

ESTTA Tracking number: **ESTTA434073**

Filing date: **10/05/2011**

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	DevinAlario
Granted to Date of previous extension	10/19/2011
Address	2809 Carnegie Drive Oceanside, CA 92056 UNITED STATES

Attorney information	Randolph E. Digges, III Rankin, Hill & Clark LLP 23755 Lorain Road, Suite 200 North Olmsted, OH 44070 UNITED STATES 75628@rankinhill.com Phone:(216) 566-9700
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Applicant Information

Application No	85221920	Publication date	06/21/2011
Opposition Filing Date	10/05/2011	Opposition Period Ends	10/19/2011
Applicant	Rudis Group LLC P.O. Box 1986 Powell, OH 43065 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: clothing, namely, athletic footwear; athletic shirts; athletic shorts; athletic uniforms; athletic warm ups suits; baseball caps and hats; beanies, compression garments for athletic or other non-medical use, namely, compression shorts and compression shirts; moisture-wicking long and short sleeve shirts; fleece pullovers; footwear for sports; wrestling shoes; golf shirts; gym shorts; head sweatbands; hooded sweatshirts; jerseys; jogging suits; long-sleeved shirts; mma shorts; moisture-wicking sports shirts; moisture-wicking sports shorts; polo shirts; pullovers; short-sleeved shirts; short-sleeved or long-sleeved t-shirts; wrestling singlets; skull caps; socks; sport shirts; sweat pants; sweat shirts; visors; warm-up suits

Applicant Information

Application No	85280986	Publication date	06/07/2011
Opposition Filing Date	10/05/2011	Opposition Period Ends	
Applicant	Rudis Group LLC P.O. Box 1986 Powell, OH 43065		

	UNITED STATES
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Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: clothing, namely, athletic footwear; athletic shirts; athletic shorts; athletic uniforms; athletic warm ups suits; baseball caps and hats; beanies, compression garments for athletic or other non-medical use, namely, compression shorts and compression shirts; moisture-wicking long and short sleeve shirts; fleece pullovers; footwear for sports; wrestling shoes; golf shirts; gym shorts; head sweatbands; hooded sweatshirts; jerseys; jogging suits; long-sleeved shirts; mma shorts; moisture-wicking sports shirts; moisture-wicking sports shorts; polo shirts; pullovers; short-sleeved shirts; short-sleeved or long-sleeved t-shirts; wrestling singlets; skull caps; socks; sport shirts; sweat pants; sweat shirts; visors; warm-up suits

Applicant Information

Application No	85280976	Publication date	06/07/2011
Opposition Filing Date	10/05/2011	Opposition Period Ends	
Applicant	Rudis Group LLC P.O. Box 1986 Powell, OH 43065 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: clothing, namely, athletic footwear; athletic shirts; athletic shorts; athletic uniforms; athletic warm ups suits; baseball caps and hats; beanies, compression garments for athletic or other non-medical use, namely, compression shorts and compression shirts; moisture-wicking long and short sleeve shirts; fleece pullovers; footwear for sports; wrestling shoes; golf shirts; gym shorts; head sweatbands; hooded sweatshirts; jerseys; jogging suits; long-sleeved shirts; mma shorts; moisture-wicking sports shirts; moisture-wicking sports shorts; polo shirts; pullovers; short-sleeved shirts; short-sleeved or long-sleeved t-shirts; wrestling singlets; skull caps; socks; sport shirts; sweat pants; sweat shirts; visors; warm-up suits

