

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85235172
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ARGUMENT(S)	
<p>In response to the U.S. Patent and Trademark Office (“USPTO”) Action dated October 27, 2011, Applicant provides the following information and arguments.</p>	
<p style="text-align: center;">I. Background.</p>	
<p>The examining attorney has issued a final refusal to registration of Applicant's mark FIND YOUR STRONG based upon U.S. Registration No. 2,114,883 for the mark FIND YOUR STRENGTH, registered on the Supplemental Register for "clothing, namely, t-shirts and hats" in International Class 25. For the reasons stated below, Applicant requests that the examining attorney reconsider this final refusal, as there is no likelihood of confusion between the two marks.</p>	
<p style="text-align: center;">II. Information and Argument.</p>	
<p>Likelihood of confusion between a mark for which registration is sought and a previously registered or prior pending mark is determined on a case by case basis, applying the factors set out in <i>In re E. I. duPont De Nemours & Co.</i>, 476 F. 2d 1357, 1361, 177 U.S.P.Q. 563, 567 (C.C.P.A. 1973); and in <i>Packard Press, Inc. v. Hewlett-Packard Company</i>, 227 F. 3d 1352, 56 U.S.P.Q. 1351 (Fed. Cir. 2000). The <i>duPont</i> factors are (1) the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression; (2) the similarity or dissimilarity and nature of the goods described in the application or registration of the mark, or in connection with which a prior mark is in use; (3) the similarity or dissimilarity of established, likely-to-continue trade channels; (4) the conditions under which and the buyers to whom sales are made; (5) the fame of the prior mark; (6) the number and nature of similar marks in use on similar goods; (7) the nature and extent of any actual confusion; (8) the length of time during and the conditions under which there has been concurrent use without evidence of actual confusion; (9) the variety of goods on which a mark is or is not used; (10) the market interface between the Applicant and the owner of a prior mark; (11) the extent to which the Applicant has a right to exclude others from use of its mark on its goods; (12) the extent of potential confusion; and (13) any other established fact probative of the effect of use. See <i>In re E.I. duPont de Nemours & Co.</i>, 476 F. 2d 1357, 177 U.S.P.Q. 562 (C.C.P.A. 1973); <i>In re National Data Corp.</i>, 753 F.</p>	

2d 1056, 1058, 224 U.S.P.Q. 749, 750-51 (Fed. Cir. 1985); TMEP Section 1207.01; 15 U.S.C.A. § 1052(d).

In ex parte examination, the issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods or services. TMEP Section 1207.01. However, other factors listed above may be considered if relevant evidence is contained in the record. See *In re National Novice Hockey League, Inc.*, 222 U.S.P.Q. 638, 640 (TTAB 1984).

A. Applicant's mark is not similar to the cited registration.

As the Office Action stated, "not all of the [*Du Pont*] factors are necessarily relevant or of equal weight [when determining whether marks are confusingly similar], and any one factor may be dominant in a given case, depending on the evidence of record." In this instance, the marks in question, namely, FIND YOUR STRONG and FIND YOUR STRENGTH are dissimilar in meaning and commercial impression. It is a well-established pillar in trademark law that differences between the connotations or commercial impressions made by marks are key factors in determining the existence of likelihood of confusion. See *Revlon, Inc. v. Jerell, Inc.*, 713 F.Supp. 93, 98 (S.D.N.Y. 1989). When two marks carry different meanings and deliver different commercial impressions, confusion is unlikely. See e.g., *In re Farm Fresh Catfish Co.*, 231 U.S.P.Q. 495 (TTAB 1986) (holding that CATFISH BOBBER for fish (with CATFISH disclaimed) is not confusingly similar to BOBBER for restaurant services, because BOBBER in CATFISH BOBBER suggests dictionary meaning of fishing bob or float, and BOBBER for restaurant services does not carry such meaning); *Nina Ricci, S.A.R.L. v. Gemcraft, Ltd.*, 612 F. Supp. 1520, 226 U.S.P.Q. 575 (S.D.N.Y. 1985) (holding Plaintiff's mark L'AIR DU TEMPS for perfume is not confusingly similar to Defendant's mark, L'AIR D'OR, also for perfume, because the two terms suggest different meaning in French and result in different overall impressions). In its first Response to Office Action, Applicant's evidence of record clearly indicated the fundamental differences in meaning and commercial impression of the marks at hand.

The examining attorney has based her refusal to register FIND YOUR STRONG on the argument that Applicant's mark and the cited registration "stimulate the same mental reaction." However, Applicant's mark FIND YOUR STRONG conveys an entirely different meaning and commercial impression to consumers, one that is both memorable and unusual so as to stand apart from that conveyed by registrant's mark. Applicant's first Response to Office Action provided concrete evidence demonstrating that "find your strength" is a familiar phrase that consumers are accustomed to seeing in everyday advertisements, self-help mantras, and books. However, Applicant's mark, that literally compels consumers to find your "strong," stretches consumers' imagination to decipher what comprises one's own "strong." This idea is both aspirational and intangible and creates an impact on the purchaser.

The registrant's adoption of a common phrase as a mark shares none of the memorable qualities conveyed by Applicant's unique and forward-thinking mark. Clearly, FIND YOUR STRONG and the cited registration do not "stimulate the same mental reaction" when Applicant's mark is unusual and thought-provoking compared to the registrant's mark comprised of an ordinary, common phrase.

B. The cited registrant's very limited ability to exclude others from use of "Strong" formative marks is insufficient to block registration.

Applicant notes that the examining attorney did not address the fact that the cited registration is registered on the Supplemental Register and therefore entitled to a very narrow scope of protection. As has long been held by the Trademark Trial and Appeal Board,

registration on the Supplemental Register may be considered to establish prima facie that, at least at the time of registration, the registered mark possessed a merely descriptive significance. (citation omitted.) This is significant because it is well established that the scope of protection afforded a merely descriptive or even a highly suggestive term is less than that accorded an arbitrary or coined mark. That is, terms falling within the former category have been generally categorized as “weak” marks, and the scope of protection extended to these marks has been limited to the substantially identical notation and/or to the subsequent use and registration thereof for substantially similar goods.

In re Hunke & Jochheim, 185 U.S.P.Q. 188, 189 (TTAB 1975). Applicant's mark is entirely distinguishable in overall meaning and commercial impression; therefore, the examining attorney's refusal to register FIND YOUR STRONG in light of the cited registration is overreaching.

Further the examining attorney appears to base her determination that the marks are similar on the "mental reaction" conveyed by the word STRENGTH in the registrant's mark. However, the word "strength" is found in many third party marks used in the apparel industry; these "strength" marks have co-existed with other third party marks in Class 25 that include the word "strong." The choice as a mark of terms used extensively by third parties limits the registrant of a mark in its ability to exclude others from use of the same or similar term. See generally TMEP 1207(b) (ix) citing *In re Central Soya Company, Inc.* 220 U.S.P.Q. 914 (TTAB 1984). The scope of protection extended to such a mark is limited to substantially identical marks used for substantially similar goods. See generally *In re Hunke & Jocheim*, 185 U.S.P.Q. 188, 189 (TTAB 1975). In this case, Applicant's mark is not "substantially identical" to the cited mark, nor are the goods of the parties "substantially similar," as discussed in the first Response to Office Action.

