

ESTTA Tracking number: **ESTTA455956**

Filing date: **02/10/2012**

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	Ian Dixon
Granted to Date of previous extension	02/11/2012
Address	101 Barnhart Circle Sacramento, CA 95835 UNITED STATES
Party who filed Extension of time to oppose	IanDixon
Relationship to party who filed Extension of time to oppose	Ian is his first name and Dixon is his last name, there was no space entered between them when the extension was filed.

Attorney information	Majique Ladnier 101 Barnhart Circle Sacramento, CA 95835 UNITED STATES majiqueladnier@yahoo.com, s@abwholding.com Phone:9169287350
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Applicant Information

Application No	85317020	Publication date	12/13/2011
Opposition Filing Date	02/10/2012	Opposition Period Ends	02/11/2012
Applicant	William Vittore 2232 32nd Street Sacramento, CA 95817 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. First Use: 2008/10/00 First Use In Commerce: 2008/10/00
All goods and services in the class are opposed, namely: Athletic equipment, namely, hand wraps; Athletic tape

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85359214	Application Date	06/29/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WAR		
Design Mark			
Description of Mark	The mark consists of the letters "WAR" in stencil font with the letter "A" raised above the letters "W" and "R".		
Goods/Services	<p>Class 010. First use: First Use: 2008/08/09 First Use In Commerce: 2008/09/09 Adhesive tape containing printed designs for medical purposes</p> <p>Class 028. First use: First Use: 2008/08/09 First Use In Commerce: 2008/09/09 Athletic tape containing printed designs for sports activities, namely mixed martial arts</p>		

U.S. Application No.	85359231	Application Date	06/29/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WAR		
Design Mark			
Description of Mark	The mark consists of letters "WAR" in stencil font with the letter "A" raised above the letters "W" and "R".		
Goods/Services	<p>Class 005. First use: Tape and taping supplies for medical purposes, namely, medical adhesive tape; first aid kits; athletic trainers' kit comprised primarily of adhesive bandages, adhesive tape, medical adhesive bandages, antibiotic ointments, antiseptic sprays, analgesic ointments; medical and surgical dressings, namely, wound dressing</p> <p>Class 010. First use:</p>		

	<p>Supports for knee, ankle, wrists, elbows, hands, feet, back for medical use; compression wraps for medical purposes; hand wraps for medical purposes</p> <p>Class 025. First use: Athletic apparel, namely, T-shirts, pants, caps, visors, hats, sweatshirts, sweat suits, warm-ups and jogging suits</p> <p>Class 028. First use: Athletic sporting goods, namely, supports for hands, feet, ankles, wrists, and joints for athletic use; compression wraps for knees, feet, ankles, legs and arms for athletic use; hand wraps for athletic use; supports, compression wraps and hand wraps for boxing, football, baseball, basketball, wrestling, ice hockey, field hockey, lacrosse and X-Game sports</p>
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U.S. Application No.	85360796	Application Date	06/30/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WAR		
Design Mark			
Description of Mark	The mark consists of letters "WAR" in stencil font with the letter "A" raised above the letters "W" and "R".		
Goods/Services	Class 017. First use: Duct tape containing printed designs for use in sporting activities		

Related Proceedings	A letter of protest was filed on 11/10/2011. Sacramento Superior Court Case Number 34-2011- 00113524 was filed on 11/4/2011.
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Attachments	<p>85359214#TMSN.jpeg (1 page)(bytes)</p> <p>85359231#TMSN.jpeg (1 page)(bytes)</p> <p>85360796#TMSN.jpeg (1 page)(bytes)</p> <p>NOT OF OPP TM 1.pdf (3 pages)(78563 bytes)</p> <p>110411 Complaint.pdf (31 pages)(643862 bytes)</p>
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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	/majique ladnier/
Name	Majique Ladnier
Date	02/10/2012

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

In the matter of trademark application Serial No. 85317020
For the mark WAR VB (“The Mark”)
Published in the Official Gazette on December 13, 2011

Ian Dixon

v.

William Vittore

NOTICE OF OPPOSITION

Ian Dixon, Individual

Business address: 101 Barnhart Circle, Sacramento, CA 95835

The above-identified opposer believes that he will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same. The above-identified opposer was granted a 30-day extension within which to file this Notice of Opposition on January 11, 2012.

The grounds for opposition are as follows:

1. Ian Dixon (“Opposer”) was the first to develop, market and use in commerce the mark “WAR” on athletic tape and other products. Opposer first adopted and used the mark “WAR” to identify his goods on or about 2008 and has used the mark “WAR” or “WAR/VB”, The Mark which Mr. Vittore is attempting to register, continuously since then to identify his goods. Mr. Vittore, with full knowledge of Opposer’s creation and prior use of the mark “WAR” in association with athletic tape and other goods has attempted to register The Mark in his name and has been marketing and selling goods identified with The Mark since the beginning of 2011.

