

ESTTA Tracking number: **ESTTA498111**

Filing date: **10/03/2012**

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 | Ronald Ortiz |
| Granted to Date of previous extension | 10/03/2012 |
| Address | c/o Frankfurt Kurnit Klein & Selz PC 488 Madison Avenue New York, NY 10022 UNITED STATES |
| Party who filed Extension of time to oppose | RonaldOrtiz |
| Relationship to party who filed Extension of time to oppose | there should be a space between Opposer's first and last name |

| | |
|----------------------|--|
| Attorney information | Mary Sotis Frankfurt Kurnit Klein & Selz PC 488 Madison Avenue New York, NY 10022 UNITED STATES pto@fkks.com Phone:212-980-0120 |
|----------------------|--|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 85311412 | Publication date | 06/05/2012 |
| Opposition Filing Date | 10/03/2012 | Opposition Period Ends | 10/03/2012 |
| Applicant | GILI RITZ 9461 CHARLEVILLE BLVD. #180 BEVERLY HILLS, CA 90212 UNITED STATES | | |

Goods/Services Affected by Opposition

| |
|--|
| Class 025. First Use: 2007/05/03 First Use In Commerce: 2007/05/03 All goods and services in the class are opposed, namely: Capri pants; Cargo pants; Crop pants; Gym pants; Jogging pants; Lounge pants; Pants; Sleep pants; Sports pants; Sweat pants |
|--|

Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Deceptiveness | Trademark Act section 2(a) |
| 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. Application No. | 85549537 | Application Date | 02/22/2012 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | SMUSH BRAND APPAREL | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 025. First use: Clothing, namely, bras, sports bras, A-shirts, bandanas, baseball caps and hats, bathing suits, beachwear, belts, Bermuda shorts, boxer shorts, coats, footwear, gloves, hats, headwear, headbands, hooded pullovers, hooded sweatshirts, jackets, jerseys, long-sleeves shirts, loungewear, neckwear, nightwear, pajamas, pants, pullovers, robes, scarves, shirts, shoes, shorts, short-sleeved shirts, sleepwear, sneakers, socks, sun visors, sweatbands, sweaters, sweatpants, sweatshirts, sweat suits, swimwear, tank-tops, t-shirts, ties, turtle neck shirts, undershirts, underwear, visors wristbands</p> | | |

| | | | |
|----------------------|---|-----------------------|------------|
| U.S. Application No. | 85549533 | Application Date | 02/22/2012 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | SMUSH BRAND APPAREL | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 018. First use: Wallets, briefcases, backpacks, beach bags, beach umbrellas, duffle bags, fanny packs, garment bags for travel, handbags, leather and imitation leather bags, luggage, pocketbooks, purses, shoulder bags, sports bags, suitcases, tote</p> | | |

| | | | |
|----------------------|--|-----------------------|------------|
| | bags, travel bags | | |
| U.S. Application No. | 85549527 | Application Date | 02/22/2012 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | SMUSH BRAND APPAREL | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 014. First use: Jewelry and watches | | |

| | |
|-------------|---|
| Attachments | 85549537#TMSN.jpeg (1 page)(bytes) 85549533#TMSN.jpeg (1 page)(bytes) 85549527#TMSN.jpeg (1 page)(bytes) img-X03184350-0001.pdf (25 pages)(1753847 bytes) |
|-------------|---|

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 | /Mary Sotis/ |
| Name | Mary Sotis |
| Date | 10/03/2012 |

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

Applicant : Gili Ritz
9461 Charleville Blvd. #180 Beverly Hills, California 90212

Trademark : SMOOSH

Serial No. : 85/311,412

Filed : May 3, 2011

Published : June 5, 2012

Class : 025

RONALD ORTIZ,

Opposer,
-v-

Opposition No. _____

GILI RITZ,

Applicant.

