

ESTTA Tracking number: **ESTTA694553**

Filing date: **09/09/2015**

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	Trenidad Hubbard
Granted to Date of previous extension	09/09/2015
Address	4206 Clearwater Ct., Suite 300 Missouri City, TX 77459 UNITED STATES
Attorney information	Susan B. Meyer Gordon & Rees LLP 101 W. Broadway, Suite 1600 San Diego, CA 92101 UNITED STATES ipdocket@gordonrees.com, smeyer@gordonrees.com, kknapp@gordonrees.com, jalvord@gordonrees.com

**Applicant Information**

Application No	86311603	Publication date	05/12/2015
Opposition Filing Date	09/09/2015	Opposition Period Ends	09/09/2015
Applicant	N9ne Athletics, LLC 5813 Chester Circle Madison, WI 53719 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2006/11/15 First Use In Commerce: 2013/09/21  
All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms

**Grounds for Opposition**

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

U.S. Application No.	86593961	Application Date	04/10/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GAMEFACE		

Design Mark	<b>GAMEFACE</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1996/01/01 First Use In Commerce: 1996/01/01 Clothing, namely, pants, shorts, caps, hats, shirts, jackets, sweatshirts, and socks

Attachments	86593961#TMSN.png( bytes ) MY GAME FACE INCLUDES MASCARA Notice of Opposition.pdf(47977 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 Overnight Courier on this date.

Signature	/Susan B. Meyer/
Name	Susan B. Meyer
Date	09/09/2015

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

In the Matter of Trademark Application	)	
Serial No. 86311603	)	
Filed: June 17, 2014	)	
Published: May 12, 2015	)	
By: N9ne Athletics, LLC	)	
For the Trademark: MY GAME FACE INCLUDES	)	
MASCARA	)	Opposition No.
<hr/>	)	
TRENIDAD HUBBARD, an individual	)	_____
	)	
Opposer,	)	
v.	)	
	)	
N9NE ATHLETICS, LLC, a Wisconsin limited liability	)	
company	)	
	)	
Applicant.	)	
<hr/>	)	

**NOTICE OF OPPOSITION**

Opposer, Trenidad Hubbard, having an address of 4206 Clearwater Ct., Suite 300, Missouri City, TX 77459 (hereinafter “Opposer”) believes that he will be damaged by registration of the mark MY GAME FACE INCLUDES MASCARA shown in Application Serial No. 86/311603, as published in the Official Gazette on May 12, 2015, and hereby opposes the same.

As grounds for the Opposition, Opposer alleged that:

1. Opposer, his predecessors in interest, and his licensees, have used the mark GAMEFACE (hereinafter “Opposer’s Mark”) to designate athletic clothing, namely, pants, shorts, caps, hats, shirts, jackets, sweatshirts, and socks since at least January 1, 1996 in the United States thus achieving common law rights in the mark.

2. Opposer has filed an application for United States federal trademark registrations with the United States Patent and Trademark Office, Serial Number 86/593961 for the mark GAMEFACE (hereinafter, together, “Opposer’s U.S. Application”).

3. Opposer received an office action on Opposer’s U.S. Application issued July 21, 2015, notifying Opposer that its application may be barred by prior-pending application 86/311603, the subject of this Notice of Opposition, and suspending prosecution on Opposer’s U.S. Application pending final disposition of the application for Applicant’s Mark.

4. Applicant’s application Serial Number 86/311603 claims use of the MY GAME FACE INCLUDES MASCARA (herein after, “Applicant’s Mark”) for Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms with a date of first use anywhere of November 15, 2006 and first use in commerce of September 21, 2013.

5. Opposer’s first use date of 1996 is prior to Applicant’s claimed first use date of 2006 anywhere and 2013 in commerce.

6. Applicant’s mark MY GAME FACE INCLUDES MASCARA, is confusingly similar to the mark owned by Opposer, therefore, denying to Opposer the benefits of its mark in excluding confusingly similar uses. In view of the fact that the respective marks are confusingly similar and the goods and services provided by the respective parties are very similar, and in some cases identical, it is alleged that Applicant’s mark so resembles Opposer’s Mark as to be likely to cause confusion, or to cause mistake, or to deceive.

7. The goods purported to be provided by the Applicant includes goods which third parties may assume emanated from or are affiliated with or approved by Opposer, specifically, athletic clothing, and thus there is substantial likelihood of confusion of the relevant portion of the public who are exposed both to the Applicant’s goods and the services of Opposer. Applicant’s Mark, as the newcomer, will be seen as a deliberate variation of Opposer’s Mark

intended to indicate an association, affiliation or approval from the same source and thus is further likely to cause confusion, mistake, or deception.

8. Furthermore, Applicant has not used Applicant's Mark in commerce on all the goods listed in Application Serial No. 86/311603, namely pants, jackets, footwear, hats and caps, and athletic uniforms.

9. Registration of Applicant's Mark will provide statutory presumptions inconsistent with the rights of Opposer to use and register Opposer's Mark in the United States, thus damaging Opposer.

WHEREFORE, Opposer prays that Application Serial No. 86/311603 be refused and denied registration as Opposer believes and avers that it will be damaged by the registration of Serial No. 86/311603, as aforesaid and requests that Applicant be required to answer the allegations of this Notice of Opposition and that the opposition to the said application be sustained.

This Notice of Opposition is being submitted electronically. The required fee is authorized to be charged against the Deposit Account No. 501990 of the Attorney for Opposer.

DATE: September 9, 2015

Respectfully submitted,  
GORDON & REES LLP



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Attorneys for Opposer

**Certificate of Mailing by “Federal Express Delivery”**

I hereby certify that a copy of this NOTICE OF OPPOSITION is being served by Federal Express service and/or e-mail, to Addressees on September 9, 2015 as follows:

N9ne Athletics, LLC  
5813 Chester Circle  
Madison WI 53719

Mark D. Burish  
Hurley, Burish & Stanton, S.C.  
33 E Main St, Ste. 400  
Madison, WI 53703-3095

Date of Mailing: September 9, 2015  
Printed Name: Janene M. Alvord



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