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

Proceeding	91201930
Party	Plaintiff Devin Alario
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Devin Alario dba CONQUEST MMA Fight Shop,

Opposer,

v.

Opposition No. 91201930

Rudis Group LLC,

Applicant.

ANSWER TO COUNTERCLAIM

Devin Alario, an individual doing business as CONQUEST MMA Fight Shop and residing at 3809 Carnegie Drive, Oceanside, CA 92056 (hereinafter "Alario"), for his Answer to the Counterclaim/Petition to Cancel U.S. Reg. No. 3,842,809 filed by Rudis Group, LLC (hereinafter "Rudis Group"), responds as follows:

Except as hereinafter expressly admitted, qualified or otherwise answered, Alario denies each and every allegation, matter, statement and thing asserted in the Counterclaim/Petition to Cancel (hereinafter "Counterclaim").

FIRST DEFENSE

1. The statements incorporated by reference in paragraph 55 of the Counterclaim contain no allegations or averments for which a response is required.
2. In response to the allegations set forth in paragraph 56 of the Counterclaim, Alario denies that Rudis Group will be damaged by the continued registration of U.S. Reg. No. 3,824,809 and denies that Alario did not own the CONQUEST MMA trademark on the filing date of the application for said registration.
3. Alario admits the allegations set forth in paragraph 57 of the Counterclaim.
4. In response to the allegations set forth in paragraph 58 of the Counterclaim, Alario is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as stated, and therefore denies the same.

5. In response to the allegations set forth in paragraph 59 of the Counterclaim, Alario is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as stated, and therefore denies the same.

6. In response to the allegations set forth in paragraph 60 of the Counterclaim, Alario denies that Rudis Group has established ownership of CONQUEST trademarks through actual use in interstate commerce, denies that Rudis Group is entitled to federal trademark registration and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations as stated, and therefore denies the same.

7. In response to the allegations set forth in paragraph 61 of the Counterclaim, Alario admits that Rudis Group has filed three applications to register CONQUEST trademarks in the U.S. Trademark Office, namely U.S. App. Ser. Nos. 85/221,920, 85/280,986 and 85/280,976, and that such applications identify goods in International Class 025 and that Exhibit 2 appears to be copies of the USPTO TARR status of such applications, but denies that Rudis Group has established ownership of CONQUEST trademarks through actual use in interstate commerce, denies that Rudis Group is entitled to federal trademark registration and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations as stated, and therefore denies the same.

8. Alario admits the allegations set forth in paragraph 62 of the Counterclaim.

9. In response to the allegations set forth in paragraph 63 of the Counterclaim, Alario admits that Alario's opposition to the marks shown in U.S. App. Ser. Nos. 85/221,920, 85/280,986 and 85/280,976 is based, in part, on the mark shown in U.S. Reg. No. 3,824,809, and notes that Alario has established senior rights as compared to Rudis Group in a variety of CONQUEST marks based on earlier use in commerce on and in connection with goods in International Class 025.

10. In response to the allegations set forth in paragraph 64 of the Counterclaim, Alario admits that a true and correct copy of U.S. Reg. No. 3,824,809 and its prosecution history is attached as Exhibit 3 to the Counterclaim, but denies all other allegations set forth therein.

11. Alario admits the allegations set forth in paragraph 65 of the Counterclaim insofar as the allegation of use relates to the goods referenced in U.S. Reg. No. 3,824,809, and notes that Alario's use and rights in the CONQUEST MMA and other CONQUEST marks began at different times for different goods.

12. Alario admits the allegations set forth in paragraph 66 of the Counterclaim.

13. Alario admits the allegations set forth in paragraph 67 of the Counterclaim.

14. Alario denies the allegations set forth in paragraph 68 of the Counterclaim.

15. Alario denies the allegations set forth in paragraph 69 of the Counterclaim.

16. Alario denies the allegations set forth in paragraph 70 of the Counterclaim.

17. Alario denies the allegations set forth in paragraph 71 of the Counterclaim.

18. Alario denies the allegations set forth in paragraph 72 of the Counterclaim.

19. Alario denies the allegations set forth in paragraph 73 of the Counterclaim.

20. Alario denies the allegations set forth in paragraph 74 of the Counterclaim.

21. In response to the allegations set forth in paragraph 75 of the Counterclaim, Alario admits that he filed U.S. App. Ser. No. 77/895,284 on December 16, 2009, but denies that such mark and/or the rights associated therewith were owned by the Bankruptcy Estate.

22. Alario denies the allegations set forth in paragraph 76 of the Counterclaim.

23. Alario denies the allegations set forth in paragraph 77 of the Counterclaim.

24. Alario denies the allegations set forth in paragraph 78 of the Counterclaim.

SECOND DEFENSE

25. The Counterclaim fails to state a claim against Alario upon which relief can be granted.

THIRD DEFENSE

26. The Counterclaim is barred by the equitable doctrine of unclean hands.

FOURTH DEFENSE

27. Rudis Group lacks standing to bring this Counterclaim as it is not likely to be damaged by the continued registration of the CONQUEST MMA trademark.

WHEREFORE, Alario respectfully prays that the Counterclaim/Petition to Cancel be denied.

Respectfully Submitted,

RANKIN, HILL & CLARK LLP

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CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2012, a copy of the foregoing **ANSWER TO COUNTERCLAIM** was sent by electronic mail to counsel for Rudis Group at the following address:

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