

ESTTA Tracking number: **ESTTA519135**

Filing date: **01/31/2013**

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	U IS LLC		
Entity	limited liability company	Citizenship	New York
Address	31 Woodridge Drive Albany, NY 12211 UNITED STATES		

Attorney information	Maxine L. Barasch Keohane & D'Alessandro, PLLC 1881 Western Avenue Albany, NY 12203 UNITED STATES mb@kdiplaw.com Phone:5184567084		
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Applicant Information

Application No	85709349	Publication date	01/29/2013
Opposition Filing Date	01/31/2013	Opposition Period Ends	02/28/2013
Applicant	Quartarella, Nicholas 2845 Falling Tree Cir Orlando, FL 32837 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Hats; Shirts; Sweatbands; Tank tops; Wristbands
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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)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85825518	Application Date	01/17/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	RAGE & ROLL		

Design Mark	RAGE & ROLL
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2012/04/25 First Use In Commerce: 2012/04/25 Clothing, namely, shirts, shorts, pants, hats, and tank tops

Attachments	85825518#TMSN.jpeg (1 page)(bytes) NoticeOfOpposition.pdf (5 pages)(91931 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	/Maxine L. Barasch/
Name	Maxine L. Barasch
Date	01/31/2013

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

U IS LLC,

Opposer,

vs.

NICHOLAS QUARTARELLA,

Applicant.

In the Matter of Application
Serial No. 85/709,349

Mark: RAGE N ROLL

Opposition No. TBD

NOTICE OF OPPOSITION

U IS LLC (“Opposer”), a limited liability company located and doing business at 31 Woodridge Drive, Loudonville, NY 12211, hereby opposes registration of the above-identified application (“Applicant’s Application”) by Nicholas Quartarella (“Applicant”), and requests that Applicant’s Application be refused. Opposer believes that it will be harmed by registration of the mark shown in Applicant’s Application, and hereby opposes the same.

As grounds for its opposition, Opposer asserts as follows:

1. Opposer is a limited liability company organized and existing under the laws of the State of New York, with a business address of 31 Woodridge Drive, Loudonville, NY 12211.
2. On information and belief, Applicant is an individual, with an address of 2845 Falling Tree Circle, Orlando, FL 32837.

3. On information and belief, Applicant is the owner of record for Application No. 85/709,349 for the alleged mark RAGE N ROLL for “Hats, Shirts, Sweatbands, Tank tops, Wristbands” in International Class 025.
4. On information and belief, according to Applicant’s Application record, the application to register RAGE N ROLL was filed on August 21, 2012 under 35 U.S.C. 1051(b).
5. Opposer has used the mark RAGE & ROLL and closely-related derivatives thereof (collectively “Opposer’s Marks”) for goods and services for clothing goods since at least as early as April 25, 2012. Opposer’s first use in commerce of the mark RAGE & ROLL is at least as early as April 25, 2012.
6. Opposer filed an application for registration of the mark RAGE & ROLL (Serial No. 85/825,518) on January 17, 2013 for “Clothing, namely, shirts, shorts, pants, hats, and tank tops” in International Class 025.
7. Opposer is a party with a real interest in the opposition because it has a long history of using the Opposer’s marks for goods and services, to which Applicant’s alleged mark and associated goods and services are identical or similar.
8. Opposer has invested substantial money, time and effort into advertising and promoting Opposer’s Marks. Opposer’s Marks are strong and distinctive in nature. As a result of Opposer’s use and promotion, consumers have come to recognize the Opposer’s Marks as signifying the Opposer’s goods and services, and Opposer has developed valuable goodwill in connection with Opposer’s Marks.

9. Applicant's use of and application for RAGE N ROLL for goods and services identical to or similar to Opposer's goods and services, as described in Applicant's Application have not been approved, authorized, endorsed, sponsored, or consented to by Opposer.
10. On information and belief, Applicant adopted its alleged mark with an intent to cause confusion by trading on the goodwill associated with Opposer's Marks, and therefore, it may be presumed that customers will in fact be confused.
11. The mark that Applicant seeks to register, RAGE N ROLL, is identical or so closely resembles Opposer's Marks that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's goods in violation of Opposer's common law rights and Sections 2(a) and 2(d) of the Trademark Act, and will thereby injure and damage Opposer and the goodwill and reputation symbolized by Opposer's marks. Among other things, use and registration by Applicant of RAGE N ROLL is likely to (i) give rise to the mistaken belief by members of the public that Applicant's goods originate from or are in some way associated with Opposer, Opposer's marks, and/or the goods and services that Opposer offers under Opposer's marks; and (ii) cause members of the public to be actually confused and deceived as to source, origin, affiliation, and sponsorship of Applicant's goods/services offered in connection with Applicant's alleged mark.
12. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark RAGE N ROLL and registration should be refused.

13. This Notice of Opposition is being filed with the Electronic System for Trademark Trials and Appeals, and Opposer's payment in the amount of \$300 for the fee prescribed by 37 C.F.R. 2.6 is made through ESTTA.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

Respectfully submitted,

Date: January 31, 2013

/Maxine L. Barasch/
Maxine L. Barasch, Esq.
Attorney for Opposer
Keohane & D'Alessandro, PLLC
1881 Western Avenue
Albany, NY 12203
Ph: (518) 456-7084
Fax: (518) 456-7004

CERTIFICATE OF SERVICE
Opposition No. TBD

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on NICHOLAS QUARTARELLA, by depositing said copy with the United States Postal Service with sufficient postage as First Class Mail on the date indicated below and is addressed to:

Nicholas Quartarella
2845 Falling Tree Circle
Orlando, FL 32837

Date of Deposit: January 31, 2013

/Maxine L. Barasch/
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