NOTICE OF OPPOSITION

Opposer Ronald Ortiz ("Opposer"), a United States citizen, believes that he will be damaged by the registration of Application Serial No. 85/311,412 for the trademark SMOOSH and hereby opposes registration of the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer, Ronald Ortiz, has been a public figure for over three years because of his role in the well-known ongoing reality television series named "Jersey Shore" under his performance name Ronnie Magro. Opposer stars as the cast mate "Ronnie" on the television show, which premiered on MTV in 2009. The show has

successfully aired on television for five seasons with extreme popularity and has brought Opposer fame and notoriety worldwide.

2. Opposer has for years used the term SMUSH and routinely uses the term in print and radio interviews and on television. The term SMUSH has become Opposer's well-known catch phrase. Opposer used the term SMUSH on the television show Jersey Shore, so much so and so often that when the cast of the Jersey Shore was named one of Barbra Walters' Most Fascinating People in the World in 2010, Ms. Walters specifically asked Opposer a question about the term SMUSH, and Opposer provided Walters with the definition of SMUSH (See Exhibit A and video of the interview found at this link: (<http://www.youtube.com/watch?v=UeOhc9pTxcY>)). Further, as a result of the unsolicited press coverage received by Opposer for the SMUSH term, the word is readily identified and has become synonymous with Opposer. (See Exhibit B and Exhibit C). In fact, the first definition on urbandictionary.com for SMUSH includes a quote by Opposer. (See Exhibit D).

3. To build on the success of the term, Opposer has used the trademark SMUSH in connection with various entertainment services and goods, including but not limited to clothing, public appearances, interviews, and promotion of nightclubs and events. Additionally, Opposer, as a principal or licensor in Smush Brand Apparel LLC, filed the following federal applications:

| <u>Serial No.</u> | <u>Mark</u> | <u>International Class: Goods</u> |
|-------------------|---------------------|-----------------------------------|
| 85/549,537 | SMUSH BRAND APPAREL | Class 25: Clothing |
| 85/549,533 | SMUSH BRAND APPAREL | Class 18: Wallets and bags |
| 85/549,527 | SMUSH BRAND APPAREL | Class 14: Jewelry and watches |

Indeed, Opposer's much anticipated clothing line has been covered by the press. (See Exhibit E and Exhibit F).

4. Applicant's applied for mark SMOOSH is confusingly similar to Opposer's mark SMUSH and Applicant's mark is to be used with identical services.

5. Applicant filed its application herein opposed with the apparent intent to

create the impression that Applicant's goods are sponsored by, approved of or otherwise associated with Opposer. Applicant's use of SMOOSH is a clear reference to Opposer's well-known term.

6. Applicant seeks to register the mark SMOOSH for use in connection with “Capri pants; Cargo pants; Crop pants; Gym pants; Jogging pants; Lounge pants; Pants; Sleep pants; Sports pants; Sweat pants” in Class 25. Applicant's use of SMOOSH in connection with clothing is likely to cause confusion, to cause mistake, or to deceive, and thus is unregistrable by Applicant. Applicant's use of the mark will likely lead to the mistaken belief that Applicant's goods originate with, or are affiliated with, or are licensed by Opposer, and will falsely suggest a connection between Applicant and/or its goods and Opposer.

7. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

8. Registration should be refused on the grounds that Applicant's SMOOSH mark falsely suggests a connection between Applicant and Opposer, to the damage of Opposer.

9. Registration should be refused on the grounds that Applicant's SMOOSH mark so resembles Opposer's SMUSH mark as to cause confusion, mistake, and/or deception, all to the damage of Opposer.

10. Registration should be refused because the registration by Applicant of SMOOSH in connection with “Capri pants; Cargo pants; Crop pants; Gym pants; Jogging pants; Lounge pants; Pants; Sleep pants; Sports pants; Sweat pants” will dilute and tarnish Opposer's rights in his SMUSH mark.