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

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	<h1>CONQUEST MMA</h1>
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 MMA		
Goods/Services	clothing, namely, athletic shirts, athletic shorts, athletic uniforms, baseball caps and hats, beanies, gym shorts, hooded sweatshirts, long-sleeved shirts, MMA shorts, pullovers, short-sleeved shirts, short-sleeved and long-sleeved t-shirts, skull caps, sport shirts, sweat pants, sweat shirts, shorts, rash guards, tube tops, micro shorts and tank tops		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CONQUEST		
Goods/Services	clothing, namely, athletic shirts, athletic shorts, athletic uniforms, baseball caps and hats, beanies, gym shorts, hooded sweatshirts, long-sleeved shirts, MMA shorts, pullovers, short-sleeved shirts, short-sleeved and long-sleeved t-shirts, skull caps, sport shirts, sweat pants, sweat shirts, shorts, rash guards, tube tops, micro shorts and tank tops		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CONQUEST BRAND		
Goods/Services	clothing, namely, athletic shirts, athletic shorts, athletic uniforms,		

	baseball caps and hats, beanies, gym shorts, hooded sweatshirts, long-sleeved shirts, MMA shorts, pullovers, short-sleeved shirts, short-sleeved and long-sleeved t-shirts, skull caps, sport shirts, sweat pants, sweat shirts, shorts, rash guards, tube tops, micro shorts and tank tops
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CONQUEST INDUSTRIES		
Goods/Services	clothing, namely, athletic shirts, athletic shorts, athletic uniforms, baseball caps and hats, beanies, gym shorts, hooded sweatshirts, long-sleeved shirts, MMA shorts, pullovers, short-sleeved shirts, short-sleeved and long-sleeved t-shirts, skull caps, sport shirts, sweat pants, sweat shirts, shorts, rash guards, tube tops, micro shorts and tank tops		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CONQUEST LIFE		
Goods/Services	clothing, namely, athletic shirts, athletic shorts, athletic uniforms, baseball caps and hats, beanies, gym shorts, hooded sweatshirts, long-sleeved shirts, MMA shorts, pullovers, short-sleeved shirts, short-sleeved and long-sleeved t-shirts, skull caps, sport shirts, sweat pants, sweat shirts, shorts, rash guards, tube tops, micro shorts and tank tops		

Attachments	77895284#TMSN.jpeg (1 page)(bytes) Opposition.pdf (9 pages)(25053 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	/Randolph E. Digges, III/
Name	Randolph E. Digges, III
Date	10/05/2011

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

In the Matter of:

Trademark Application Serial No. **85/221,920**
Filed: January 20, 2011
For the Mark: **CONQUEST**
Published in the *Official Gazette* on June 21, 2011

Trademark Application Serial No. **85/280,976**
Filed: March 30, 2011
For the Mark: **CONQUEST**
Published in the *Official Gazette* on June 7, 2011

Trademark Application Serial No. **85/280,986**
Filed: March 30, 2011
For the Mark: **CONQUEST**
Published in the *Official Gazette* on June 7, 2011

Devin Alario dba CONQUEST MMA Fight Shop,)	
)	
v.)	Opposition No. _____
)	
Rudis Group LLC,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451
Attention: TTAB

Devin Alario, an individual doing business as CONQUEST MMA Fight Shop and residing at 3809 Carnegie Drive, Oceanside, CA 92056 (hereinafter "Opposer"), will be damaged by the registration of the marks shown in U.S. Trademark App. Ser. Nos.

85/221,920, 85/280,976 and 85/280,986 and hereby opposes registration of said marks for all goods in International Class 25. U.S. Trademark App. Ser. Nos. 85/280,976 and 85/280,986 were published for opposition on June 7, 2011, and U.S. Trademark App. Ser. No. 85/221,920 was published for opposition on June 21, 2011. Opposer filed thirty day extensions of time and then sixty day extensions of time to oppose all three applications. The due date to file a Notice of Opposition for U.S. Trademark App. Ser. Nos. 85/280,976 and 85/280,986 is October 5, 2011, and the due date to file a Notice of Opposition for U.S. Trademark Application No. 85/221,920 is October 19, 2011.

