

ESTTA Tracking number: **ESTTA368318**

Filing date: **09/14/2010**

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	Mr. Jason Piskator		
Entity	Individual	Citizenship	UNITED STATES
Address	94 Ledgecrest Drive Worcester, MA 01603 UNITED STATES		

Attorney information	Donald J. MacDonald Coleman & MacDonald Law Office 335 Central Street Saugus, MA 01906 UNITED STATES djmac1024@gmail.com Phone:781-922-8210		
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### Applicant Information

Application No	85000163	Publication date	08/17/2010
Opposition Filing Date	09/14/2010	Opposition Period Ends	09/16/2010
Applicants	Gerber, Richard D. 445 3rd West St Auburn, WY 83111 UNITED STATES  Gerber, Joy 445 3rd West St Auburn, WY 83111 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Wearable garments and apparel, namely, shirts, pants, jackets, hats and caps
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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.	85066090	Application Date	06/18/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NUF CED		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/04/14 First Use In Commerce: 2008/05/24 Clothing, namely, t-shirts, tank tops, long sleeve shirts, sweatshirts, hooded sweatshirts, shorts, hats and caps

Related Proceedings	TM Registration Application No. 85/066,090
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Attachments	85066090#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition -nuff said.pdf ( 5 pages )(634707 bytes ) Exhibit-A[1].pdf ( 1 page )(12981 bytes ) Exhibit-B[1].pdf ( 1 page )(1120813 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	/Donald J. MacDonald/
Name	Donald J. MacDonald
Date	09/14/2010

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

In the matter of: )  
Application Serial No.: 85/000163 ) Opposition No.:  
Applicants: Gerber, Richard D. d/b/a/ )  
Cougar Canyon Impressions ) Atty. Docket No.: NC2010-1  
Gerber, Joy d/b/a/ )  
Cougar Canyon Impressions )  
Filed on: March 27, 2010 )  
Mark: NUFF SAID )  
Published: August 17, 2010 )

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Arlington, VA 22313-1451

**NOTICE OF OPPOSITION**

Jason Piskator, an individual residing at 94 Ledgecrest Drive, Worcester, Massachusetts 01603 (“Opposer”), believes that he will be damaged by registration of the mark shown in the following application and hereby opposes the same:

Application Serial No. 85/000163 (“Application”) filed March 27, 2010 by Joy Gerber and Richard Gerber, (“Applicants”) both d/b/a/ Cougar Canyon Impressions, a limited liability company located at 445 3<sup>rd</sup> West Street, Auburn, Wyoming 83111, and published for opposition in the Official Gazette on August 17, 2010, seeking registration of the mark NUFF SAID in non-stylized form for the goods and/or services listed in the following classification:

International Class: 025  
Wearable garments and apparel, namely, shirts, pants, jackets,  
hats and caps.

The grounds for the Opposition are as follows:

1. Opposer has continuously used the mark NUF CED in commerce on or in connection with the sale of clothing, including t-shirts, tank tops, long sleeve shirts, sweatshirts, shorts, hats and caps since at least 2007. Exhibit A attached hereto shows a copy of the mark as used by Opposer as a packaging label and/or a point of sale display in connection with the sale of clothing and apparel.
2. Opposer has used the mark NUF CED in connection with the sale of goods including t-shirts, tank tops, long sleeve shirts, sweatshirts, shorts, hats, caps, sweatshirts, hooded sweatshirts and other apparel at sporting events held in various states throughout the United States including Florida, Massachusetts, Pennsylvania, and Connecticut since at least 2008.
3. Opposer has owned and operated an on-line retail store accessible through the Internet at the web site [www.nufcedcollection.com](http://www.nufcedcollection.com) wherein the mark NUF CED is used in connection with the sales of a line of clothing and apparel including t-shirts, tank tops, long sleeve shirts, sweatshirts, shorts, hats, caps, sweatshirts, hooded sweatshirts and other apparel since 2008. Exhibit B attached hereto is a page from the above-identified website showing the mark NUF CED as used by Opposer.

4. At sporting events and through the above-identified website, Opposer has offered for sale and sold a line of clothing and apparel throughout the United States since 2008.

5. Opposer has made substantial investment in advertising and promoting its goods and services under the mark NUF CED since his initial use of the mark in 2007. Opposer has extensively used, advertised, promoted and offered Opposer's clothing line and apparel to the public through various channels of trade in commerce including, at live sporting events directed mostly to fighting markets including Mixed Martial Arts, Boxing and Wrestling as well as through his above-identified website, all since dates prior to the filing of Applicant's application, with the result that Opposer's customers and others in the public have come to know and recognize Opposer's mark NUF CED and associate the same with Opposer and/or the clothing line and apparel sold or provided by Opposer and/or its licensees.

6. Opposer owns common law trademark rights throughout the United States for the word mark NUF CED in connection with the sale of clothing including t-shirts, tank tops, long sleeve shirts, sweatshirts, shorts, hats, caps, hooded sweatshirts and other apparel.

7. Upon information and belief, on March 27, 2010, Applicants filed an Intent-to-Use application for registration of the word mark NUFF SAID for wearable garments and apparel, namely, shirts, pants, jackets, hats and caps in International Class 025.

8. Upon information and belief, Applicants have not yet used the mark NUFF SAID in connection with the sale of the goods identified in the Application.

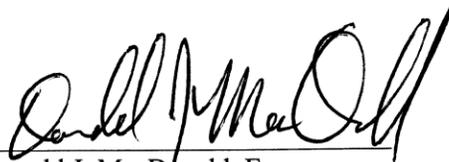
9. Applicant's word mark NUFF SAID is substantially similar to Opposer's mark NUF CED. Consequently, when applied to Applicants' proposed goods, Applicants' NUFF SAID mark is likely to cause confusion, or mistake in the marketplace resulting in damage and detriment to Opposer and his reputation.

10. Opposer, upon information and belief, avers that its customers, and others in the public, are likely to be confused, mistaken or deceived as to the origin of Applicants' proposed goods as identified in the Application and intended to be sold or offered for sale in connection with Applicants' mark NUFF SAID, and misled into believing that such goods emanate from, or are licensed, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and his reputation in the marketplace.

11. Since Opposer's first use of the mark NUF CED predates the filing date of Applicants' intent-to-use application for the mark NUFF SAID and the registration of Applicants' mark will cause actual harm to Opposer, the Application should be rejected.

WHEREFORE Opposer requests, pursuant to Section 13 of the Trademark Act (15 U.S.C. § 1063), that Trademark Application Serial No. 85/000,163 be denied and registration refused, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



Date: September 14, 2010

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Saugus, MA 01906  
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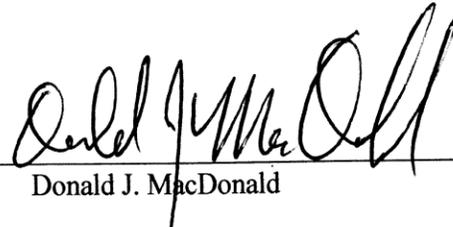
Attorney for Opposer

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION has been sent and served by First Class, U.S. Mail, postage prepaid this 14<sup>th</sup> day of September, 2010, to the following correspondent of record:

Richard D. Gerber  
445 3<sup>rd</sup> West Street  
Auburn, WY 83111

By



Donald J. MacDonald

EXHIBIT A

**NUF CED**

-FIGHT APPAREL- Est. Worcester MA -MCMLXXIX-

# Exhibit B

# NUF CED

-FIGHT APPAREL- Est. Worcester MA -MCMLXXIX-

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