11. Moreover, at all time hereto, Applicant has been aware and knowledgeable of Opposer's business, Opposer's rights in the term SMUSH, and the significant goodwill

associated with the SMUSH mark. Indeed, Applicant has been involved in negotiations with Opposer to become a licensor of Opposer's products. Upon information and belief, Applicant therefore knowingly made a false, material representation with intent to deceive the U.S. Patent and Trademark Office. Applicant's verified application for the SMOOSH mark includes a Declaration that states that "to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive..." Therefore, Applicant committed fraud on the U.S. Patent and Trademark Office.

WHEREFORE, Opposer respectfully prays for judgment sustaining this opposition and refusing registration to Applicant of the mark in Application Serial No. 85/311,412.

Dated: New York, New York

October 3, 2012

Respectfully submitted,

FRANKFURT KURNIT KLEIN &
SELZ, PC

By: /Rachel Kronman/
Mary Sotis
Rachel Kronman
488 Madison Avenue
New York, NY 10022
(212) 826-5524

Attorneys for Opposer, Ronald Ortiz

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of October, 2012, I caused a copy of the foregoing NOTICE OF OPPOSITION to be served, by the means indicated below, upon:

VIA FIRST CLASS MAIL

Gili Ritz
9461 Charleville Blvd. #180
Beverly Hills, California 90210

/Rachel Kronman/

Rachel Kronman

EXHIBIT A



NEWS TOP STORIES 1 of 4



Chris Brown Feuds With M'kanda Lambert, WWE Star CM Punk



'Hunger Games' Cast Will Meet Fans At U.S. Malls



Demi Lovato Documents Recovery in MTV's 'Stay Strong'

Dec 10 2010 12:00 AM EST 8,109

'Jersey Shore' Cast Schools Barbara Walters On 'Smushing'

The party-lovin' crew brings the news anchor into their world in '10 Most Fascinating People of 2010' special.

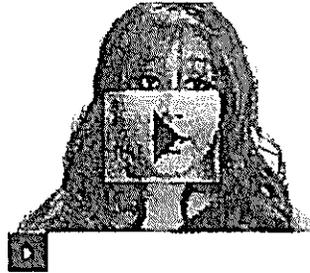
By Mawuse Ziegbe



Snooki and the Situation on ABC's "10 Most Fascinating People of 2010" special on Thursday
Photo: ABC

They were lampooned in late-night talk-show monologues, turned heads at awards shows and on red carpets, and inspired GTL-friendly Halloween costumes. There were few corners of pop culture the crew of MTV's "Jersey Shore" didn't reach in 2010, and that includes Barbara Walters' "10 Most Fascinating People of 2010" list.

In her introduction of the party-startin' crew, Walters said she regretted missing out on sit-downs with luminaries such as Jackie Onassis and Greta Garbo, but quipped that she's beefing up her storied resumé by chatting with the "Shore" kids.



While Walters' approach to the interview was fairly tongue-in-cheek, the Seaside Heights fist-pumpers were fairly intimidated by the event. As Snooki put it, "This is like [meeting] Elvis. It was awesome."

Walters gamely jumped into the world of the "Jersey Shore." She learned about the seven-member cast's unique lexicon, chatting with Mike "The Situation" Sorrentino about the definition of a "grenade" ("It's just humorous guy language that really nobody's really intended to hear"), and the reality stars coached her on the proper way to pronounce "smush." She then wasted no time putting her newly expanded vocabulary to work.

"So are you and Sammi smushing?" Walters asked Ronnie, as the rest of the cast giggled.

"You could say that," Ron admitted, with his on-and-off girlfriend Sammi by his side.

The "Shore" residents also addressed their controversial image as relentless revelers who set a poor example for young people — a claim that Sorrentino, who reportedly made \$10 million from his "Jersey" fame this year, shrugged off.

"I would like to find one person that says when they were in their 20s they didn't go out and have a little fun," he said.