1. Upon information and belief, Rudis Group LLC, an Ohio limited liability company having a business address of P.O. Box 1986, Powell, OH 43065 (hereinafter "Applicant"), filed an application to register "CONQUEST", U.S. Trademark Application Ser. No. 85/221,920 for the goods "clothing, namely, athletic footwear; athletic shirts; athletic shorts; athletic uniforms; athletic warm ups suits; baseball caps and hats; beanies, compression garments for athletic or other non-medical use, namely, compression shorts and compression shirts; moisture-wicking long and short sleeve shirts; fleece pullovers; footwear for sports; wrestling shoes; golf shirts; gym shorts; head sweatbands; hooded sweatshirts; jerseys; jogging suits; long-sleeved shirts; MMA shorts; moisture-wicking sports shirts; moisture-wicking sports shorts; polo shirts; pullovers; short-sleeved shirts; short-sleeved or long-sleeved t-shirts; wrestling singlets; skull caps; socks; sport shirts; sweat pants; sweat shirts; visors; warm-up suits", on January 20, 2011 (hereinafter "the '920 application").

2. Upon information and belief, the mark shown in the '920 application is in a Standard Character or Typewritten form, wherein no claim is made to any stylized format for the mark.

3. Upon information and belief, Applicant filed the '920 application on an intent-to-use basis.

4. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '920 application in commerce in the United States in connection with any of the goods recited in the '920 application prior to January 20, 2011.

5. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '920 application in commerce in the United States in connection with any of the goods recited in the '920 application prior to January 20, 2010

6. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '920 application in commerce in the United States in connection with any of the goods recited in the '920 application prior to January 20, 2009.

7. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '920 application anywhere in connection with any of the goods recited in the '920 application prior to January 20, 2011.

8. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '920 application anywhere in connection with any of the goods recited in the '920 application prior to January 20, 2010

9. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '920 application anywhere in connection with any of the goods recited in the '920 application prior to January 20, 2009.

10. Upon information and belief, Applicant filed an application to register "CONQUEST", U.S. Trademark Application Ser. No. 85/280,976 for the goods "clothing, namely, athletic footwear; athletic shirts; athletic shorts; athletic uniforms; athletic warm ups suits; baseball caps and hats; beanies, compression garments for athletic or other non-medical use, namely, compression shorts and compression shirts; moisture-wicking long and short sleeve shirts; fleece pullovers; footwear for sports; wrestling shoes; golf shirts; gym shorts; head sweatbands; hooded sweatshirts; jerseys; jogging suits; long-sleeved shirts; MMA shorts; moisture-wicking sports shirts; moisture-wicking sports shorts; polo shirts; pullovers; short-sleeved shirts; short-sleeved or long-sleeved t-shirts; wrestling singlets; skull caps; socks; sport shirts; sweat pants; sweat shirts; visors; warm-up suits", on March 30, 2011 (hereinafter "the '976 application").

11. Upon information and belief, the mark shown in the '976 application is in a stylized format, wherein the word "CONQUEST" is prominently featured.

12. Upon information and belief, Applicant filed the '976 application on an intent-to-use basis.

13. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '976 application in commerce in the United States in connection with any of the goods recited in the '976 application prior to March 30, 2011.

14. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '976 application in the United States in connection with any of the goods recited in the '976 application prior to March 30, 2010

15. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '976 application in commerce in the United States in connection with any of the goods recited in the '976 application prior to March 30, 2009.

16. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '976 application anywhere in connection with any of the goods recited in the '976 application prior to March 30, 2011.

17. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '976 application anywhere in connection with any of the goods recited in the '976 application prior to March 30, 2010

18. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '976 application anywhere in connection with any of the goods recited in the '976 application prior to March 30, 2009.

19. Upon information and belief, Applicant filed an application to register "CONQUEST", U.S. Trademark Application Ser. No. 85/280,986 for the goods "clothing, namely, athletic footwear; athletic shirts; athletic shorts; athletic uniforms; athletic warm ups suits; baseball caps and hats; beanies, compression garments for athletic or other non-medical use, namely, compression shorts and compression shirts; moisture-wicking long and short sleeve shirts; fleece pullovers; footwear for sports; wrestling shoes; golf shirts; gym shorts; head sweatbands; hooded sweatshirts; jerseys; jogging suits; long-sleeved shirts; MMA shorts; moisture-wicking sports shirts; moisture-wicking sports shorts; polo shirts; pullovers; short-sleeved shirts; short-sleeved or long-sleeved t-shirts; wrestling singlets; skull caps; socks; sport shirts; sweat pants; sweat shirts; visors; warm-up suits", on March 30, 2011 (hereinafter "the '986 application").

