

ESTTA Tracking number: **ESTTA1221458**

Filing date: **07/13/2022**

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	UncommonGoods, LLC
Granted to date of previous extension	07/13/2022
Address	140 58TH STREET, BUILDING B, SUITE 5A BUILDING B, SUITE 5A BROOKLYN, NY 11220 UNITED STATES
Correspondence information	BRETT M. TOLPIN TOLPIN & PARTNERS PC 30 N. LASALLE STREET, SUITE 1510 CHICAGO, IL 60602 UNITED STATES Primary email: docket@tolpinlaw.com 312.698.8971

Applicant information

Application no.	88854957	Publication date	03/15/2022
Opposition filing date	07/13/2022	Opposition period ends	07/13/2022
Applicant	Uncommon Good Inc. 50 PROSPECT ST GREENWICH, CT 06830 UNITED STATES		

Goods/services affected by opposition


Class 009. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Downloadable computer software platforms for providing nonprofits with digital tools for managing CRM, marketing, branding, and fundraising initiatives that provide unique experiences to assist in the fundraising initiatives of nonprofits
Class 042. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Platform as a service (PAAS) featuring computer software platforms for providing nonprofits with digital tools for managing CRM, marketing, branding, and fundraising initiatives that provide unique experiences to assist in the fundraising initiatives of nonprofits

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Marks cited by opposer as basis for opposition

U.S. registration no.	2719619	Application date	10/12/1999
Register	Principal		
Registration date	05/27/2003	Foreign priority date	NONE
Word mark	UNCOMMON GOODS		
Design mark			
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: Jul 31, 1999 First Use In Commerce: Dec 23, 1999 ON-LINE RETAIL STORE SERVICES FEATURINGHOME FURNISHINGS, TEXTILES, CRAFTS, JEWELRY, FOOD, APPAREL AND APPAREL ACCESSORIES, FURNITURE, TOYS, AND TABLE TOPS		

U.S. registration no.	2719620	Application date	10/12/1999
Register	Principal		
Registration date	05/27/2003	Foreign priority date	NONE
Word mark	UNCOMMONGOODS		
Design mark			
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: Dec 1999 First Use In Commerce: Dec 1999 On-line retail store services featuringhome furnishings, textiles, crafts, jewelry, food, apparel and apparel accessories, furniture, toys, and tabletops		


U.S. registration no.	1386335	Application date	07/08/1985
Register	Principal		
Registration date	03/11/1986	Foreign priority date	NONE
Word mark	UNCOMMON GIFTS		
Design mark			
Description of mark	NONE		
Goods/services	Class 042. First use: First Use: Apr 1, 1985 First Use In Commerce: Apr 1, 1985 RETAIL MAIL ORDER BOOK AND GIFT STORE SERVICES		


U.S. registration no.	3244393	Application date	05/01/2006
Register	Principal		
Registration date	05/22/2007	Foreign priority date	NONE
Word mark	UNCOMMONGIFTS		
Design mark			
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: Mar 2005 First Use In Commerce: Mar 2005 online retail store services featuring gifts, home and home decor accessories, office and home office accessories, homeand garden accessories, furniture, watches and jewelry, flatware, dinnerware, glassware, collectibles, and general merchandise		

U.S. registration no.	4170041	Application date	01/10/2011
Register	Principal		
Registration date	07/10/2012	Foreign priority date	NONE
Word mark	UNCOMMON		
Design mark			
Description of mark	NONE		
Goods/services	Class 009. First use: First Use: Dec 16, 2009 First Use In Commerce: Dec 16, 2009 Carrying cases and bags designed for storage and transportation of consumer electronics, cellular phones, media playersand laptop computers		

U.S. registration no.	4582853	Application date	06/12/2013
Register	Principal		
Registration date	08/12/2014	Foreign priority date	NONE
Word mark	THE UNCOMMON GREEN		
Design mark			
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: Nov 27, 2008 First Use In Commerce: May 9, 2009		

	Computerized on-line ordering featuring general consumer merchandise; On-line retail gift shops Class 042. First use: First Use: Nov 27, 2008 First Use In Commerce: May 9, 2009 New product design services; Packaging design
--	--