Pauly D also denied the show reinforced stereotypes about Italian-Americans, saying, "I'm not representing all Italians."

Despite the show's rowdy atmosphere, Snooki maintained the buttoned-up news veteran would fit right in at a raging night on the Shore.

"She's really hot in person," she said. "I think Barbara would kick our asses at the Jersey Shore."

Related Videos



Barbara Walters Learns The "Jersey Shore" Language
Posted 12/12/10

Even with Snooki's confidence in Walters as a possible member of the "Shore" crew, the legendary anchor still wasn't sure what to make of the collective after her encounter with the tanned twentysomethings.

"They are something," Walters said. "I don't know what, but they are something."

What did you think of the Barbara Walters special? Let us know in the comments!

COMMENTS

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22
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Jersey Shore's Sammi & Ronnie split: did he "smush" someone else?

By [Celebrity Chatta](#) [Leave a Comment](#)

Categories: [Jersey Shore](#)

Tags: [Jersey Shore's Sammi & Ronnie split: did he "smush" someone else?](#), [Morgan Brittany Osman](#), [Ronnie Ortiz-Magro](#), [Sammi Giancola](#)

So *Jersey Shore's* **Sammi Giancola** and **Ronnie Ortiz-Magro** are dunzo again! But this time around, [Starcasm.net](#) is reporting he smushed...a girl from *The Bad Girls Club*!



Follow



The Bad Girl's Club star Morgan Brittany Osman

Bad Girl star **Morgan Brittany Osman**'s friend VH1's *Tough Love* star Arian Marie Meyer broke the news on Twitter on September 25. She Tweeted, "So @MTVsammi I thought u should kno that @mtvronnie was f***ing my girl @Morganbritt724 last weekend n now they r at wet. Sorry."

Ronnie then put Arian on blast via Twitter saying, "@Arian_Marie so whats ur rate? \$10 hand jobs, \$12 jerk offs, \$4 lays, priceless= bc @ the end the day u will always be a hooker!"

All Tweets have since been removed but since Sam & Ron split we're guessing something might have gone down between him and Morgan?!

Morgan was featured in season five of *The Bad Girl's Club* that aired in 2010.

Photos: MTV & Oxygen

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THE Hollywood REPORTER

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'Jersey Shore' Season 5 Premiere: 10 Best Quotes of the Episode

The MTV reality series returned to Seaside Heights on Jan. 5, predictably, with a slew of memorable one-liners.

10:02 PM PST 1/5/2012 by Sophie A. Schillaci

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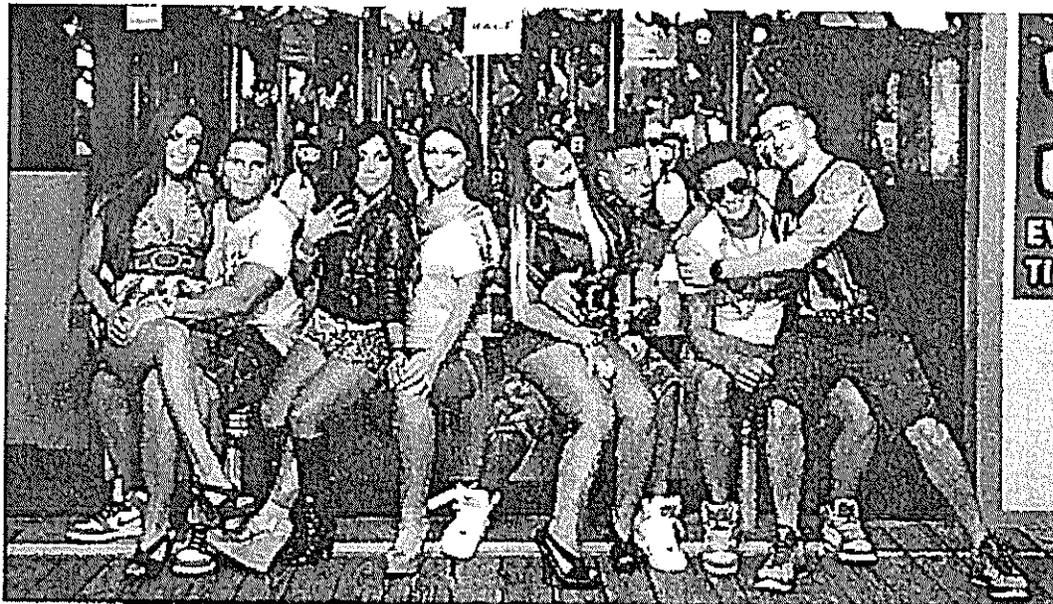
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MTV

