

ESTTA Tracking number: **ESTTA458761**

Filing date: **02/27/2012**

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	Siemes International Corporation
Granted to Date of previous extension	02/26/2012
Address	2424 South IH 35 Austin, TX 78704 UNITED STATES
Attorney information	William D. Wiese DuBois, Bryant & Campbell, LLP 700 Lavaca Street Suite 1300 Austin, TX 78701 UNITED STATES bwiese@dbcllp.com Phone:512-457-8000

Applicant Information

Application No	79079613	Publication date	08/30/2011
Opposition Filing Date	02/27/2012	Opposition Period Ends	02/26/2012
International Registration No.	1030657	International Registration Date	08/07/2009
Applicant	RHINO RUGBY LIMITED Westbridge Industrial Estate Tavistock, Devon PL19 8DE UNITED KINGDOM		

Goods/Services Affected by Opposition

<p>Class 028. All goods and services in the class are opposed, namely: Sporting articles and equipment, namely, bags specially adapted to hold rugby equipment, rugby balls, pumps for inflating rugby balls, touch rugby belts and tags not a part of a rugby uniform; physical training equipment and apparatus, namely, body-training apparatus, head guards for rugby training purposes, athletic protective pads for rugby tackling practice; exercising equipment, namely, weight lifting machines; fitness machines and equipment, namely, weights, treadmills, rowing machines, stair stepping machines, resistance machines, stationary cycles; manual exercise machines, namely, rugby scrum training machines; rugby training equipment, namely, tackling dummies for rugby, hand-held contact pads for use in practicing rugby tackling, body pads, rucking nets, training poles, grid markers, knee pads for rugby players, shoulder pads for rugby players, torso pads for rugby players; athletic equipment, namely, training devices to be worn on the body for support; rugby ground equipment, namely, goal posts, post padding, flags and poles; kicking tees and rugby balls; all these goods being rugby products</p>
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	RED RHINO		
Goods/Services	rugby equipment, rugby merchandise and other sporting goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	RED RHINO SPORTS		
Goods/Services	rugby equipment, rugby merchandise, and other sporting goods		

Attachments	RED RHINO Notice of Opposition.pdf (8 pages)(328396 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	/William D. Wiese/
Name	William D. Wiese
Date	02/27/2012

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

In the Matter of Mark Application Serial No. 79,079,613
Published in the Official Gazette on August 30, 2011

SIEMES INTERNATIONAL CORPORATION §
Opposer, §

vs. §

RHINO RUGBY LIMITED §
Applicant. §

Opposition No. _____

NOTICE OF OPPOSITION

TO THE TRADEMARK TRIAL AND APPEAL BOARD:

Siemes International Corporation (“Opposer”), having its principal place of business at 2424 South IH 35, Austin, Texas 78704 by its attorneys, believes that it will be damaged by registration of United States Trademark Application Serial No. 79,079,613 filed August 7, 2009 by Rhino Rugby Limited (“Applicant”), and hereby opposes the same pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.101(b). As grounds of opposition, it is alleged that:

A. Factual Background

1. Opposer’s Marks. Opposer is a well established company that sells rugby equipment, rugby merchandise and other sporting goods. Opposer has used the marks RED RHINO, RED RHINO SPORTS and RHINO Design marks (“Marks”) in commerce in connection with the sale of rugby equipment and related merchandise since at least 2001. Opposer has gained common law trademark rights in its Marks.

2. Use of Opposer's Marks. Opposer has expended extensive time and money developing its Marks. Opposer has advertised and marketed its products in interstate commerce, thereby creating valuable goodwill. Moreover, Opposer has so used its Marks in connection with its products that the relevant public has come to associate the Marks with Opposer.

3. Applicant's Application. On August 7, 2009 Applicant filed United States Trademark Application Serial Number 79/079,613 (the "Application") to federally register the RHINO Design mark under 15 U.S.C. § 1141(f) based on international registration number 1030657. A copy of Applicant's Application is attached as Exhibit A. According to the Application and information on file with the United States Trademark Office, Applicant is a limited company located in the United Kingdom with offices at Westbridge Industrial Estate, Tavistock, Devon PL 19, 8DE, United Kingdom. Applicant seeks to register the RHINO Design mark in International Class 028 for use in connection with "*sporting articles and equipment, namely, bags specially adapted to hold rugby equipment, rugby balls, pumps for inflating rugby balls, touch rugby belts and tags not a part of a rugby uniform; physical training equipment and apparatus, namely, body-training apparatus, head guards for rugby training purposes, athletic protective pads for rugby tackling practice; exercising equipment, namely, weight lifting machines; fitness machines and equipment, namely, weights, treadmills, rowing machines, stair stepping machines, resistance machines, stationary cycles; manual exercise machines, namely, rugby scrum training machines; rugby training equipment, namely, tackling dummies for rugby, hand-held contact pads for use in practicing rugby tackling, body pads, rucking nets, training poles, grid markers, knee pads for rugby players, shoulder pads for rugby players, torso pads for rugby players; athletic equipment, namely, training devices to be worn on the body for support; rugby ground equipment, namely, goal posts, post padding, flags and poles; kicking tees and*

rugby balls; all these goods being rugby products.” Applicant’s application was published for opposition in the Official Gazette on April 30, 2011.

4. Opposer’s Senior Rights in the Marks. Applicant has filed its application based on its international registration for the mark under Section 66(a) of the Trademark Act, 15 U.S.C. Section 1141(f). Applicant’s priority only goes back to the date of filing the international application, namely, August 7, 2009. Opposer’s priority for its Marks dates back to at least as early as 2001. Opposer’s Marks have been continuously developed, offered and advertised in interstate commerce in connection with the sale of rugby equipment since at least as early as 2001. Therefore, Opposer has superior rights and priority in the use of its Marks, and marks confusingly similar thereto, including Applicant’s proposed RHINO Design mark.