U.S. application no.	88873836	Application date	04/15/2020
Registration date	NONE	Foreign priority date	NONE
Word mark	UNCOMMON GOODS		
Design mark			
Description of mark	The mark consists of the wording "UNCOMMON GOODS" with three short lines emanating from the the top left corner of the first letter "U".		
Goods/services	Class 035. First use: First Use: None First Use In Commerce: None On-line retail store services featuring gifts and general merchandise; Online retail store services, retail mail order book and gift store services, namely, home furnishings, furniture, home and home décor accessories, office and home office accessories; home, lawn and garden tools and accessories; seeds and growing kits; textiles, crafts, jewelry, food, apparel and apparel accessories; kitchenware, serveware, drinkware, dishware, grilling products and kitchen tools; bags and cases; consumer electronics, stands and accessories therewith; toys and games; children's educational publications and playthings; printed publications, books, maps and calendars; artwork, art frames and displays therewith; musical instruments and accessories therewith; sports gear; pet supplies; foodstuffs, beverages and spices; screen cleaning towels; cosmetics, creams and gels; figures, figurines, chimes, mobiles, birdhouses, bird and animal feeders, beverage coasters, paperweights, candles and tabletops		

U.S. application no.	88873864	Application date	04/15/2020
Registration date	NONE	Foreign priority date	NONE
Word mark	UNCOMMON GOODS		
Design mark			
Description of mark	The mark consists of the wording "UNCOMMON" with three lines emanating from the top left corner of the first letter "U" and the word "GOODS" underneath it.		
Goods/services	Class 035. First use: First Use: None First Use In Commerce: None On-line retail store services featuring gifts and general merchandise; Online retail store services, retail mail order book and gift store services, namely, home fur-		

	nishings, furniture, home and homedÃ©cor accessories, office and home office accessories; home, lawn and garden tools and accessories; seeds and growing kits; textiles, crafts, jewelry, food, apparel and apparel accessories; kitchenware, serveware, drinkware, dishware, grilling products and kitchen tools; bags and cases; consumer electronics, stands and accessories therewith; toys and games; children's educational publications and playthings; printed publications, books, maps and calendars; artwork, art frames and displays therewith; musical instruments and accessories therewith; sports gear; pet supplies; foodstuffs, beverages and spices; screen cleaning towels; cosmetics, creams and gels; figures, figurines, chimes, mobiles, birdhouses, bird and animal feeders, beverage coasters, paperweights, candles and tabletops
--	--

Attachments	75821028#TMSN.png(bytes) 85957550#TMSN.png(bytes) 88873836#TMSN.png(bytes) 88873864#TMSN.png(bytes) 2022-07-12 Notice of Opposition against Uncommon Good Inc.pdf(129990 bytes) ExA to Uncommon Good NOA.pdf(306056 bytes)
-------------	---

Signature	/bmt/
Name	Brett M. Tolpin
Date	07/13/2022

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

In the matter of: U.S. Ser. No. 88/854,957 – UNCOMMON GOOD

UNCOMMON GOODS, LLC,)	
)	
Opposer,)	Opposition No.: _____
)	
v.)	
)	
UNCOMMON GOOD, INC.,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Uncommon Goods, LLC, a Delaware Limited Liability Company with a principal place of business at 140 58th St. Brooklyn, Building B, Suite 5A, Brooklyn, New York 11220 (“Opposer”), believes that it will be damaged by registration of the mark UNCOMMON GOOD, Application Serial No. 88/854,957 in International Classes 9 and 42 (the “Application”), by Uncommon Good, Inc., a Delaware corporation with a principal place of business in Greenwich, Connecticut (“Applicant”), and hereby opposes the same under 15 U.S.C. § 1063(a). As grounds for opposition, Opposer states that:

1. Since at least as early as December 1999, Opposer has been continually offering and selling a wide variety of products in the United States through its on-line retail store services under the trade name and mark UNCOMMON GOODS or the phonetically equivalent mark UNCOMMONGOODS.

2. Since 2001, Opposer has continually operated a service which coordinates and assists the charitable giving of Opposer’s customers based on those customers’ purchases. Under Opposer’s UNCOMMON GOODS BETTER TO GIVE program, Opposer’s customers can

direct charitable giving to partnered non-profit organizations chosen by the customer based on every purchase from Opposer.

3. On information and belief, Opposer's first use of the mark UNCOMMON GOODS in the United States was prior to Applicant's date of first use for the UNCOMMON GOOD mark.