Jersey Shore returned with a fist pump on Jan. 5, with fans tuning in to see MTV's resident guidos and guidettes triumphant arrival to the states.

OUR EDITOR RECOMMENDS



<http://www.hollywoodreporter.com/news/jersey-shore-dj-pauly-d-50-cent-278839>

'Jersey Shore's' DJ Pauly D on 50 Cent Collaboration, MTV Spinoff (Video) »

<http://www.hollywoodreporter.com/news/jersey-shore-dj-pauly-d-50-cent-278839>



<http://www.hollywoodreporter.com/live-feed/jersey-shore-mtv-jwoww-vinny-pauly-d-ronnie-278830>

'Jersey Shore' Cast: How Well Do They Know Each Other? (Video) »

<http://www.hollywoodreporter.com/live-feed/jersey-shore-mtv-jwoww-vinny-pauly-d-ronnie-278830>

PHOTOS: The Best and Worst Moments of 'Jersey Shore' (<http://www.hollywoodreporter.com/gallery/best-worst-moments-jersey-shore-210208>)

As the housemates settle in to their storied Seaside Heights home, family and friends gather at a nearby bar for a surprise party. **Mike "The Situation" Sorrentino**, struggling to redeem himself with his roommates, winds up bunking with **Ronnie Ortiz-Magro** and **Sammi "Sweetheart" Giancola** in their old room -- a move none of them seem to be happy about.

Sitch and **Nicole "Snooki" Polizzi** continue to exchange barbs over what may or may not have happened that fateful night in Los Angeles, while the pint-sized guidette aims to keep her beau, Jionni, as far away from Sitch's pal Unit, an alleged "key witness," as possible.

VIDEO: 6 Best Fights on 'Jersey Shore' (<http://www.hollywoodreporter.com/gallery/6-best-fights-jersey-shore-210287>)

Once we move beyond the leftover Italian storyline, we are introduced to a new level of homesickness for **Vinny Guadagnino**, who begins feeling depressed



(<http://www.hollywoodreporter.com/live-feed/jersey-shore-jwoww-boyfriend-roger-278155>)

'Jersey Shore's' JWOWW Reveals Her Secret to a Kinder, Gentler Guidette (Video) »

(<http://www.hollywoodreporter.com/live-feed/jersey-shore-jwoww-boyfriend-roger-278155>)

and contemplates leaving the Shore. No surprise there, as we've seen him pack up his things and head off in a cab via promotional previews already.

In terms of zingers, Ronnie was on his A-Game this episode, as was (as usual) **Paul "DJ Pauly D" Delvecchio**. Read on for the 10 best quotes of the show and [click here to see](#)

(<http://www.hollywoodreporter.com/live-feed/jersey-shore-season-5-premiere-mtv-278139>) what the cast told *The Hollywood Reporter* (<http://www.thr.com>) about what's to come on the remainder of season 5.

PHOTOS: MTV's Jersey Shore Italy In

Production (<http://www.hollywoodreporter.com/gallery/mtvs-jersey-shore-italy-production-219402>)

What was your favorite quote of the night? Weigh in in the comments section below.