5. Likelihood of Confusion. Opposer would show that Applicant’s proposed RHINO Design mark so resembles Opposer’s Marks that, when used on or in connection with Applicant’s goods, it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act. Applicant’s specified products in International Class 028 are very closely related to the products sold by Opposer under its Marks. Customers of Opposer’s products and Applicant’s products could and would likely be confused as to source or origin of Opposer’s and Applicant’s respective products and likely to believe Applicant’s products either originate with Opposer or were affiliated with, sponsored by or endorsed by Opposer.

6. Opposer’s Injury. If Applicant is granted registration for its proposed mark, Applicant would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer and its customers. Based upon

the foregoing, Applicant's Application for the proposed RHINO Design mark Serial No. 79/079,613, filed August 7, 2009 will cause injury and damage to Opposer.

7. Conclusion. In view of the above, Applicant's application to register the proposed RHINO Design mark is not entitled to federal registration and the Application should be denied.

WHEREFORE, Opposer requests that registration of Serial No. 79/079,613 be denied.

Respectfully submitted,

/William D. Wiese/
William D. Wiese
DUBOIS, BRYANT & CAMPBELL, LLP
700 Lavaca Street, Suite 1300
Austin, Texas 78701
(512) 457-8000
(512) 457-8008 (fax)
ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Rodney L. Skoglund, Attorney of Applicant, by mailing said copy on February 27, 2012, via First Class Mail, postage prepaid to:

Rodney L. Skoglund
RENNER KENNER
First National Tower, Suite 400
106 South Main Street
Akron, Ohio 44308

/William D. Wiese/

EXHIBIT A

APPLICANT'S ORIGINAL APPLICATION

REQUEST FOR EXTENSION OF PROTECTION

SERIAL NUMBER: 79079613

FILING DATE: 08/07/2009

The table below presents the data as entered.

Input Field	Entered
MARK SECTION	
IMAGE	\\TICRS\EXPORT9\IMAGEOUT9\790\796\79079613\xml1\APP0002.JPG
COLLECTIVE, CERTIFICATE OR GUARANTEE MARK	NO
MARK IN STANDARD CHARACTERS	NO
MARK IN COLOR	NO
THREE DIMENSIONAL MARK	NO
SOUND MARK	NO
TM IMAGE: COLOR	Grey Scale
IMAGE FILE NAME	\\TICRS\EXPORT9\IMAGEOUT9\790\796\79079613\xml1\APP0002.JPG
TYPE (IMAGE TYPE)	JPG
TEXTUAL ELEMENTS OF MARK	RHINO
HOLDER DETAILS	
CLIENT IDENTIFIER	713865
NOTIFICATION LANGUAGE	ENGLISH
NAME	RHINO RUGBY LIMITED
ADDRESS	Westbridge Industrial Estate Tavistock, Devon PL19 8DE
COUNTRY	United Kingdom
ENTITLEMENT NATIONALITY OF APPLICANT/TRANSFEREE/HOLDER	United Kingdom
LEGAL NATURE	Limited Company
LEGAL NATURE: PLACE INCORPORATED	United Kingdom
CORRESPONDENCE INDICATOR	YES
BASIC GOODS AND SERVICES	
VERSION OF NICE CLASSIFICATION USED	9
NICE CLASSIFICATION	18
GOODS AND SERVICES	Goods of leather and imitation leather; luggage; bags; umbrellas; sports bags; kit bags; ball bags; wallets and purses; all these goods being rugby products.
NICE CLASSIFICATION	25
GOODS AND SERVICES	Clothing, footwear and headgear; all these goods being rugby products.
NICE CLASSIFICATION	28
GOODS AND SERVICES	Sporting articles and equipment; physical training equipment and apparatus; rugby training equipment including scrummage training machines, tackle bags, contact pads, body pads, rucking nets, training poles, grid markers, protective pads and body supports; rugby ground equipment including goal posts, post padding, flags and poles; kicking tees

and rugby balls; all these goods being rugby products.

BASE REGISTRATION DETAILS

BASE APPLICATION NUMBER 004622155
BASE APPLICATION DATE 10/11/2005

REPRESENTATIVE DETAILS

CLIENT IDENTIFIER 434444
NAME SANDERSON & CO.
ADDRESS 34 East Stockwell Street
Colchester, Essex CO1 1ST
COUNTRY United Kingdom

INTENT TO USE GROUP

CONTRACTING PARTY CODE United States of America

DESIGNATIONS

DESIGNATIONS UNDER THE PROTOCOL United States of America

INTERNATIONAL REGISTRATION DETAILS

INTERNATIONAL REGISTRATION NUMBER 1030657
INTERNATIONAL REGISTRATION DATE OF MARK 08/07/2009
INTERNATIONAL REGISTRATION EXPIRY DATE 08/07/2019
EFFECTIVE DATE OF MODIFICATION 08/07/2009
NOTIFICATION DATE 03/18/2010
DATE OF RECORDAL IN INTERNATIONAL REGISTER 03/01/2010
IB DOCUMENT ID 509897101
OFFICE OF ORIGIN CODE Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)
OFFICE REFERENCE 79079613
TRANSACTION TYPE VALUES Initial Designation
ORIGINAL LANGUAGE ENGLISH
INSTRUMENT UNDER WHICH CONTRACTING PARTY IS DESIGNATED Protocol
DURATION OF MARK (YEARS) 10
VIENNA CLASSIFICATION VERSION USED 6
VIENNA CLASS 0302
VIENNA CLASS 2705