4. Opposer is the owner of U.S. Trademark Registration No. 2,719,619 for the mark UNCOMMON GOODS in International Class 35 for "On-line retail store services featuring home furnishings, textiles, crafts, jewelry, food, apparel accessories, furniture, toys, and table tops."

5. Opposer is the owner of U.S. Trademark Registration No. 2,719,620 for the mark UNCOMMONGOODS in International Class 35 for "On-line retail store services featuring home furnishings, textiles, crafts, jewelry, food, apparel accessories, furniture, toys, and table tops."

6. Opposer is the owner of U.S. Trademark Registration No. 1,386,335 for the mark UNCOMMON GIFTS in International Class 42 for "Retail mail order book and gift store services."

7. Opposer is the owner of U.S. Trademark Registration No. 3,244,393 for the mark UNCOMMONGIFTS in International Class 35 for "Online retail store services featuring gifts, home and home décor accessories, office and home office accessories, home and garden accessories, furniture, watches and jewelry, flatware, dinnerware, glassware, collectables, and general merchandise."

8. Opposer is the owner of U.S. Trademark Registration No. 4,170,041 for the mark UNCOMMON in International Class 9 for "Carrying cases and bags designed for storage and

transportation of consumer electronics, cellular phones, media players and laptop computers.”

9. Opposer is the owner of U.S. Trademark Registration No. 4,582,853 for the mark THE UNCOMMON GREEN in International Class 35 for, among other things, “Computerized on-line ordering featuring general consumer merchandise; On-line retail gift shops.”

10. Opposer is the owner of U.S. Trademark Application Serial No. 88/873,836, for the mark UNCOMMON GOODS and Design for a variety of services in International Class 35, including “On-line retail store services featuring gifts and general merchandise; Online retail store services, retail mail order book and gift store services, namely, home furnishings, furniture, home and home décor accessories, office and home office accessories.” An image of this design mark is shown below:



11. The description of Opposer’s services in U.S. Trademark Application Serial No. 88/873,836 has not yet been finalized.

12. Opposer is the owner of U.S. Trademark Application Serial No. 88/873,864, for the mark UNCOMMON GOODS and Design for a variety of services in International Class 35, including “On-line retail store services featuring gifts and general merchandise; Online retail store services, retail mail order book and gift store services, namely, home furnishings, furniture, home and home décor accessories, office and home office accessories.”

13. The description of Opposer’s services in U.S. Trademark Application Serial No. 88/873,864 has not yet been finalized, and Opposer has requested that those services be further specified to include the wording: “charitable fundraising; organizing, promoting, and running charitable and non-profit fundraising campaigns for others; Organizing, promoting, and

administering sweepstakes drawings as fundraisers on behalf of charitable and non-profit entities.”

14. Opposer is the owner of common law rights in the mark UNCOMMON GOODS, used throughout the United States for a service which coordinates and assists the charitable giving of others.

15. Opposer is the owner of common law rights in the mark UNCOMMON PERKS, used throughout the United States for a customer benefit and loyalty program.

16. Opposer is the owner of common law rights in the mark UNCOMMON EXPERIENCES, used throughout the United States for a series of online or virtual classes, the attendance at which can be given as a gift.

17. Subsequent to Opposer’s 1999 first use of its UNCOMMON GOODS mark, Opposer has established a family of marks centered on the word “uncommon.”

18. The common or unifying term “uncommon” in Opposer’s family of marks is distinctive of Opposer’s services.

19. Opposer’s establishment of a family of marks centered on the word “uncommon” in the United States was prior to Applicant’s priority date for the mark in the Application.

20. By virtue of Opposer’s extensive sales, advertising and promotion of its on-line retail store services featuring gifts and general merchandise and its related service which coordinates and assists the charitable giving of its customers under the UNCOMMON GOODS mark, Opposer has built up and now owns valuable goodwill symbolized by that UNCOMMON GOODS mark.

21. By virtue of Opposer’s extensive sales, advertising and promotion of its on-line retail store services featuring gifts and general merchandise and its related service which

coordinates and assists the charitable giving of its customers under its family of marks centered on the word “uncommon,” Opposer has built up and now owns valuable goodwill symbolized by that family of marks.

22. Applicant has applied to register the mark UNCOMMON GOOD for “downloadable computer software platforms for providing nonprofits with digital tools for managing CRM, marketing, branding, and fundraising initiatives that provide unique experiences to assist in the fundraising initiatives of nonprofits” in International Class 9 and for “platform as a service (PAAS) featuring computer software platforms for providing nonprofits with digital tools for managing CRM, marketing, branding, and fundraising initiatives that provide unique experiences to assist in the fundraising initiatives of nonprofits” in International Class 42.