For example, the following "STRENGTH" and "STRONG" formative marks are currently registered on the Principal Register in Class 25, even in light of the registrant's FIND YOUR STRENGTH mark on the Supplemental Register:

DAILY STRENGTH SN:77-627987 RN:3,647,004	Registered June 30, 2009	(Int'l Class: 25) Jackets; shirts; t-shirts; underwear
FULL STRENGTH SN:78-738265 RN:3,331,621	Registered November 6, 2007	(Int'l Class: 25) Clothing, namely, t-shirts, shirts, sweatshirts, sweatpants, caps, hats and jackets
GORILLA STRENGTH SN:77-800148 RN:4,006,706	Registered August 2, 2011	(Int'l Class: 25) A-shirts; athletic apparel, namely, shirts, pants, jackets, hats and caps, athletic uniforms; body shirts; all directed to the mixed martial arts and power-lifting/ body-building community; combative sports uniforms; martial arts uniforms; mixed martial arts suits (Int'l Class: 28) Martial arts training equipment; sporting goods, namely, a sports training device to improve strength, toning, conditioning, balance, and proprioception; sports equipment for boxing and martial arts, namely, boxing gloves, boxing bags, punching mitts, belly protectors, groin protectors and shin guards; training apparatus for boxing, martial arts, and similar sports
HAMMER	Renewed	(Int'l Class: 25) Clothing; namely, t-shirts, sweatshirts,

STRENGTH SN:74-248941 RN:1,731,248	November 10, 2002	tank-tops, and hats
INDUSTRIAL STRENGTH SN:75-184588 RN:2,177,429	Renewed July 28, 2008	(Int'l Class: 14) Jewelry (Int'l Class: 25) Men's and women's clothing, namely, shirts, tops, pants, trousers, shorts, and jump suits
LATINO LS STRENGTH (Stylized) SN:77-394028 RN:3,678,017	Registered Supplemental Register September 1, 2009	(Int'l Class: 25) T-shirts
PURE STRENGTH .COM and Design SN:77-195307 RN:3,417,226	Registered April 29, 2008	(Int'l Class: 25) T-shirts and hats (Int'l Class: 41) Sports coaching; personal coaching in the field of physical fitness and strength training; providing seminars and online training workshops in the field of physical fitness and strength training
SECOND STRENGTH SN:78-521685 RN:3,149,803	Registered September 26, 2006	(Int'l Class: 25) Fitness apparel, namely, jackets, sweatshirts, sweat pants, t-shirts, shirts, tank tops, caps, shorts, pants and bandanas
SPEED AND STRENGTH SN:77-977328 RN:3,655,881	Registered July 14, 2009	(Int'l Class: 25) Clothing, namely, jackets, shirts, pants, denim jeans, vests, gloves and hats
STRENGTH INSIDE & OUT SN:77-448292 RN:3,719,370	Registered December 1, 2009	(Int'l Class: 25) Clothing, namely, shorts, pants, jackets, sweatshirts, sweatpants, sweatsuits, socks, shirts, t-shirts, hats and caps
15 STRONG SN:77-626866 RN:3,646,911	Registered June 30, 2009	(Int'l Class: 25) Clothing, namely, hosiery, footwear, basketball shoes, basketball sneakers, t-shirts, shirts, polo shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, visors, warm-up suits, warm-up pants, warm-up tops/shooting shirts, jackets, wind resistant jackets, parkas, coats, baby bibs not of paper, head bands, wrist bands, aprons, undergarments, boxer shorts, slacks, ear muffs, gloves, mittens, scarves, woven and knit shirts, jersey dresses, dresses, cheerleading dresses and uniforms, swim wear, bathing suits, swimsuits, bikinis, tankinis, swim trunks, bathing trunks, board shorts, wet suits, beach cover-ups, bathing suit cover-ups, bathing suit wraps, sandals, beach sandals, beach hats, sun visors, swim caps, bathing caps, novelty headwear with attached wigs
ARMY STRONG SN:77-019886 RN:3,454,363	Registered June 24, 2008	(Int'l Class: 25) Men's women's, and children's clothing, namely, shirts, t-shirts, sport shirts, knit shirts, polo shirts, golf shirts, sweat shirts, sweat pants, pants, shorts, jackets, socks, hats, caps, and visors
BIG FAST STRONG	Registered	(Int'l Class: 25) Clothing, namely, jackets, sweaters, vests,

SN:77-812683 RN:3,792,548	May 25, 2010	sweatshirts, sweatpants, shirts, blouses, t-shirts, tank tops, pants, jeans, shorts, skirts, dresses, swimwear, cover-ups, underwear, slippers, socks, scarves, leggings, belts, neckwear, headwear and footwear
DIE STRONG SN:85-292306 RN:4,073,475	Registered December 20, 2011	(Int'l Class: 25) Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; wristbands
JERSEY STRONG SN:77-203534 RN:3,709,168	Registered November 10, 2009	(Int'l Class: 25) Clothing, namely, t-shirts, long sleeve t-shirts, sweat shirts, sweat pants, fitness wear, namely, exercise tops and bottoms (Int'l Class: 41) Health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; providing physical fitness conditioning classes; providing physical fitness instruction; personal training services
MR. STRONG SN:77-311631 RN:3,791,828	Registered May 25, 2010	(Int'l Class: 25) Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; overcoats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; baffling caps
TOO STRONG SN:77-636391 RN:3,747,671	Registered February 9, 2010	(Int'l Class: 25) Clothing, namely, t-shirts, shorts, pants, sweaters, socks, shoes, gloves, underwear, beanies, tank tops, jerseys, belts, g-strings, bras, head bands, jackets, briefs, thong underwear, hats, caps, tank tops, muscle shirts, swimsuits, boy shorts, board shorts, pants with snaps, pajamas, skirts, dresses, halter tops, tube tops, spaghetti straps tops, jeans, sports coat, business suits, collared shirts, dress shirts, scarves, slippers
TRAIN STRONG SN:78-941554 RN:3,559,143	Registered January 6, 2009	(Int'l Class: 25) Clothing, namely, t-shirts, sweatshirts, shorts, jackets and hats

A copy of the USPTO printout for each of the above marks is attached. As these marks demonstrate, the examining attorney's reliance on the allegedly similar "mental reaction" conveyed by the term STRENGTH in the cited registration is disproved by consumers' abilities to recognize that STRONG formative marks are able to co-exist in light of other marks that include the word

STRENGTH. Moreover, the fact that the cited registration is registered on the Supplemental Register further limits the ability of the cited registration to block registration of Applicant's dissimilar mark.

III. Conclusion.

For the reasons stated above, confusion is not likely between Applicant's mark and the cited registration. Applicant respectfully requests that the refusal to register is withdrawn and the application passed to publication. Should any outstanding issues remain, the examining attorney is encouraged to telephone the undersigned attorney.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_2041942072-152247320 . FIND YOUR STRONG Pdf of Request for Reconsideration.pdf
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ORIGINAL PDF FILE	evi_2041942072-152247320 . FIND YOUR STRONG Third Party Registrations.pdf
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DESCRIPTION OF EVIDENCE FILE	pdf version of the Request for Reconsideration; third party registrations for STRONG and STRENGTH marks
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Robert M. Carroll/
SIGNATORY'S NAME	Robert M. Carroll
SIGNATORY'S POSITION	Group Counsel, Intellectual Property
DATE SIGNED	04/25/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Apr 25 16:14:00 EDT 2012
TEAS STAMP	USPTO/RFR-204.194.207.2-2 0120425161400952901-85235 172-490b053d58c2271b8d86c 8e5eabbd9732f-N/A-N/A-20 120425152247320840

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85235172** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

