

ESTTA Tracking number: **ESTTA405188**

Filing date: **04/22/2011**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91198983  |
| Party                  | Defendant<br>Randall Fishman  |
| Correspondence Address | BRUCE T MARGULIES<br>NEIFELD IP LAW PC<br>4813-B EISENHOWER AVENUE<br>ALEXANDRIA, VA 22304<br>UNITED STATES<br>bmargulies@neifeld.com |
| Submission             | Answer  |
| Filer's Name           | Bruce T. Margulies  |
| Filer's e-mail         | bmargulies@neifeld.com  |
| Signature              | /BTM/   |
| Date                   | 04/22/2011  |
| Attachments            | Answer_4-22-2011.pdf ( 4 pages )(60493 bytes )  |

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

In the matter of Trademark Opposition No. 91198983

Motenergy, Inc.

v.

Randall Fishman

APPLICANT'S ANSWER

## APPLICANT'S ANSWER

Now comes the Applicant, Randall Fishman, who answers the grounds for opposition as follows:

1. The applicant does not presently have sufficient knowledge and cannot Admit or Deny.
2. Admitted, based upon information and belief.
3. The applicant does not presently have sufficient knowledge and cannot Admit or Deny.
4. Denied.
5. Denied.
6. Denied.
7. Denied.
8. Denied.
9. Denied.
10. Denied.
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Denied.
16. Denied.
17. Denied.
- 18-22. No assertions by Opposer.
23. Denied.

### **Affirmative Defenses**

1. Opposer cannot demonstrate any likelihood that the public will be confused or misled as to the source of Applicant's goods, or that Applicant's goods are associated with, or endorsed by, Opposer.

2. Opposer's claims are barred, or Opposer is not entitled to judgment or relief, by the doctrine of unclean hands.

Wherefore, the Applicant respectfully submits that the opposition be dismissed and that this opposition be sustained in favor of the Applicant and the Applicant's mark "E TEK", Application no. 77/946,794, be permitted to proceed to registration.

Respectfully submitted,

/BTM/

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Bruce T. Margulies

Attorney of Record for Applicant

4/22/2011

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Date

Certificate of Service

I certify that on April 22, 2011 I caused a copy of the foregoing Applicant's Answer to be transmitted by First Class U.S. Mail to the Opposer at the following address:

JILL GILBERT WELYTOK  
ABSOLUTE TECHNOLOGY LAW GROUP LLC  
3316 WEST WISCONSIN AVENUE  
MILWAUKEE, WI 53208

4/22/2011

\_\_\_\_\_  
Date

/BTM/

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Bruce T. Margulies