1. Pauly D: "Me and Vinny are so excited, that Vinny immediately jumps on my bed and like, dry humps me on my bed just like old times."
2. Pauly D: "The first thing I want to do now that I'm back in America is I want to go tanning. I'm as pale as a ghost. I'm almost as white as my teeth."
3. Mike: "This is a serious situation right now. We're losing weight and we're getting pale. It's like the end of civilization."
4. Ronnie: "Vinny's hair, it's like a mixture between a mullet, a mohawk and a faux hawk. I don't even know what to call it. But it looks good on him."
5. Ronnie: "Uncle Nino is the ultimate creep. I feel like he should be in this house with us. Honestly, he should get the smush room."
[Related - *Uncle Nino: "Oh, Snooki Cookie Bella!"*]
6. Mike: "This is Hurricane Situation and its headed straight for Snooki Island."
7. Sam: "Oh my God, let's be real. I just feel like Mike has gay tendencies... This is just so weird. Mike normally wifes up his grenades this way. Is he doing that with Unit?"
8. Pauly D: "Ryder's looking good tonight, but she already had sex with Vinny. And I'm not really cool with Vinny's sloppy seconds, so I don't really know what to do with her. But, I don't want to be rude. So, whether you're the first man in or the last man in, ride her."
[Related - *Ronnie: "I'm not into sloppy 23rds."*]
9. Deena: "Vin's in a funk since the surprise party and I feel bad for him. I don't want anybody in a funk, because their funk puts me in a funk because they're in a funk and I don't want anybody to be in a funk."
10. Jionni: "I met [Mike] twice, he came up to me he goes 'Bro, you're the nicest guy I ever met.'"
Snooki: "Why does everyone say that to you? You're not that nice."

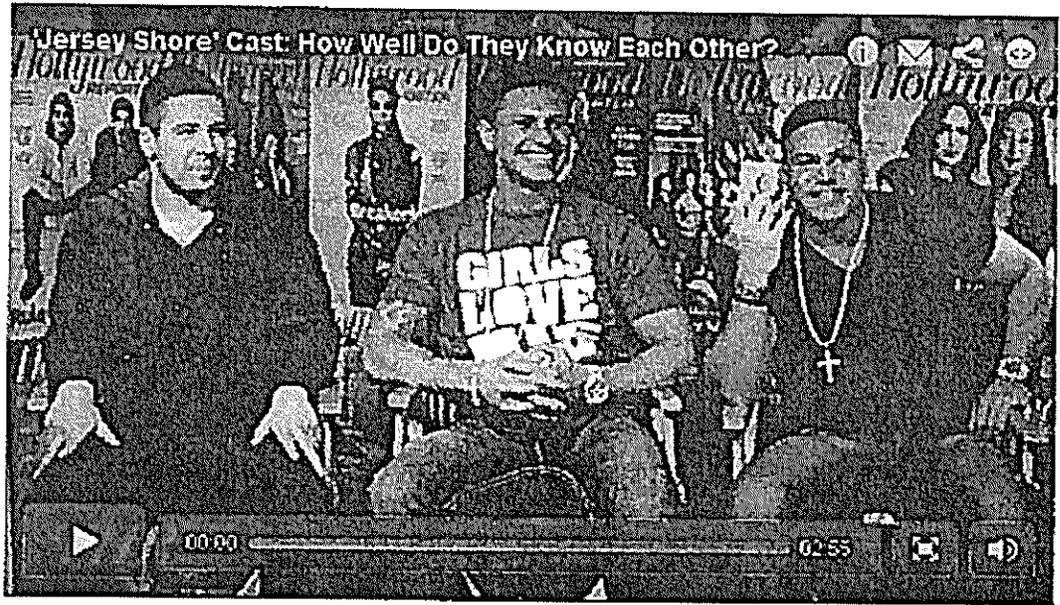
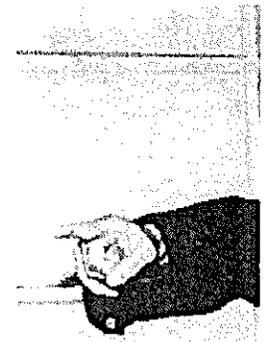