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SECOND STRENGTH SN:78-521685 RN:3,149,803	Registered September 26, 2006	(Int'l Class: 25) Fitness apparel, namely, jackets, sweatshirts, sweat pants, t-shirts, shirts, tank tops, caps, shorts, pants and bandanas
SPEED AND STRENGTH SN:77-977328 RN:3,655,881	Registered July 14, 2009	(Int'l Class: 25) Clothing, namely, jackets, shirts, pants, denim jeans, vests, gloves and hats
STRENGTH INSIDE & OUT SN:77-448292 RN:3,719,370	Registered December 1, 2009	(Int'l Class: 25) Clothing, namely, shorts, pants, jackets, sweatshirts, sweatpants, sweatsuits, socks, shirts, t-shirts, hats and caps
15 STRONG SN:77-626866 RN:3,646,911	Registered June 30, 2009	(Int'l Class: 25) Clothing, namely, hosiery, footwear, basketball shoes, basketball sneakers, t-shirts, shirts, polo shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, visors, warm-up suits, warm-up pants, warm-up tops/shooting shirts, jackets, wind resistant jackets, parkas, coats, baby bibs not of paper, head bands, wrist bands, aprons, undergarments, boxer shorts, slacks, ear muffs, gloves, mittens, scarves, woven and knit shirts, jersey dresses, dresses, cheerleading dresses and uniforms, swim wear, bathing suits, swimsuits, bikinis, tankinis, swim trunks, bathing trunks, board shorts, wet suits, beach cover-ups, bathing suit cover-ups, bathing suit wraps, sandals, beach sandals, beach hats, sun visors, swim caps, bathing caps, novelty headwear with attached wigs
ARMY STRONG SN:77-019886 RN:3,454,363	Registered June 24, 2008	(Int'l Class: 25) Men's women's, and children's clothing, namely, shirts, t-shirts, sport shirts, knit shirts, polo shirts, golf shirts, sweat shirts, sweat pants, pants, shorts, jackets, socks, hats, caps, and visors
BIG FAST STRONG SN:77-812683 RN:3,792,548	Registered May 25, 2010	(Int'l Class: 25) Clothing, namely, jackets, sweaters, vests, sweatshirts, sweatpants, shirts, blouses, t-shirts, tank tops, pants, jeans, shorts, skirts, dresses, swimwear, cover-ups, underwear, slippers, socks, scarves, leggings, belts, neckwear, headwear and footwear
DIE STRONG SN:85-292306 RN:4,073,475	Registered December 20, 2011	(Int'l Class: 25) Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; wristbands
JERSEY STRONG SN:77-203534 RN:3,709,168	Registered November 10, 2009	(Int'l Class: 25) Clothing, namely, t-shirts, long sleeve t-shirts, sweat shirts, sweat pants, fitness wear, namely, exercise tops and bottoms (Int'l Class: 41) Health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; providing physical

		fitness conditioning classes; providing physical fitness instruction; personal training services
MR. STRONG SN:77-311631 RN:3,791,828	Registered May 25, 2010	(Int'l Class: 25) Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; overcoats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; baffling caps
TOO STRONG SN:77-636391 RN:3,747,671	Registered February 9, 2010	(Int'l Class: 25) Clothing, namely, t-shirts, shorts, pants, sweaters, socks, shoes, gloves, underwear, beanies, tank tops, jerseys, belts, g-strings, bras, head bands, jackets, briefs, thong underwear, hats, caps, tank tops, muscle shirts, swimsuits, boy shorts, board shorts, pants with snaps, pajamas, skirts, dresses, halter tops, tube tops, spaghetti straps tops, jeans, sports coat, business suits, collared shirts, dress shirts, scarves, slippers
TRAIN STRONG SN:78-941554 RN:3,559,143	Registered January 6, 2009	(Int'l Class: 25) Clothing, namely, t-shirts, sweatshirts, shorts, jackets and hats

A copy of the USPTO printout for each of the above marks is attached. As these marks demonstrate, the examining attorney's reliance on the allegedly similar "mental reaction" conveyed by the term STRENGTH in the cited registration is disproved by consumers' abilities to recognize that STRONG formative marks are able to co-exist in light of other marks that include the word STRENGTH. Moreover, the fact that the cited registration is registered on the Supplemental Register further limits the ability of the cited registration to block registration of Applicant's dissimilar mark.

III. Conclusion.

For the reasons stated above, confusion is not likely between Applicant's mark and the cited registration. Applicant respectfully requests that the refusal to register is withdrawn and the application passed to publication. Should any outstanding issues remain, the examining attorney is encouraged to telephone the undersigned attorney.

EVIDENCE

Evidence in the nature of pdf version of the Request for Reconsideration; third party registrations for STRONG and STRENGTH marks has been attached.

Original PDF file:

[evi_2041942072-152247320 . FIND YOUR STRONG Pdf of Request for Reconsideration.pdf](#)

Converted PDF file(s) (6 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

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[evi_2041942072-152247320 . FIND YOUR STRONG Third Party Registrations.pdf](#)

Converted PDF file(s) (20 pages)

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[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

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[Evidence-18](#)

[Evidence-19](#)

[Evidence-20](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Robert M. Carroll/ Date: 04/25/2012

Signatory's Name: Robert M. Carroll

Signatory's Position: Group Counsel, Intellectual Property

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to

withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85235172

Internet Transmission Date: Wed Apr 25 16:14:00 EDT 2012

TEAS Stamp: USPTO/RFR-204.194.207.2-2012042516140095

2901-85235172-490b053d58c2271b8d86c8e5ea

bbdc9732f-N/A-N/A-20120425152247320840

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark:	FIND YOUR STRONG)	
Filed:	February 6, 2011)	Serial No. 85/235,172
Applicant:	Saucony, Inc.)	
Examining Attorney:	Odessa Bibbons)	
	Law Office 105)	
)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

REQUEST FOR RECONSIDERATION

In response to the U.S. Patent and Trademark Office (“USPTO”) Action dated October 27, 2011, Applicant provides the following information and arguments.

I. Background.

The examining attorney has issued a final refusal to registration of Applicant's mark FIND YOUR STRONG based upon U.S. Registration No. 2,114,883 for the mark FIND YOUR STRENGTH, registered on the Supplemental Register for "clothing, namely, t-shirts and hats" in International Class 25. For the reasons stated below, Applicant requests that the examining attorney reconsider this final refusal, as there is no likelihood of confusion between the two marks.

II. Information and Argument.

Likelihood of confusion between a mark for which registration is sought and a previously registered or prior pending mark is determined on a case by case basis, applying the factors set out in *In re E. I. duPont De Nemours & Co.*, 476 F. 2d 1357, 1361, 177 U.S.P.Q. 563, 567 (C.C.P.A. 1973); and in *Packard Press, Inc. v. Hewlett-Packard Company*, 227 F. 3d 1352, 56 U.S.P.Q. 1351 (Fed. Cir. 2000). The *duPont* factors are (1) the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression; (2) the similarity or dissimilarity and nature of the goods described in the application or registration of the mark, or in connection with which a prior mark is in use; (3) the similarity or dissimilarity of established, likely-to-continue trade channels; (4) the conditions under which and the buyers to whom sales are made; (5) the fame of the prior mark; (6) the number and nature of similar marks in use on similar goods; (7) the nature and extent of any actual confusion; (8) the length of time during and the conditions under which there has been concurrent use without evidence of actual confusion; (9) the variety of goods on which a mark is or is not used; (10) the market interface between the Applicant and the

owner of a prior mark; (11) the extent to which the Applicant has a right to exclude others from use of its mark on its goods; (12) the extent of potential confusion; and (13) any other established fact probative of the effect of use. See *In re E.I. duPont de Nemours & Co.*, 476 F. 2d 1357, 177 U.S.P.Q. 562 (C.C.P.A. 1973); *In re National Data Corp.*, 753 F. 2d 1056, 1058, 224 U.S.P.Q. 749, 750-51 (Fed. Cir. 1985); TMEP Section 1207.01; 15 U.S.C.A. § 1052(d).

In ex parte examination, the issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods or services. TMEP Section 1207.01. However, other factors listed above may be considered if relevant evidence is contained in the record. See *In re National Novice Hockey League, Inc.*, 222 U.S.P.Q. 638, 640 (TTAB 1984).