20. Upon information and belief, the mark shown in the '986 application is in a stylized format, wherein the word "CONQUEST" is prominently featured.

21. Upon information and belief, Applicant filed the '986 application on an intent-to-use basis.

22. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '986 application in commerce in the United States in connection with any of the goods recited in the '986 application prior to March 30, 2011.

23. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '986 application in the United States in connection with any of the goods recited in the '986 application prior to March 30, 2010

24. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '986 application in commerce in the United States in connection with any of the goods recited in the '986 application prior to March 30, 2009.

25. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '986 application anywhere in connection with any of the goods recited in the '986 application prior to March 30, 2011.

26. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '986 application anywhere in connection with any of the goods recited in the '986 application prior to March 30, 2010

27. Upon information and belief, Applicant did not use the mark "CONQUEST" as shown in the '986 application anywhere in connection with any of the goods recited in the '986 application prior to March 30, 2009.

28. On December 16, 2009, Opposer filed a use based application for the mark CONQUEST MMA, namely U.S. Trademark Application Ser. No. 77/895,284 (hereinafter "the '284 application") for various goods in International Class 028.

29. The mark shown in the '284 application was in a Standard Character or Typewritten form, wherein no claim was made to any stylized format for the mark.

30. On July 27, 2010, the U.S. Trademark Office issued Reg. No. 3,824,809 (hereinafter the '809 registration") to Opposer based on the '284 application. The U.S. Trademark Office set forth a disclaimer requirement with respect to the word MMA, which is a well known abbreviation of the phrase "mixed martial arts". Opposer disclaimed the word MMA apart from the mark as shown, but did not disclaim any rights in the word CONQUEST apart from the mark as shown.

31. Opposer has used the mark CONQUEST MMA in commerce in connection with MMA equipment in International Class 028 and in connection with clothing including, but not limited to, athletic shirts, athletic shorts, athletic uniforms, baseball caps and hats, beanies, gym shorts, hooded sweatshirts, long-sleeved shirts, MMA shorts, pullovers, short-sleeved shirts, short-sleeved and long-sleeved t-shirts, skull caps, sport shirts, sweat pants, sweat shirts, shorts, rash guards, tube tops, micro shorts and tank tops since well before the respective filing dates of the '920, '976 and '986 applications.

32. Opposer is the owner of common law rights in a family of marks that prominently feature the word CONQUEST. These include the marks CONQUEST, CONQUEST BRAND, CONQUEST MMA, CONQUEST INDUSTRIES and other marks featuring the word CONQUEST (hereinafter "the CONQUEST marks") and variations thereof for a variety of MMA equipment and a broad range of clothing products that are not limited to the MMA market. These products include, but are not limited to, the goods recited in the '920, '976 and '986 applications.

33. Opposer sells his products from its own retail location in Oceanside, California, through numerous distributors throughout the United States and via the website: <http://www.conquestmma.com> and other websites operated by Opposer.

34. Opposer has used and continues to use his CONQUEST marks in connection with the sponsorship of several MMA fighters and MMA events.

35. Opposer has used and continues to use his CONQUEST marks in connection with the sponsorship of the U.S. Marine Corps Fight Team, which trains at Camp Pendleton, California and competes in wrestling, Jiu Jitsu, Pankration and mixed martial arts events throughout the United States and around the world utilizing equipment and wearing clothing bearing Applicant's CONQUEST MMA mark.

36. Opposer's CONQUEST marks have become famous, particularly within the MMA market segment.

37. Tommy Rowlands, who upon information and belief is one of the principals of Applicant, was shown in a video that appeared on various blogs and social media sites on or about May 15, 2011 announcing that Applicant was about to launch a new brand called CONQUEST that would be "a performance apparel brand that's going to

be built and made for original athletes, that's our tag line and we're sticking to that, and we're going to uniquely market products in the wrestling community and eventually MMA."

