

# World Trademark Review *Daily*

**Target prevents registration of mark with three-ring design  
United States - Knobbe Martens Olson & Bear LLP**

**Examination/opposition  
National procedures**

July 14 2014

In *Target Brands Inc v Artificer Life Corp* (Opposition Nos 91206421 and 91206422), the Trademark Trial and Appeal Board (TTAB) has upheld *Target Brands Inc's* opposition against the registration of a trademark containing a circular design.

*Artificer Life Corp* filed an application for the mark ARTIFICER and a three-ring design for use in connection with clothing and jewellery:



Target opposed the application on the grounds of likelihood of confusion with its 'bulls eye' mark, which it uses for retail store services featuring clothing and jewellery:



Target asserted rights in 14 registrations for its 'bulls eye' mark, as well as common law rights, but failed to submit the required evidence of the current status and title of its asserted registrations. Thus, the TTAB determined that Target could not rely upon any of its 14 pleaded registrations for the 'bulls eye' mark and could rely only upon common law rights.

Nevertheless, Target submitted sufficient evidence that the 'bulls eye' mark is famous, including that it:

- has been used since the 1960s;
- is recognised by 96% of Americans;
- is used at 1,700 stores and online; and
- is incorporated into numerous registered trademarks owned by Target.

The TTAB found Target's retail store services in the field of clothing and jewellery sufficiently related to Artificer's items of clothing and jewellery.

The tougher issue was the similarity of the marks. Yet, the TTAB found the commercial impression of the marks to be sufficiently similar, stating that Artificer's mark seemed to be a hand-drawn version of Target's 'bulls eye' mark. The TTAB found the addition of the term 'artificer' next to the design to be insufficient to create a commercial impression that was separate from that of Target's famous mark.

*Diane M Reed and Diana Wade, Knobbe Martens Olson & Bear LLP, Orange County*

---

**World Trademark Review ([www.worldtrademarkreview.com](http://www.worldtrademarkreview.com)) is a subscription-based, practitioner-led, bi-monthly publication and daily email service which focuses on the issues that matter to trademark professionals the world over. Each issue of the magazine provides in-depth coverage of emerging national and regional trends, analysis of important markets and interviews with high-profile trademark personalities, as well as columns on trademark management, online issues and counterfeiting.**