A. Applicant's mark is not similar to the cited registration.

As the Office Action stated, "not all of the [*Du Pont*] factors are necessarily relevant or of equal weight [when determining whether marks are confusingly similar], and any one factor may be dominant in a given case, depending on the evidence of record." In this instance, the marks in question, namely, FIND YOUR STRONG and FIND YOUR STRENGTH are dissimilar in meaning and commercial impression. It is a well-established pillar in trademark law that differences between the connotations or commercial impressions made by marks are key factors in determining the existence of likelihood of confusion. See *Revlon, Inc. v. Jerell, Inc.*, 713 F.Supp. 93, 98 (S.D.N.Y. 1989). When two marks carry different meanings and deliver different commercial impressions, confusion is unlikely. See e.g., *In re Farm Fresh Catfish Co.*, 231 U.S.P.Q. 495 (TTAB 1986) (holding that CATFISH BOBBER for fish (with CATFISH disclaimed) is not confusingly similar to BOBBER for restaurant services, because BOBBER in CATFISH BOBBER suggests dictionary meaning of fishing bob or float, and BOBBER for restaurant services does not carry such meaning); *Nina Ricci, S.A.R.L. v. Gemcraft, Ltd.*, 612 F. Supp. 1520, 226 U.S.P.Q. 575 (S.D.N.Y. 1985) (holding Plaintiff's mark L' AIR DU TEMPS for perfume is not confusingly similar to Defendant's mark, L' AIR D'OR, also for perfume, because the two terms suggest different meaning in French and result in different overall impressions). In its first Response to Office Action, Applicant's evidence of record clearly indicated the fundamental differences in meaning and commercial impression of the marks at hand.

The examining attorney has based her refusal to register FIND YOUR STRONG on the argument that Applicant's mark and the cited registration "stimulate the same mental reaction." However, Applicant's mark FIND YOUR STRONG conveys an entirely different meaning and commercial impression to consumers, one that is both memorable and unusual so as to stand apart from that conveyed by registrant's mark. Applicant's first Response to Office Action provided concrete evidence demonstrating that "find your strength" is a familiar phrase that consumers are accustomed to seeing in everyday advertisements, self-help mantras, and books. However, Applicant's mark, that literally compels consumers to find your "strong," stretches consumers' imagination to decipher what comprises one's own "strong." This idea is both aspirational and intangible

and creates an impact on the purchaser. The registrant's adoption of a common phrase as a mark shares none of the memorable qualities conveyed by Applicant's unique and forward-thinking mark. Clearly, FIND YOUR STRONG and the cited registration do not "stimulate the same mental reaction" when Applicant's mark is unusual and thought-provoking compared to the registrant's mark comprised of an ordinary, common phrase.

B. The cited registrant's very limited ability to exclude others from use of "Strong" formative marks is insufficient to block registration.

Applicant notes that the examining attorney did not address the fact that the cited registration is registered on the Supplemental Register and therefore entitled to a very narrow scope of protection. As has long been held by the Trademark Trial and Appeal Board,

registration on the Supplemental Register may be considered to establish prima facie that, at least at the time of registration, the registered mark possessed a merely descriptive significance. (citation omitted.) This is significant because it is well established that the scope of protection afforded a merely descriptive or even a highly suggestive term is less than that accorded an arbitrary or coined mark. That is, terms falling within the former category have been generally categorized as "weak" marks, and the scope of protection extended to these marks has been limited to the substantially identical notation and/or to the subsequent use and registration thereof for substantially similar goods.

In re Hunke & Jochheim, 185 U.S.P.Q. 188, 189 (TTAB 1975). Applicant's mark is entirely distinguishable in overall meaning and commercial impression; therefore, the examining attorney's refusal to register FIND YOUR STRONG in light of the cited registration is overreaching.

Further the examining attorney appears to base her determination that the marks are similar on the "mental reaction" conveyed by the word STRENGTH in the registrant's mark. However, the word "strength" is found in many third party marks used in the apparel industry; these "strength" marks have co-existed with other third party marks in Class 25 that include the word "strong." The choice as a mark of terms used extensively by third parties limits the registrant of a mark in its ability to exclude others from use of the same or similar term. See generally TMEP 1207(b) (ix) citing *In re Central Soya Company, Inc.* 220 U.S.P.Q. 914 (TTAB 1984). The scope of protection extended to such a mark is limited to substantially identical marks used for substantially similar goods. See generally *In re Hunke & Jocheim*, 185 U.S.P.Q. 188, 189 (TTAB 1975). In this case, Applicant's mark is not "substantially identical" to the cited mark, nor are the goods of the parties "substantially similar," as discussed in the first Response to Office Action.

For example, the following "STRENGTH" and "STRONG" formative marks are currently registered on the Principal Register in Class 25, even in light of the registrant's FIND YOUR STRENGTH mark on the Supplemental Register:

DAILY STRENGTH SN:77-627987 RN:3,647,004	Registered June 30, 2009	(Int'l Class: 25) Jackets; shirts; t-shirts; underwear
FULL STRENGTH SN:78-738265 RN:3,331,621	Registered November 6, 2007	(Int'l Class: 25) Clothing, namely, t-shirts, shirts, sweatshirts, sweatpants, caps, hats and jackets
GORILLA STRENGTH SN:77-800148 RN:4,006,706	Registered August 2, 2011	(Int'l Class: 25) A-shirts; athletic apparel, namely, shirts, pants, jackets, hats and caps, athletic uniforms; body shirts; all directed to the mixed martial arts and power-lifting/ body-building community; combative sports uniforms; martial arts uniforms; mixed martial arts suits (Int'l Class: 28) Martial arts training equipment; sporting goods, namely, a sports training device to improve strength, toning, conditioning, balance, and proprioception; sports equipment for boxing and martial arts, namely, boxing gloves, boxing bags, punching mitts, belly protectors, groin protectors and shin guards; training apparatus for boxing, martial arts, and similar sports
HAMMER STRENGTH SN:74-248941 RN:1,731,248	Renewed November 10, 2002	(Int'l Class: 25) Clothing; namely, t-shirts, sweatshirts, tank-tops, and hats
INDUSTRIAL STRENGTH SN:75-184588 RN:2,177,429	Renewed July 28, 2008	(Int'l Class: 14) Jewelry (Int'l Class: 25) Men's and women's clothing, namely, shirts, tops, pants, trousers, shorts, and jump suits
LATINO LS STRENGTH (Stylized)  SN:77-394028 RN:3,678,017	Registered Supplemental Register September 1, 2009	(Int'l Class: 25) T-shirts
PURE STRENGTH .COM and Design  SN:77-195307 RN:3,417,226	Registered April 29, 2008	(Int'l Class: 25) T-shirts and hats (Int'l Class: 41) Sports coaching; personal coaching in the field of physical fitness and strength training; providing seminars and online training workshops in the field of physical fitness and strength training
SECOND STRENGTH SN:78-521685 RN:3,149,803	Registered September 26, 2006	(Int'l Class: 25) Fitness apparel, namely, jackets, sweatshirts, sweat pants, t-shirts, shirts, tank tops, caps, shorts, pants and bandanas
SPEED AND	Registered	(Int'l Class: 25) Clothing, namely, jackets, shirts, pants,