38. On May 16, 2011, Opposer, by and through counsel, sent a cease and desist letter to Applicant, which informed Applicant that Opposer has been using the CONQUEST marks for several years in commerce in connection with the sale of athletic apparel and mixed martial arts gear and equipment.

39. After Applicant's announcement of the launch of its CONQUEST brand, Opposer has received numerous telephone calls, e-mails and contacts via social media sites from consumers who were confused regarding whether Applicant's CONQUEST brand products were sponsored by, affiliated with, connected to or associated with Opposer.

40. As recently as August 29, 2011, Tommy Rowlands was shown in a video that was posted on youtube.com on that date stating that Applicant intends to market the CONQUEST brand "into combat sports including mixed martial arts."

41. Prior to the filing of this Notice of Opposition, Opposer provided Applicant's counsel with redacted copies of packing slips evidencing Applicant's uninterrupted sale of products bearing the CONQUEST marks since at least as early as November 3, 2008 to customers located throughout the United States and in other countries.

42. The marks shown in the '920, '976 and '986 applications consist or comprise of the word CONQUEST, which so resembles the CONQUEST MMA mark shown in the '809 registration owned by Opposer, as to be likely, when used on or in connection with the listed goods sought to be registered by Applicant, to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods, services, or commercial activities by Opposer.

43. The marks shown in the '920, '976 and '986 applications consist or comprise of the word CONQUEST, which so resembles Opposer's common law rights in its CONQUEST marks and variations thereof previously used in the United States by

Opposer as to be likely, when used on or in connection with the listed goods sought to be registered by Applicant to cause confusion, or to cause mistake, or to deceive.

44. The continued existence of the '920, '976 and '986 applications will be a continuing source of damage and injury to Opposer in that Opposer will likely be unable to obtain a registration for its CONQUEST MMA mark for goods in International Class 25 in view thereof.

45. The registration of the '920, '976 and '986 applications on the Principal Register will be a continuing source of damage and injury to Opposer in that Opposer will likely be unable to obtain a registration for the CONQUEST marks for its goods.

46. The registration of the '920, '976 and '986 applications will cause dilution insofar as Opposer's CONQUEST MMA mark is concerned, particularly within the MMA market segment.

47. The registration of the '920, '976 and '986 applications will give the false impression that Applicant has at least the *prima facie* exclusive right to use CONQUEST when, in fact, Applicant does not have such an exclusive right.

48. The registration of the '920, '976 and '986 application damages Opposer in that it will prevent the registration of CONQUEST by Opposer for goods in International Class 25.

49. Opposer has priority in the mark CONQUEST and; therefore, it would be improper to allow the registration of the marks shown in the '920, '976 and '986 applications.

50. Opposer, therefore, believes it will be damaged by the registration of the marks shown in the '920, '976 and '986 applications.

WHEREFORE, Opposer prays that Trademark Application Serial Nos. 85/221,920, 85/280,976 and/or 85/280,986 be denied, that Applicant be enjoined from obtaining registration of Trademark Application Serial Nos. 85/221,920, 85/280,976 and/or 85/280,986, that no registrations be issued to Applicant thereon and that this opposition be sustained.

Opposer further requests that all correspondence in this matter be addressed to the undersigned.

Respectfully Submitted,

RANKIN, HILL & CLARK LLP

/Randolph E. Digges, III/

Randolph E. Digges, III
23755 Lorain Road, Suite 200
North Olmsted, OH 44070
Tel: (216) 566-9700
Fax: (216) 566-9711

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2011, a copy of the foregoing **NOTICE OF OPPOSITION** was sent by First Class U.S. Mail, postage prepaid, to Applicant at the following address:

Rudis Group LLC
P.O. Box 1986
Powell, OH 43065

/Randolph E. Digges, III/

Randolph E. Digges, III
Rankin, Hill & Clark LLP
Attorneys for Opposer