on March 23, 2018.

**First Ground for Opposition**  
**(Likelihood of Confusion)**

11. All above paragraphs are incorporated herein by reference.

12. Registration of Applicant’s Mark will confer rights on the Applicant’s Mark inconsistent with the rights of Opposer to use Opposer’s Marks in the United States, thus damaging Opposer.

13. The Applicant’s Mark so resembles Opposer’s Marks such that when applied to the goods identified in Applicant’s Mark, it is likely to cause confusion, mistake, or deception among purchasers, users, and the public, thereby damaging Opposer in violation of 2(d) of the Trademark Act. Moreover, because Opposer’s Design Mark was registered prior to the filing of the Applicant’s Mark and use pre-dates Applicant’s use, Opposer’s Design Mark is entitled to priority over the Applicant’s Mark.

14. The goods purported to be provided by Applicant are highly related to those provided by Opposer, specifically, goods related to the exercise market, and thus Opposer has sufficient interest in preventing registration of Applicant’s Mark.

WHEREFORE, Opposer prays that Application Serial No. 88/857,657 be refused and denied registration as Opposer believes and avers that it will be damaged by the registration of Serial No. 88/857,657, filed April 20, 2020, as aforesaid and requests that Applicant be required to answer the allegations of this Notice of Opposition and that the opposition to the said application be sustained.

This Notice of Opposition is being submitted electronically. The required fee is authorized to be charged against the Deposit Account No. 501990 of the Attorney for Opposer.

Respectfully submitted,

Date: May 25, 2021

/s/ Susan B. Meyer

Susan B. Meyer

Ross Kirkbaumer

Attorneys for Opposer

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