STRENGTH SN:77-977328 RN:3,655,881	July 14, 2009	denim jeans, vests, gloves and hats
STRENGTH INSIDE & OUT SN:77-448292 RN:3,719,370	Registered December 1, 2009	(Int'l Class: 25) Clothing, namely, shorts, pants, jackets, sweatshirts, sweatpants, sweatsuits, socks, shirts, t-shirts, hats and caps
15 STRONG SN:77-626866 RN:3,646,911	Registered June 30, 2009	(Int'l Class: 25) Clothing, namely, hosiery, footwear, basketball shoes, basketball sneakers, t-shirts, shirts, polo shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, visors, warm-up suits, warm-up pants, warm-up tops/shooting shirts, jackets, wind resistant jackets, parkas, coats, baby bibs not of paper, head bands, wrist bands, aprons, undergarments, boxer shorts, slacks, ear muffs, gloves, mittens, scarves, woven and knit shirts, jersey dresses, dresses, cheerleading dresses and uniforms, swim wear, bathing suits, swimsuits, bikinis, tankinis, swim trunks, bathing trunks, board shorts, wet suits, beach cover-ups, bathing suit cover-ups, bathing suit wraps, sandals, beach sandals, beach hats, sun visors, swim caps, bathing caps, novelty headwear with attached wigs
ARMY STRONG SN:77-019886 RN:3,454,363	Registered June 24, 2008	(Int'l Class: 25) Men's women's, and children's clothing, namely, shirts, t-shirts, sport shirts, knit shirts, polo shirts, golf shirts, sweat shirts, sweat pants, pants, shorts, jackets, socks, hats, caps, and visors
BIG FAST STRONG SN:77-812683 RN:3,792,548	Registered May 25, 2010	(Int'l Class: 25) Clothing, namely, jackets, sweaters, vests, sweatshirts, sweatpants, shirts, blouses, t-shirts, tank tops, pants, jeans, shorts, skirts, dresses, swimwear, cover-ups, underwear, slippers, socks, scarves, leggings, belts, neckwear, headwear and footwear
DIE STRONG SN:85-292306 RN:4,073,475	Registered December 20, 2011	(Int'l Class: 25) Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; wristbands
JERSEY STRONG SN:77-203534 RN:3,709,168	Registered November 10, 2009	(Int'l Class: 25) Clothing, namely, t-shirts, long sleeve t-shirts, sweat shirts, sweat pants, fitness wear, namely, exercise tops and bottoms (Int'l Class: 41) Health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; providing physical fitness conditioning classes; providing physical fitness instruction; personal training services
MR. STRONG SN:77-311631 RN:3,791,828	Registered May 25, 2010	(Int'l Class: 25) Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded

		tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; over-coats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; baffling caps
TOO STRONG SN:77-636391 RN:3,747,671	Registered February 9, 2010	(Int'l Class: 25) Clothing, namely, t-shirts, shorts, pants, sweaters, socks, shoes, gloves, underwear, beanies, tank tops, jerseys, belts, g-strings, bras, head bands, jackets, briefs, thong underwear, hats, caps, tank tops, muscle shirts, swimsuits, boy shorts, board shorts, pants with snaps, pajamas, skirts, dresses, halter tops, tube tops, spaghetti straps tops, jeans, sports coat, business suits, collared shirts, dress shirts, scarves, slippers
TRAIN STRONG SN:78-941554 RN:3,559,143	Registered January 6, 2009	(Int'l Class: 25) Clothing, namely, t-shirts, sweatshirts, shorts, jackets and hats

A copy of the USPTO printout for each of the above marks is attached. As these marks demonstrate, the examining attorney's reliance on the allegedly similar "mental reaction" conveyed by the term STRENGTH in the cited registration is disproved by consumers' abilities to recognize that STRONG formative marks are able to co-exist in light of other marks that include the word STRENGTH. Moreover, the fact that the cited registration is registered on the Supplemental Register further limits the ability of the cited registration to block registration of Applicant's dissimilar mark.

III. Conclusion.

For the reasons stated above, confusion is not likely between Applicant's mark and the cited registration. Applicant respectfully requests that the refusal to register is withdrawn and the application passed to publication. Should any outstanding issues remain, the examining attorney is encouraged to telephone the undersigned attorney.



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DAILY STRENGTH

Word Mark	DAILY STRENGTH
Goods and Services	IC 025. US 022 039. G & S: Jackets; Shirts; T-shirts; Underwear. FIRST USE: 20060301. FIRST USE IN COMMERCE: 20060801
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77627987
Filing Date	December 6, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 14, 2009
Registration Number	3647004
Registration Date	June 30, 2009
Owner	(REGISTRANT) Daily Strength, Inc. CORPORATION DELAWARE 3280 Peachtree Road NE Suite 600 Atlanta GEORGIA 30305
Attorney of Record	Bradley T. Zimmer
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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FULL STRENGTH

Word Mark FULL STRENGTH
Goods and Services IC 025. US 022 039. G & S: Clothing, namely, T-shirts, shirts, sweatshirts, sweatpants, caps, hats and jackets. FIRST USE: 20050600. FIRST USE IN COMMERCE: 20050800
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 78738265
Filing Date October 21, 2005
Current Basis 1A
Original Filing Basis 1B
Published for Opposition October 10, 2006
Registration Number 3331621
Registration Date November 6, 2007
Owner (REGISTRANT) Phillips Performance Nutrition, LLC LIMITED LIABILITY COMPANY COLORADO 651 Corporate Circle, Suite 204A Golden COLORADO 80401
 (LAST LISTED OWNER) FULL STRENGTH NUTRITION, LLC LIMITED LIABILITY COMPANY COLORADO 651 CORPORATE CIRCLE, SUITE 204A GOLDEN COLORADO 80401
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa A. Osman
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Gorilla Strength

Word Mark GORILLA STRENGTH
Goods and Services IC 025. US 022 039. G & S: A-shirts; Athletic apparel, namely, shirts, pants, jackets, hats and caps, athletic uniforms; Body shirts; All directed to the mixed martial arts and power-lifting/ body-building community; Combative sports uniforms; Martial arts uniforms; Mixed martial arts suits. FIRST USE: 20090601. FIRST USE IN COMMERCE: 20091101

IC 028. US 022 023 038 050. G & S: Martial arts training equipment; Sporting goods, namely, a sports training device to improve strength, toning, conditioning, balance, and proprioception; Sports equipment for boxing and martial arts, namely, boxing gloves, boxing bags, punching mitts, belly protectors, groin protectors and shin guards; Training apparatus for boxing, martial arts, and similar sports. FIRST USE: 20090601. FIRST USE IN COMMERCE: 20091101

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77800148

Filing Date August 7, 2009

Current Basis 1A

Original Filing Basis 1B

Published for Opposition January 12, 2010

Registration Number 4006706

Registration Date August 2, 2011

Owner (REGISTRANT) Gorilla Strength LLC LIMITED LIABILITY COMPANY ILLINOIS 11630 E Pebble Rd Mt. Vernon ILLINOIS 62864

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STRENGTH" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

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Live/Dead Indicator LIVE

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Typed Drawing

Word Mark HAMMER STRENGTH
Goods and Services IC 025. US 039. G & S: clothing; namely, T-shirts, sweatshirts, tank-tops, and hats. FIRST USE: 19880728. FIRST USE IN COMMERCE: 19880728
Mark Drawing Code (1) TYPED DRAWING
Serial Number 74248941
Filing Date February 24, 1992
Current Basis 1A
Original Filing Basis 1A
Published for Opposition August 18, 1992
Registration Number 1731248
Registration Date November 10, 1992
Owner (REGISTRANT) HAMMER STRENGTH CORPORATION CORPORATION KENTUCKY 2245 Gilbert Avenue Cincinnati OHIO 45206