23. As used by Applicant, the “computer software platforms” in Applicant’s description of its goods and services include offering directly to the general public opportunities to participate in charitable giving sweepstakes contests under the UNCOMMON GOOD mark on Applicant’s website. *See Exhibit A hereto.*

24. During the application process, the Applicant identified its goods and services for the UNCOMMON GOOD mark to include “provid[ing] unique experiences to assist in the fundraising initiatives of nonprofits.”

25. Applicant’s use of and intent to use the UNCOMMON GOOD mark is without Opposer’s consent or permission.

26. Applicant’s UNCOMMON GOOD mark is similar in sight, sound, and meaning to Opposer’s UNCOMMON GOODS, UNCOMMONGOODS, UNCOMMON GIFTS, UNCOMMONGIFTS, and UNCOMMON marks.

27. Applicant’s identified goods and services in the Application are the same as,

related to or similar to Opposer's services.

28. Opposer has priority of use over Applicant's priority date for the mark in the Application.

29. Registration of Applicant's mark as shown in the Application would interfere with Opposer's enjoyment of its rights in its UNCOMMON GOODS, UNCOMMONGOODS, UNCOMMON GIFTS, UNCOMMONGIFTS, and UNCOMMON marks.

30. Registration of Applicant's mark as shown in the Application would interfere with Opposer's enjoyment of its rights in its family of marks centered on the word "uncommon."

31. Registration of Applicant's mark as shown in the Application is likely to cause confusion, mistake or deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer respectfully requests that registration of Application Serial No. 88/854,957 for the mark UNCOMMON GOOD be refused, along with the entirety of all the goods and services identified in the Application.

The Commissioner is hereby authorized to charge the filing fee and any additional fees that are required with this filing to the credit card number entered electronically on the Electronic System for Trademark Trial and Appeals (ESTTA).

Please address all communications to Opposer's counsel electronically at docket@tolpinlaw.com in care of Brett M. Tolpin, Tolpin & Partners PC, 100 North LaSalle Street, Suite 500, Chicago, IL 60602.

Respectfully submitted,


Dated: July 13, 2022


By _____
Brett M. Tolpin
Mark R. Bagley
Tolpin & Partners, PC
30 N. LaSalle Street, Suite 1510
Chicago, IL 60602
Telephone: (312) 698-8971
Fax: (312) 803-9602
E-mail: docket@tolpinlaw.com

Attorneys for Uncommon Goods, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice of Opposition is being served by e-mail on July 13, 2022 to Alyson J. DiLena, St. Onge Steward Johnston & Reens LLC, 986 Bedford Street, Stamford, CT 06905 at tm-pto@ssjr.com.



Brett M. Tolpin
Tolpin & Partners, PC.
30 N. LaSalle Street, Suite 1510
Chicago, Illinois 60602

Exhibit A

Uncommon Solutions. Guaranteed to do Good.

Menu



Are you a Member? [Register](#)/[Login](#)

Search

Sort by > Filter by cause >

0 Ending Soon

1 Currently Active

5 Completed

0 Coming Soon

Featured Sweepstakes



Win a Year's Worth of Art Supplies, Classes & Your Own Private Exhibition

Arts, Culture & Humanity
51 days left

ENTER



Win a Lia Cook Art Piece valued at \$35,000 and \$7,500 in Cash

Health
Complete

VIEW



Win a 3 Day Getaway to Cape Cod!

Health
Complete

VIEW



Win a Playstation 5 Blu-Ray Edition and NBA 2K21

Sports and Recreation
Complete

VIEW



Glamping Safari Style

Animal Welfare
Complete

VIEW



Support Humanitarian Efforts in Ukraine with Liberty Lexington and Win a MacBook Pro

Human and Civil Rights
Complete

VIEW

Subscribe to our mailing list to see UncommonGood in action

Email

Submit

I agree to UncommonGood [Terms and Conditions](#) and [Cookie & Privacy Policy](#).

Let's build change together.



[HOME](#) [SWEEPSTAKES](#) [CAUSES](#) [PRIVACY POLICY](#) [TERMS OF SERVICE](#) [NONPROFIT LOGIN](#) [ORGANIZATIONS](#)