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EXHIBIT D



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1. [smush](#) **1429 up, 211 down**
 the act of having sex
 Ronnie (from MTV's Jersey Shore): yea, we smushed last night
[buy smush mugs & shirts](#)
[sex fuck make love to have sex to fuck](#)
 by [jwelch](#) Dec 17, 2009 [share this](#) [add a video](#)

2. [smush](#) **291 up, 163 down**
 A term originally from MTV's Jersey Shore, meaning to have sex.
 Snooki: I like to smush!
[buy smush mugs & shirts](#)
[sex fuck have sex smoosh smush](#)
 by [Milskies](#) Oct 23, 2010 [share this](#) [add a video](#)

3. [smush](#) **379 up, 327 down**
 The act of pressing a flaccid penis against a woman's groin area in a vain attempt at sexual intercourse. Typically occurs as a result of intoxication.
 Man, I couldn't get it up last night, but I did smush that bitch.
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[smushing smoosh whiskey dick erection crushing \(antonym\)](#)
 by [wellington835](#) May 4, 2009 [share this](#) [add a video](#)

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Ronnie Gets In On T-Shirt Time

Filed Under: [Reality Television](#) [Fashion Smashion](#) [Collection's Bureau](#)





It's official.

Every single guido on the *Jersey Shore* has a t-shirt line.

Ronnie Ortiz-Magro is the last cast member to ca\$\$\$h in on his fame with a line called, wait for it, **Jersey Laundry**.

The tees will have classy sayings like "Gym, Tan, Smush", "Got Smush" and "Have You Smushed Today?" printed across the front.

There's also one that reads "I heart Single Ronnie". We're guessing **Sammi Sweetheart** isn't a fan.

Ron Ron's tees go on sale later this month for \$20.

Tags: [gym tan smush](#), [i love single ronnie](#), [jersey laundry](#), [jersey shore](#), [ronnie ortiz-magro](#), [tshirt line](#)

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EXCLUSIVE: Jersey Shore's Ronnie to Launch a T-Shirt Line



Peter Yang: Inset: Courtesy Jersey Laundry

For the past two summers, he and his *Jersey Shore* co-stars have spent their summers working at a T-shirt shop in Seaside Heights, N.J., and now Ronnie Ortiz-Magro is ready to share his expertise with the world, by launching his own line, called Jersey Laundry. "The crowds in Jersey wait in line for hours for shirts that say "Team Ronnie," or "I Heart Vinnie,"" he explains. "We're going for stuff like that, and running with it." The line, which he'll be previewing Friday in Dallas and Saturday in Las Vegas, will feature some of Ortiz-Magro's sayings and a few images of him as well. Some examples? "GTS, gym tan smush," he says. "They're more for the younger fan base. Funny stuff like, "Got Smush?" "Have You Smushed Today?" The shirts, which will roll out on their own new website

in late February and cost about \$20 apiece, will start with three men's shirts and three women's, including one that reads, "I [Heart] Single Ronnie." Still, he won't confirm whether he's on the market: "You gotta wait and see for the season how things pan out and see where that goes," he teases. "Every episode is more and more drama—it's not gonna get dull!" One thing he's happy to gush about? Filming season four of his hit show in Italy this spring. "As soon as I heard, I put an order in for a Rosetta Stone," he says. "I need to know how to order grilled chicken when I get down there—I can't have pasta everyday!" And expect to see him rocking Jersey Laundry overseas. "We've got T-shirt time, and now I'm making the T-shirt!" he laughs. Tell us: Will you buy a T-shirt from Ronnie's new line? — *Lesley Messer*

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