(LAST LISTED OWNER) BRUNSWICK CORPORATION CORPORATION BY ASSIGNMENT DELAWARE 1 NORTH FIELD COURT LAKE FOREST ILLINOIS 600454811
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Adam D. Airhart
Prior Registrations 1571447
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20021109.
Renewal 1ST RENEWAL 20021109
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark INDUSTRIAL STRENGTH
Goods and Services IC 014. US 002 027 028 050. G & S: jewelry. FIRST USE: 19920901. FIRST USE IN COMMERCE: 19920901
 IC 025. US 022 039. G & S: men's and women's clothing, namely, shirts, tops, pants, trousers, shorts, and jump suits. FIRST USE: 19920901. FIRST USE IN COMMERCE: 19920901
Mark Drawing Code (1) TYPED DRAWING
Serial Number 75184588
Filing Date October 21, 1996
Current Basis 1A
Original Filing Basis 1B
Published for Opposition July 8, 1997
Registration Number 2177429
Registration Date July 28, 1998
Owner (REGISTRANT) Industrial Strength Corporation CORPORATION CALIFORNIA 601 University Ave. Ste 278. Sacramento CALIFORNIA 95825
Attorney of Record THEODORE J BIELEN JR
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080912.
Renewal 1ST RENEWAL 20080912
Live/Dead Indicator LIVE

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LATINO S STRENGTH

Word Mark LATINO LS STRENGTH
Goods and Services IC 025. US 022 039. G & S: T-shirts. FIRST USE: 20080505. FIRST USE IN COMMERCE: 20080505
Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Trademark Search Facility LETS-2 LS Two letters or combinations of multiples of two letters
Classification Code SHAPES-COLORS-2 Design listing or lined for two colors
Serial Number 77394028
Filing Date February 11, 2008
Current Basis 1A
Original Filing Basis NO FILING BASIS
Registration Number 3678017
Registration Date September 1, 2009
Owner (REGISTRANT) William J. Rivera INDIVIDUAL UNITED STATES 516 Third St. NE Rio Rancho NEW MEXICO 87144
 (REGISTRANT) Miguel E. Martinez INDIVIDUAL UNITED STATES Suite 107 600 Central SW Albuquerque NEW MEXICO 87102
Description of Mark The color(s) red, black and grey is/are claimed as a feature of the mark. The mark consists of the color black appearing on the words "LATINO" and "STRENGTH." The color grey appears as the letter "L" between the two words. The color red appears as the top and bottom curves of the letter "S" around the letter "L" so that the "L" completes the letter "S".
Type of Mark TRADEMARK
Register SUPPLEMENTAL
Live/Dead Indicator LIVE

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Word Mark PURE STRENGTH .COM
Goods and Services IC 025. US 022 039. G & S: T-shirts and hats. FIRST USE: 20010401. FIRST USE IN COMMERCE: 20010401
 IC 041. US 100 101 107. G & S: Sports coaching; personal coaching in the field of physical fitness and strength training; providing seminars and online training workshops in the field of physical fitness and strength training. FIRST USE: 20010401. FIRST USE IN COMMERCE: 20010401
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 25.03.05 - Backgrounds covered with dots; Dotted backgrounds
 26.03.21 - Ovals that are completely or partially shaded
Trademark Search Facility NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
Classification Code SHAPES-OVALS Oval figures or designs including incomplete ovals and one or more ovals
Serial Number 77195307
Filing Date June 1, 2007
Current Basis 1A
Original Filing Basis 1A
Published for Opposition February 12, 2008
Registration Number 3417226
Registration Date April 29, 2008
Owner (REGISTRANT) Pure Strength Incorporated CORPORATION CALIFORNIA 6420 Orange St Los Angeles CALIFORNIA 90048
Description of Mark Color is not claimed as a feature of the mark.
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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SECOND STRENGTH

Word Mark SECOND STRENGTH
Goods and Services IC 025. US 022 039. G & S: Fitness apparel, namely, jackets, sweatshirts, sweat pants, T-shirts, shirts, tank tops, caps, shorts, pants and bandanas. FIRST USE: 20050921. FIRST USE IN COMMERCE: 20051110
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 78521685
Filing Date November 23, 2004
Current Basis 1A
Original Filing Basis 1B
Published for Opposition October 18, 2005
Registration Number 3149803
Registration Date September 26, 2006
Owner (REGISTRANT) Second Strength LLC LIMITED LIABILITY COMPANY MASSACHUSETTS 30 Battle Green Road Lexington MASSACHUSETTS 02421
Attorney of Record Scott M. Soloway
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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SPEED AND STRENGTH

Word Mark	SPEED AND STRENGTH
Goods and Services	IC 025. US 022 039. G & S: Clothing, namely, jackets, shirts, pants, denim jeans, vests, gloves and hats. FIRST USE: 20080920. FIRST USE IN COMMERCE: 20080920
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77977328
Filing Date	September 6, 2007
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	August 19, 2008
Registration Number	3655881
Registration Date	July 14, 2009
Owner	(REGISTRANT) Parker Synergies LLC LIMITED LIABILITY COMPANY FLORIDA 10670 Riverside Dr. East Windsor, Ontario CANADA N8P1A4
Attorney of Record	KAY LYN SCHWARTZ
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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STRENGTH INSIDE & OUT

Word Mark STRENGTH INSIDE & OUT
Goods and Services IC 025. US 022 039. G & S: Clothing, namely, shorts, pants, jackets, sweatshirts, sweatpants, sweatsuits, socks, shirts, T-shirts, hats and caps. FIRST USE: 20080301. FIRST USE IN COMMERCE: 20090608
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Trademark Search Facility NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
Classification Code
Serial Number 77448292
Filing Date April 15, 2008
Current Basis 1A
Original Filing Basis 1B
Published for Opposition July 8, 2008
Registration Number 3719370
Registration Date December 1, 2009
Owner (REGISTRANT) Family Time Sporting Apparel, LLC LIMITED LIABILITY COMPANY TEXAS P.O. Box 50233 Austin TEXAS 78763
Attorney of Record Dwayne K. Goetzel
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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15 STRONG

Word Mark 15 STRONG
Goods and Services IC 025. US 022 039. G & S: Clothing, namely, hosiery, footwear, basketball shoes, basketball sneakers, T-shirts, shirts, polo shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, visors, warm-up suits, warm-up pants, warm-up tops/shooting shirts, jackets, wind resistant jackets, parkas, coats, baby bibs not of paper, head bands, wrist bands, aprons, undergarments, boxer shorts, slacks, ear muffs, gloves, mittens, scarves, woven and knit shirts, jersey dresses, dresses, cheerleading dresses and uniforms, swim wear, bathing suits, swimsuits, bikinis, tankinis, swim trunks, bathing trunks, board shorts, wet suits, beach cover-ups, bathing suit cover-ups, bathing suit wraps, sandals, beach sandals, beach hats, sun visors, swim caps, bathing caps, novelty headwear with attached wigs. FIRST USE: 20060620. FIRST USE IN COMMERCE: 20060620

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Trademark Search
Facility Classification Code NUM-15 The number 15 or the word Fifteen
Serial Number 77626866
Filing Date December 4, 2008
Current Basis 1A
Original Filing Basis 1A
Published for Opposition April 14, 2009
Registration Number 3646911
Registration Date June 30, 2009
Owner (REGISTRANT) The Miami Heat Limited Partnership Florida Basketball Associates Inc., a Florida corporation, as general partner LIMITED PARTNERSHIP FLORIDA 601 Biscayne Boulevard Miami FLORIDA 33132
Attorney of Record Anil V. George
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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ARMY STRONG

Word Mark ARMY STRONG
Goods and Services IC 025. US 022 039. G & S: men's women's, and children's clothing, namely, shirts, T-shirts, sport shirts, knit shirts, polo shirts, golf shirts, sweat shirts, sweat pants, pants, shorts, jackets, socks, hats, caps, and visors. FIRST USE: 20061016. FIRST USE IN COMMERCE: 20070600

