

ESTTA Tracking number: **ESTTA1157476**

Filing date: **09/03/2021**

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	Anthony Orisses
Granted to Date of previous extension	09/04/2021
Address	45-57 BELL BLVD. BAYSIDE, NY 11361 UNITED STATES
Attorney information	REBECCA C. CHRISTON HAYES SOLOWAY PC 175 CANAL STREET MANCHESTER, NH 03101 UNITED STATES Primary Email: rchriston@hayes-soloway.com Secondary Email(s): cmorton@hayes-soloway.com 603-668-1400
Docket Number	OR 01.001 Op

**Applicant Information**

Application No.	90366461	Publication date	07/06/2021
Opposition Filing Date	09/03/2021	Opposition Period Ends	09/04/2021
Applicant	Lymon, Augustus L. APT 1035 10151 DORRELL LN LAS VEGAS, NV 89166 UNITED STATES		


**Goods/Services Affected by Opposition**

Class 025. First Use: 2019/09/25 First Use In Commerce: 2019/09/25 All goods and services in the class are opposed, namely: HATS, JACKETS, SHIRTS, WARM-UP SUITS, T-SHIRTS, FOOTWEAR, PANTS, SHORTS, SWIMWEAR, TENNIS WEAR, SKIRTS, SWEATERS, UNDERWEAR, HEADWEAR, SOCKS, PULLOVERS, HOODIES, BODYSUITS, FITNESS TOPS, HEADBANDS, KNIT CAPS, TENNIS DRESSES, TIGHTS, UNITARDS, VESTS, JERSEYS, HOODED SWEATSHIRTS, HOODS, SWEATPANTS, TANK TOPS, ANORAKS, COATS, BELTS, SPORTS BRAS, BANDANAS, DRESSES, SCARVES, GLOVES, AND ATHLETIC TIGHTS
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
The mark is merely descriptive	Trademark Act Section 2(e)(1)

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	5840095	Application Date	12/23/2016
Registration Date	08/20/2019	Foreign Priority Date	NONE
Word Mark	RARE CUT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2019/06/17 First Use In Commerce: 2019/06/17 Pocket squares, neck ties, t-shirts, hooded sweatshirts, socks, beanies, hats, underwear, boxer shorts, boxer briefs; workout gear, namely, shirts and socks; athletic apparel, namely, shirts, baseball caps		

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Signature	/Rebecca C. Christon/
Name	REBECCA C. CHRISTON
Date	09/03/2021

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

Anthony Orisses	)	
	)	
Opposer,	)	Opposition No.
	)	
v.	)	Application No. 90366461
	)	
Augustus L. Lymon	)	Mark: CUT FROM RARE CLOTH
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Anthony Orisses, an individual United States citizen, with an address of 45-57 Bell Blvd., Bayside, NY 11361, believes he will be damaged by the registration of the above-identified mark and hereby opposes the same. The required filing fee for this Notice of Opposition is submitted herewith.

As grounds for this opposition, it is alleged that:

1. Anthony Orisses (hereinafter “Opposer”) has been and is now engaged in the business of the production and sale of pocket squares, neck ties, t-shirts, hooded sweatshirts, socks, beanies, hats, underwear, boxer shorts, boxer briefs; workout gear, namely, shirts and socks; athletic apparel, namely, shirts, baseball caps (hereinafter “Opposer’s Goods”).
2. Opposer produces and sells Opposer’s Goods under the trademark “RARE CUT”.
3. Opposer owns US Trademark Registration Number 5840095 for the mark “RARE CUT” (hereinafter “Opposer’s Mark”).

4. Opposer filed a U.S. Trademark application for the “RARE CUT” mark on December 23, 2016.
5. Opposer owns the International Trademark Registration Number 1360559 for the mark “RARE CUT”, currently registered in Australia, China, the European Union, and Mexico.
6. Opposer owns the United Kingdom Trademark Registration Number UK00801360559 for the mark “RARE CUT”.
7. Augustus Lymon, an individual with an address of 10151 Dorrell Ln, Apt. 1035, Las Vegas, NV 89166 (hereinafter “Applicant”), applied to register “CUT FROM RARE CLOTH” (hereinafter “Opposed Mark”) for hats, jackets, shirts, warm-up suits, t-shirts, footwear, pants, shorts, swimwear, tennis wear, skirts, sweaters, underwear, headwear, socks, pullovers, hoodies, bodysuits, fitness tops, headbands, knit caps, tennis dresses, tights, unitards, vests, jerseys, hooded sweatshirts, hoods, sweatpants, tank tops, anoraks, coats, belts, sports bras, bandanas, dresses, scarves, gloves, and athletic tights in Class 025 (hereinafter “Applicant’s Goods”), which was assigned application number 90366461.
8. The application for the Opposed Mark was filed on December 8, 2020, with an alleged use date of September 25, 2019.
9. Opposer is the senior user of the “RARE CUT” mark.
10. Opposer has priority over the Applicant to the “RARE CUT” mark.
11. The Opposed Mark contains the words “RARE” and “CUT”, which each appear in Opposer’s “RARE CUT” mark.

12. On information and belief, Applicant's Goods are offered to at least some of the same classes of consumers and through at least some of the same channels of trade as Opposer's Goods.
13. Applicant's Goods are similar to Opposer's Goods.
14. As applied to Applicant's Goods, the Opposed Mark so resembles Opposer's Mark as to be likely to cause confusion, or to cause mistake, or to deceive as to the source of the goods.
15. Consumers of Opposer's Goods who become familiar with the Opposed Mark used in connection with Applicant's Goods are likely to believe the Opposed Mark is a variant of Opposer's Mark.
16. Opposer will be damaged by Applicant's registration of the Opposed Mark for the Applicant's Goods as a result of the aforementioned confusion, mistake, and deception.
17. Registration of the Opposed Mark would diminish the commercial value of Opposer's Mark and, therefore, would be a source of damage and injury to Opposer.
18. The Opposed Mark is merely descriptive of the Applicant's Goods and should be refused registration under Section 2(e)(1) of the Trademark Act.
19. "Cut From Rare Cloth" is a known idiomatic phrase that is frequently used in the English language.
20. To the extent there are any appreciable differences between the Opposed Mark and the Opposer's Mark, these differences only serve to render the Opposed Mark merely descriptive when applied to the Applicant's Goods.

WHEREFORE, Opposer prays that the Opposition be sustained and the registration sought by Applicant be refused.

Dated: September 3, 2021

Respectfully Submitted,

/Rebecca C. Christon/  
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Attorney for Petitioner