2. Opposer currently has applications for federal trademark registration pending for the mark “WAR”, filed on or about June 29, 2011 (application serial numbers 85359214 and 85359231) and June 30, 2011 (application serial number 85360796) for the same class of goods for which Mr. Vittore is attempting to register The Mark. Opposer has been prevented from registering the mark “WAR”, notwithstanding that he is the first user of “WAR”, due to Mr. Vittore’s application for registration.
3. There is a high likelihood of confusion between Opposer’s mark and The Mark for the following reasons:
 - A. The substantive part of the marks is the exact same word, “WAR”;
 - B. The marks are being used for the same class of goods “athletic equipment and athletic tape”;
 - C. The goods bearing the marks are sold and advertised using the same marketing channels and to the same class of purchasers, the goods are sold mainly via the Internet to Mixed Martial Arts (MMA) and Boxing equipment retailers, as well as to local (both Mr. Vittore and Opposer reside in Sacramento, California) gyms and to MMA and Boxing trainers.
4. Opposer has set forth grounds for opposition to registration of The Mark in pending litigation filed on or about November 4, 2011 in the State of California, Sacramento Superior Court which alleges infringement of Opposer’s trademark by Mr. Vittore’s use of The Mark (a true and correct copy of the complaint filed in Sacramento Superior Court Case Number 34-2011-00113524 is attached hereto and incorporated herein by this reference).
5. Based on the foregoing, Opposer requests that registration of The Mark be denied.