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77019886
Filing Date October 12, 2006
Current Basis 1A
Original Filing Basis 1B
Published for Opposition February 13, 2007
Registration Number 3454363
Registration Date June 24, 2008
Owner (REGISTRANT) Department of the Army GOVERNMENT AGENCY UNITED STATES JALS-IP 901 N. Stuart St., Ste. 700 Arlington VIRGINIA 222031837
Attorney of Record James Scott Chafin
Prior Registrations 2401763;2600971;3152724;AND OTHERS
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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big fast strong

Word Mark BIG FAST STRONG

Goods and Services IC 025. US 022 039. G & S: Clothing, namely, jackets, sweaters, vests, sweatshirts, sweatpants, shirts, blouses, t-shirts, tank tops, pants, jeans, shorts, skirts, dresses, swimwear, cover-ups, underwear, slippers, socks, scarves, leggings, belts, neckwear, headwear and footwear. FIRST USE: 20090601. FIRST USE IN COMMERCE: 20090822

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77812683

Filing Date August 25, 2009

Current Basis 1A

Original Filing Basis 1A

Published for Opposition March 9, 2010

Registration Number 3792548

International Registration Number 1014102

Registration Date May 25, 2010

Owner (REGISTRANT) Sparrow LLC LIMITED LIABILITY COMPANY CALIFORNIA 6608 Lexington Avenue Los Angeles CALIFORNIA 90038

Attorney of Record Jon M. Leader

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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DIE STRONG

Word Mark DIE STRONG
Goods and Services IC 025. US 022 039. G & S: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Wristbands. FIRST USE: 20110310. FIRST USE IN COMMERCE: 20110320
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 85292306
Filing Date April 11, 2011
Current Basis 1A
Original Filing Basis 1A
Published for Opposition October 4, 2011
Registration Number 4073475
Registration Date December 20, 2011
Owner (REGISTRANT) Matrix Direct, Inc. (California Corporation) AKA Matrix Direct CORPORATION CALIFORNIA 9640 Granite Ridge Drive San Diego CALIFORNIA 92123
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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JERSEY STRONG

Word Mark JERSEY STRONG
Goods and Services IC 025. US 022 039. G & S: Clothing, namely, t-shirts, long sleeve t-shirts, sweat shirts, sweat pants, fitness wear, namely, exercise tops and bottoms. FIRST USE: 20090100. FIRST USE IN COMMERCE: 20090100

IC 041. US 100 101 107. G & S: Health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; providing physical fitness conditioning classes; providing physical fitness instruction; personal training services. FIRST USE: 20070626. FIRST USE IN COMMERCE: 20070626

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77203534

Filing Date June 12, 2007

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 15, 2008

Registration Number 3709168

Registration Date November 10, 2009

Owner (REGISTRANT) Roma, Stephen P. INDIVIDUAL UNITED STATES 1704 Beacon Lane Point Pleasant Beach NEW JERSEY 08742

Attorney of Record Kenneth F. Florek

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "JERSEY" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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MR. STRONG

**Word Mark
Goods and
Services**

MR. STRONG

IC 009. US 021 023 026 036 038. G & S: Audio and video tapes, and discs, namely, audio and video tapes and audio and video recordings in the form of discs, DVDs, DVD-ROM, CD-ROM, compact discs, laser discs, floppy discs, hard discs, optical discs, pre-recorded magnetic data carriers, phonograph records, magnetic and digital tapes, all featuring music, musical sound recordings, musical video recordings and video recordings featuring cartoon characters, optionally also with live action sequences or images; jackets for video cassettes; prerecorded compact discs and pre-recorded video tapes relating to children's entertainment and education; television films, namely, animated films, live action films, all featuring musical sound recordings, musical video recordings and video recordings featuring cartoon characters with live action sequences and images; phonograph records featuring music, speech, or educational or entertainment materials, namely, children's educational material, reading educational material and music; motion picture films, sound recordings and video recordings, featuring comedy, dramatic, documentary, musical; electronic downloadable publications, namely, books, comics, magazines, newsletters, journals, pamphlets, brochures, booklets and a series of fiction or non-fiction books all featuring children's entertainment; downloadable software, namely, for the display, organization, transmission, reception or searching of educational or entertainment information; musical sound recordings, musical video recordings and video recordings all featuring cartoon characters, optionally also with live action sequences or images downloadable from the Internet; blank magnetic computer audio and video tapes, cassettes and cartridges; radios; radios for use in the shower; audio cassette recorders; videocassette recorders; compact disc players; MP3 players. karaoke machines, namely, audio components for use in karaoke, namely, compact disc players, audio amplifiers, audio mixers, microphones, audio speakers, and cables for use with audio components; cameras; projectors, namely, movie projector and slide projector; calculators; sunglasses; office requisites, namely, compute mouse mats; video games, namely, video game machines for use with televisions; electronic amusement apparatus for use with television receivers, namely, computer game hardware and peripherals; computer game programs; electronic computer game programs downloadable from the Internet; computer software for the display, organization, transmission, reception or searching of educational or entertainment information; cell phones; snorkels; bicycle helmets, football helmets, baseball and softball batting helmets, skateboard helmets, ski helmets, snowboarding helmets; goggles for skiing, swimming, racket sports, or sledding; swimming aids, namely, life jackets; nose plugs for swimming

IC 016. US 002 005 022 023 029 037 038 050. G & S: Books and magazines, all for children; comic books, comic strips in general; children's activity books, children's pop-up books; printed matter, namely, magazines, journals, pamphlets, brochures, booklets and a series of fiction or non-fiction books, all featuring children's entertainment; coloring books; bookmarks of paper or card; children's books featuring interactive magnetic or felt elements; posters; paper banners; mounted photographs, unmounted photographs; postcards; printed charts of paper or card

such as growth charts, space charts, alphabet charts, and multiplication charts; greeting cards, blank cards, Christmas cards, gift cards, note cards; wrapping paper; paper tags; paper and cardboard bags and boxes for packaging; cardboard and cardboard articles, namely, cartons and containers; packing paper; paper ribbons; paper gift wrapping ribbons; stationery, notepaper, envelopes, note books; blank, printed or partially printed paper labels; address labels; loose leaf binders; exercise books; writing pads; address books; pens, pencils, pencil cases, pen cases; pencil holders; stationery boxes; artists' materials, namely, artists' pencils, artists' brushes, artists' pens, stencils, poster art sets, paint boxes, paint brushes, drawing materials, namely, instruments, pads and paper; coloring materials, namely, crayons, felt tip pens, coloring pencils, marker pens, highlighters and brush pens, ink pens; adhesives for stationery or household purposes; modeling materials and compounds for use by children; modeling clay; modeling compounds; stamp pads and ink therefore; writing ink, rubber commemorative stamps; printed tickets; printed souvenir programs, flyers, posters, leaflets, brochures, pamphlets and booklets commemorating charitable events; printed instructional, educational and teaching material all for use with infants, babies and children. flashcards; printed teaching materials in the form of games for use in the fields of mathematics, language arts, social studies, art, music, theatre arts or literature; stickers; paper and plastic transfers, namely, rub-on, stick-on and iron-on temporary tattoos, decalcomanias, iron-on transfers; stencils; paper and plastic transparencies; calendars; tear-off calendars; diaries; office requisites, namely, type correcting fluid, punches, rubber bands, paper clips, binder clips and fasteners, staplers, adhesive tape dispensers, erasers, pencil sharpeners, note binders, namely, paper fasteners, loose leaf binders, three-ring binders, mechanical binder sets comprising rings; files, namely, document files, card files, file folders and file sorters; folders; memo pads; electric typewriters; printing blocks; receptacles for holding rubber bands, paper clips, binder clips and paper fasteners; disposable diapers; paper bibs; paper napkins and paper tablecloths; bathroom tissue; facial tissues; paper handkerchiefs; absorbent paper for use in the kitchen; paper towels; paper face towels; table mats made of paper; and paper place mats; coasters made of paper; plastic sandwich bags; general purpose plastic and paper bags; plastic and paper garbage bags; photo, scrap, coin and stamp albums; scrapbooks; almanacs; announcement cards; blackboards; blotters; book ends; bookmarks; bottle wrappers of cardboard or paper; paper and cardboard boxes; trading cards and trivia cards; printed charts; book bindings; embroidery design patterns; printed dress making patterns; paper mache figurines; paper flags; paper flower pot covers; construction paper; craft paper; loose leaf paper; tissue paper; tracing paper; checkbook covers; passport holders; book covers; personal organizers; pocket secretaries. chalk boards and easels for home or school use; wooden book ends

