

ESTTA Tracking number: **ESTTA393745**

Filing date: **02/16/2011**

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	MrDevinAlario
Granted to Date of previous extension	02/16/2011
Address	3809 Carnegie Drive Oceanside, CA 92056 UNITED STATES

Attorney information	JP Delaney Delaney IP 444 South Cedros Avenue, Suite 175 Solana Beach, CA 92075 UNITED STATES jim@delaneyip.com Phone:8583424465
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Applicant Information

Application No	85041441	Publication date	10/19/2010
Opposition Filing Date	02/16/2011	Opposition Period Ends	02/16/2011
Applicant	ASICS Corporation 1-1, Minatojima-Nakamachi 7-chome Chuo-ku, KOBE, 650-8555 JAPAN		

Goods/Services Affected by Opposition

Class 028. First Use: 2009/12/31 First Use In Commerce: 2009/12/31 All goods and services in the class are opposed, namely: Wrestling ear guards, ear pads, protective ear shells, and straps for the foregoing goods, all for athletic use
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3824809	Application Date	12/16/2009
Registration Date	07/27/2010	Foreign Priority Date	NONE
Word Mark	CONQUEST MMA		

Design Mark	CONQUEST MMA
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2008/02/28 First Use In Commerce: 2008/02/28 Mixed martial arts equipment, namely, grappling gloves, bag gloves, training gloves, shin guards, thai pads, mouth guards for athletic use, punch mitts, groin protectors, body protectors, body striking shields, striking bags, and other equipment, namely, hand wraps, jump ropes, medicine balls, squeeze balls, hand weights, and resistance training rubber tubing; Boxing equipment, namely, boxing gloves, punching bags, athletic tape, boxing wrist supports; boxing exercise equipment, namely, jump ropes, medicine balls, squeeze balls, hand weights, and resistance training rubber tubing; Training apparatus for boxing, martial arts, and similar sports; Martial arts training equipment; Weight lifting gloves; Work-out gloves; Karate gloves; Karate head guards; Karate kick pads; Karate shin pads; Karate target pads

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CONQUEST		
Goods/Services	Mixed martial arts and martial arts gear, including clothing, uniforms, pads and guards.		

Attachments	77895284#TMSN.jpeg (1 page)(bytes) Conquest_Notice_of_Opposition.pdf (5 pages)(95431 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 Facsimile or email (by agreement only) on this date.

Signature	/jpdelaney/
Name	JP Delaney
Date	02/16/2011

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

In the Matter of Application Serial No. 85/041,441

Published in the *Official Gazette* of October 19, 2010

Devin Alario	
	Opposer,
v.	
ASICS Corporation	
	Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

BOX TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

ATTN: Administration for Trademark Classification

Sir/Madam:

Devin Alario (hereinafter "Opposer") of 3809 Carnegie Drive, Oceanside, CA, 92056, believes that he will be damaged if a registration is granted on the above-captioned Application of ASICS Corporation, of 1-1, Minatojima-Nakamachi 7-chome Chuo-ku, Kobe, Japan 650-8555, and hereby opposes such registration.

As grounds for its opposition, Opposer alleges that:

1. Applicant seeks to register Application Serial No. 85/041,441 for the term CONQUEST (hereinafter “Pending Application”) as a trademark for “Wrestling ear guards, ear pads, protective ear shells, and straps for the foregoing goods, all for athletic use” in International Class 28, as evidenced by publication of this term in the *Official Gazette* of the October 19, 2010 issue.

2. The Pending Application claims a date of first use of December 31, 2009.

3. The Opposer, prior to Applicant’s asserted date of first use of December 1, 2009, has adopted and has invested in the marks CONQUEST and CONQUEST MMA for various of its goods.

4. Opposer is the prior user and owner of the following valid and subsisting trademark Registration No. 3,824,809 in the United States Patent and Trademark Office for CONQUEST MMA for goods including mixed martial arts equipment, boxing equipment, martial arts training equipment, and karate head gear, among other goods in International Class 28, having a filing date of December 16, 2009, a date of first use in commerce of Feb. 28, 2008, and a registration date of July 27, 2010.

5. Opposer is the prior user and owner of common law trademark rights in the mark CONQUEST as used on martial arts gear including hats, uniforms, and rash guards, having used such mark on such goods continuously since March 9, 2008.

6. Opposer has spent significant effort and sums of money in investment in the marks CONQUEST MMA and CONQUEST prior to the filing date of the Pending Application.

7. As a result of Opposer's investment and federal registration, the mark and mark portion CONQUEST possess a high degree of value to identify goods which have their source of origin solely with Opposer, and to distinguish such goods from like or similar goods of others.

8. Applicant's alleged mark CONQUEST is confusingly similar to Opposer's CONQUEST MMA and CONQUEST marks in sound, appearance, and meaning, and commercial impression.

9. As wrestling is a martial art, the respective goods of Opposer (Wrestling ear guards, ear pads, protective ear shells, and straps for the foregoing goods, all for athletic use) and Applicant (mixed martial arts gear and martial arts gear) are closely related and would travel and be promoted through the same channels of trade, at the same retail establishments, and in the same aisles and shelves for sale to, and use by, the same class of purchasers.

10. The use and registration of Applicant's alleged mark CONQUEST is likely to cause confusion, or mistake or deception of purchasers as to the respective marks as well as the source of origin of the respective goods of Opposer and Applicant.

11. Applicant's alleged mark CONQUEST is calculated or likely to cause irreparable loss, injury, and damage to Opposer's business and to the goodwill thereto.

12. Applicant's alleged mark CONQUEST is a misappropriation of Opposer's CONQUEST MMA mark and CONQUEST mark and registration of said mark by Applicant will permit Applicant to trade on goodwill of Opposer's business symbolized and recognized by Opposer's CONQUEST MMA and CONQUEST marks both collectively and individually, all to the detriment and damage of Opposer.

13. Applicant's alleged mark CONQUEST so closely resembles Opposer's CONQUEST MMA and CONQUEST marks that the registration and continued use of Applicant's alleged mark will falsely suggest a connection with Opposer in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)) and will result in irreparable damage and injury to Opposer.

14. In view of the resemblance of Applicant's alleged mark to Opposer's marks, and in further view of the similarity of the goods with which the respective mark and terms are used, the registration and use by Applicant of the term CONQUEST with goods specified in the Pending Application is likely to cause confusion, mistake, and deception within the meaning of Section 2(d) of the Trademark Act of 1946 (15 U.S.C. § 1052(d)) and will result in irreparable damage and injury to Opposer.

15. In view of the foregoing facts, Opposer believes that it has been damaged and/or will continue to be damaged by virtue of the attempted registration by Applicant of the alleged mark CONQUEST.

WHEREFORE, Opposer prays that this Opposition be sustained and that Application Serial No. 85/041,441 filed on May 18, 2010 be denied and refused.

This Notice of Opposition is being filed electronically pursuant to the ESTTA system. The official filing fee is paid electronically upon filing.

Respectfully submitted,

DELANEY IP



Date: Feb. 16, 2011

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served on counsel for Applicant, this 16th day of February, 2011, by sending same via email (having received prior consent for such electronic transmission telephonically from counsel for Applicant) to the following:

Michael E. Zall
Two Yorkshire Drive
Suffern, NY 10901
mike@zall-law.com



JAMES P. DELANEY