Date: February 9, 2012

By: Majique Ladnier
Attorney for Opposer

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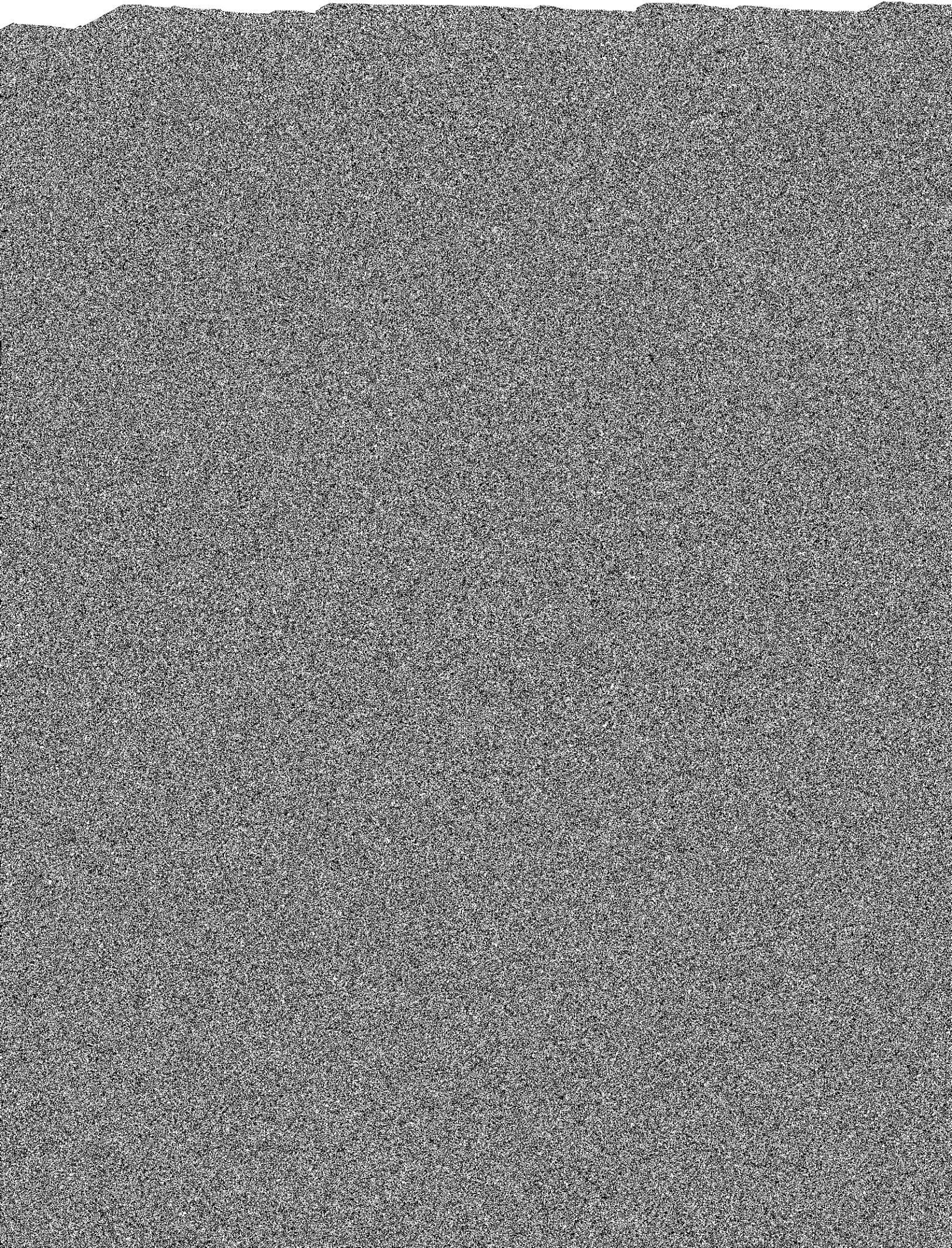
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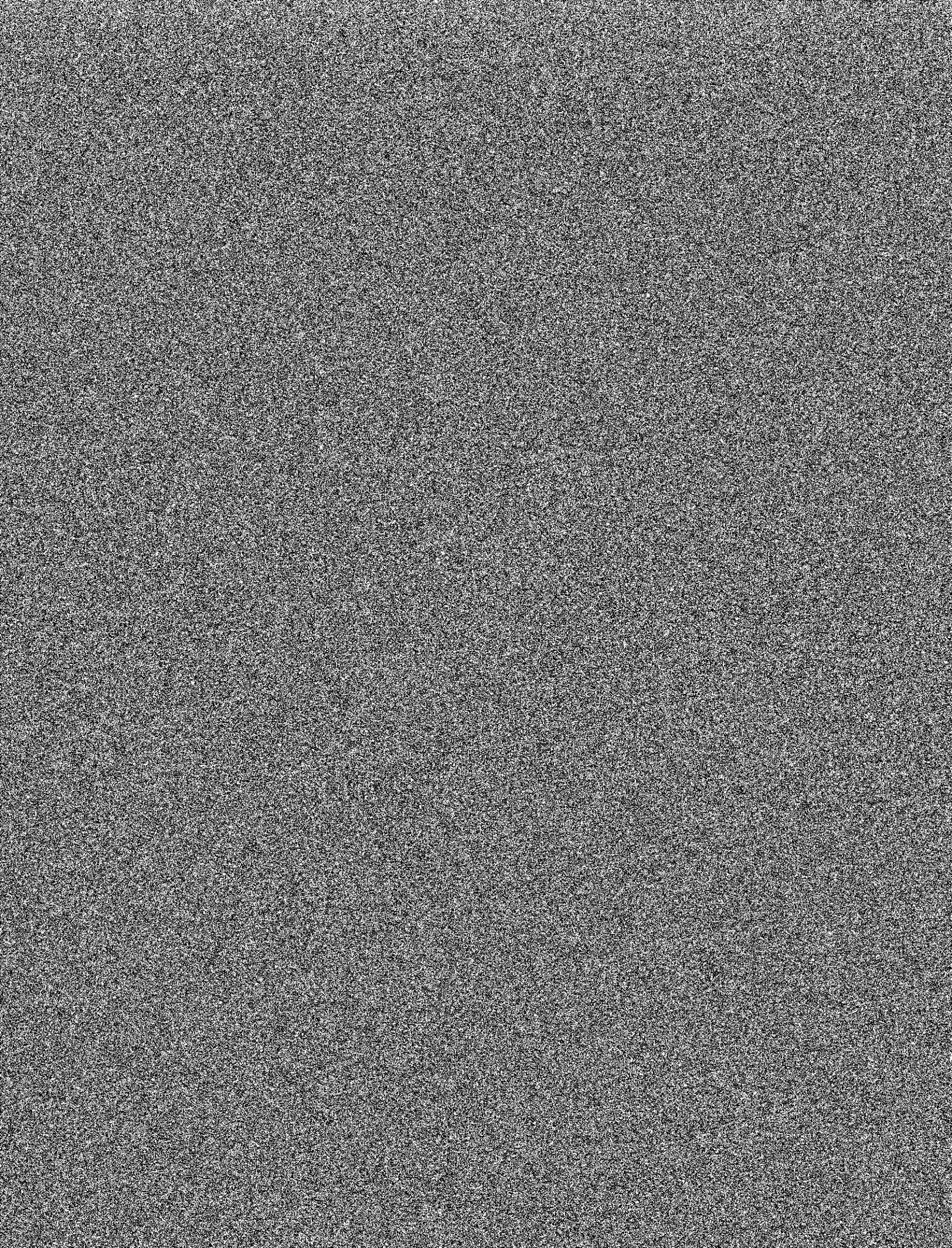
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