IC 025. US 022 039. G & S: Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; over-coats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for Halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; baffling caps

IC 028. US 022 023 038 050. G & S: Figures representing cartoon characters; games and playthings, namely, soft-sculpture toys; wooden toys, namely, building blocks, alphabet blocks and pull out wooden puzzles; electrical and mechanical action toys; electronic action toys; radio controlled toys; swimming aids, namely, pool rings, arm floats for recreational use, kick board flotation device for recreational use, swim rings, floating recreational lounge chairs, air beds, namely, inflatable float mattresses for recreational use; inflatable ride-on toys; swim fins; beach balls; paddling pools, namely, play swimming pools; play mats containing infant toys; dolls; action figures and play figures; plush toys; beanbag toys; stuffed toy animals; toy figures; puppet toys for babies and infants, namely, rattles, mobiles, play quilts as doll accessory and multiple activity toys; toys designed to be attached to car seats, strollers, cribs, high chairs; play sets designed to interact with dolls, play figures and action figures; make-believe sets, namely, play houses and play tea sets; vehicles for dolls, action figures and play figures; carrying or collecting cases for dolls, play figures and action figures; doll clothing and accessories; children's multiple activity toys, namely, picture activity sets comprised of felt, wipe-away sets comprised of dry erase writing boards and writing surfaces, slate boards for writing, water color boards, decorative glitter sets; children's multiple activity toys, namely, knitting sets comprised of stitch markers, stitch gauges, stitch holders, yarn bobbins, needles, and toy construction sets. jokes and novelty items, namely, paper face masks, rude noise-makers, false faces, false noses, false eyeglasses, false beards, false moustaches, windup toys, water squirting toys, magic tricks; party favors in the nature of small toys; kaleidoscopes; balloons; jigsaw puzzles, manipulative puzzles and cube-type puzzles; tic-tac-toe; domino sets; equipment sold as a unit for board, card and skill action games and floor games; Christmas tree decorations, not including confectionery or illumination articles; knee, elbow and wrist protectors for use in skating and other sports; toy vehicles; construction toys; wooden toy model train sets; ride-on toys; ride on toys, namely, pedal cars and pedal planes; toy bicycles, toy tricycles, toy scooters; gymnastic apparatus; sporting articles, namely, sport balls; tennis, squash, badminton, racquetball, paddle ball and table tennis rackets and racket covers; baseball and softball mitts; baseball and softball gloves, bats, catcher's masks; leg guards for athletic use, athletic supporters and protective cups, shin, thigh, leg, hip, shoulder, rib and arm pads for athletic use; baseball and softball bases; kicking tees; field hockey and lacrosse sticks; mouth guards for athletic use; archery bows, bow

strings, arrows, targets, quivers; basketball goals, nets, and backboards; croquet sets; boxing gloves; barbells; skis, ski poles; snowboards; bowling balls; golf equipment and accessories, namely, clubs, bags, golf tees, gloves, ball markers, club head covers, divot repair tools; ice hockey sticks and pucks; shuffleboard sticks; badminton shuttlecocks; volleyball, tennis, and table tennis nets; cricket sticks and wickets; snow sleds for recreational use; surf boards; body boards; skim boards. windsurfing boards; ice skates; roller skates; in-line skates; skate boards; stationery exercise bicycles; flying discs; water skis; dartboards; darts; fishing rods, reels and lures; trampolines; bounce-on inflatable toys; wooden skittles; yo-yos; skipping ropes; kites; toy phones, toy torches; arcade games; coin-operated ride-on toys; confetti; hobby craft sets consisting of felt shapes for making pictures

IC 041. US 100 101 107. G & S: Television production and television program services, namely, scheduling, programming, syndication; production and distribution of radio and television programs for others; radio entertainment production; and distribution of radio and television programs for others; radio entertainment production; television show production; motion picture film and videotape production; distribution of motion pictures; rental of videotapes, cinematographic films, sound and video recordings; publication of books, magazines, journals; music publishing services; entertainment in the nature of theatre productions or live performances by a musical group; educational services for children, namely, conducting classes, workshops or seminars in the fields of language arts, mathematics, science, social studies, computer skills, family education, visual arts, theatre or music, all by means of radio or television; entertainment services, namely, on-line based computer games

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility Classification Code LETS-2 MR Two letters or combinations of multiples of two letters
 NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters, punctuation and mathematical signs, zodiac signs, prescription marks

Serial Number 77311631

Filing Date October 23, 2007

Current Basis 44E

Original Filing Basis 44D

Published for Opposition May 19, 2009

Registration Number 3791828

Registration Date May 25, 2010

Owner (REGISTRANT) THOIP COMPANY UNITED KINGDOM 4th Floor Aldwych House, 81 Aldwych London UNITED KINGDOM WC2B4HN

Attorney of Record Lawrence E. Apolzon

Priority Date September 6, 2007

Prior Registrations 2233157

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Too Strong

Word Mark TOO STRONG
Goods and Services IC 025. US 022 039. G & S: Clothing, namely, t-shirts, shorts, pants, sweaters, socks, shoes, gloves, underwear, beanies, tank tops, jerseys, belts, g-strings, bras, head bands, jackets, briefs, thong underwear, hats, caps, tank tops, muscle shirts, swimsuits, boy shorts, board shorts, pants with snaps, pajamas, skirts, dresses, halter tops, tube tops, spaghetti straps tops, jeans, sports coat, business suits, collared shirts, dress shirts, scarves, slippers. FIRST USE: 20090701. FIRST USE IN COMMERCE: 20090701

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77636391

Filing Date December 18, 2008

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 21, 2009

Registration Number 3747671

Registration Date February 9, 2010

Owner (REGISTRANT) StrengthCo Ruben Chavez, a United States Citizen, Christopher Pettet, a United States Citizen, and Steve Chavez, a United States Citizen. PARTNERSHIP ARIZONA 2018 W. Whisper Rock Trail Phoenix ARIZONA 85085

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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TRAIN STRONG

Word Mark TRAIN STRONG
Goods and Services IC 025. US 022 039. G & S: Clothing, namely, t-shirts, sweatshirts, shorts, jackets and hats. FIRST USE: 20060500. FIRST USE IN COMMERCE: 20060500

IC 041. US 100 101 107. G & S: Education services, namely, conducting classes, seminars, workshops in the field of physical training and distribution of written material in connection therewith; personal training services, namely, strength and conditioning training. FIRST USE: 20060500. FIRST USE IN COMMERCE: 20060500

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility SHAPES-MISC Miscellaneous shaped designs

Classification Code

Serial Number 78941554

Filing Date July 31, 2006

Current Basis 1A

Original Filing Basis 1B

Published for Opposition September 25, 2007

Registration Number 3559143

Registration Date January 6, 2009

Owner (REGISTRANT) TRAIN STRONG, LLC LIMITED LIABILITY COMPANY GEORGIA 2451 CUMBERLAND PARKWAY SUITE 3496 ALTANTA GEORGIA 30339

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Kyle M. Globerman

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TRAIN" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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