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

Proceeding	91204902
Party	Defendant Tyrek, LLC
Correspondence Address	ANDREW A GONZALEZ GONZALEZ & OBERLANDER LLP 841 BROADWAY , SUITE 500 NEW YORK, NY 10003-4704 UNITED STATES
Submission	Answer
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Date	06/05/2012
Attachments	Answer to Opposition.pdf ( 4 pages )(2653547 bytes )

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

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TREK BICYCLE CORPORATION

Opposer,

v.

TYREK, LLC

Applicant.

Opposition No. 91204902  
Serial Nos. 85/466,945 and 85/466,966  
Mark: TYREK; TYREK & Design

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ANSWER AND AFFIRMATIVE DEFENSES TO CONSOLIDATED NOTICE OF  
OPPOSITION

Applicant Tyrek, LLC, through its attorneys, Gonzalez & Oberlander LLP, New York, responds to the Consolidated Notice of Opposition as follows:

Applicant denies the allegations of the first unnumbered paragraph, namely that allowing Application serial nos. 85/466,945 and 85/466,966 to proceed to registration will cause Opposer damage.

1. Applicant denies each and every allegation in Paragraph 1. Applicant is a New York domestic limited liability company with its principal place of business at 647A Degraw Street, Brooklyn, NY 11217.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 4 of the Consolidated Notice of Opposition, and therefore denies the allegations.
5. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 5 of the Consolidated Notice of Opposition, and therefore denies the allegations.
6. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 6 of the Consolidated Notice of Opposition, and therefore denies the allegations.

7. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 7 of the Consolidated Notice of Opposition, and therefore denies the allegations.
8. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 8 of the Consolidated Notice of Opposition, and therefore denies the allegations.
9. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 9 of the Consolidated Notice of Opposition, and therefore denies the allegations.
10. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations of Paragraph 10 of the Consolidated Notice of Opposition, and therefore denies the allegations.
11. Paragraph 11 is admitted. Applicant does not require a license, consent or permission from Opposer to use or register its marks.
12. Applicant denies each and every allegation in Paragraph 12.
13. Applicant denies each and every allegation in Paragraph 13.

#### AFFIRMATIVE DEFENSES

1. Applicant affirmatively alleges that the Applicant's marks and the pleaded marks of the Opposer do not resemble each other in that the marks of the Applicant are spelled different and contain a design element different from the Opposer's pleaded marks.
2. Applicant affirmatively alleges that there is no likelihood of confusion, mistake or deception because, inter alia, Applicant's marks and the pleaded marks of the Opposer are not confusingly similar.
3. Upon information and belief, the respective consumers of the parties' goods are discriminating purchasers and such purchasers will not associate Applicant's and Opposer's marks.
4. The respective parties will market, sell and provide their respective goods in different channels of trade, in different types of stores and to different customers.
5. Opposer has not continuously used its pleaded marks on or in connection with the sale of goods as related to Applicant's description of goods set forth in its applications in International Class 25.

WHEREFORE, Applicant requests that this Consolidated Notice of Opposition initiated by the Opposer against Serial Nos. 85/466,945 and 85/466,966 be dismissed.

Respectfully submitted,

TYREK, LLC

By:

  
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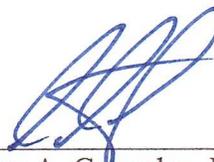
Attorneys for Applicant

Dated: June 4, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer was served by first class postage pre-paid mail by depositing the same with the United States Postal Service on June 4, 2012 to the attorneys for Opposer at the following address:

Mary Catherine Merz  
Jennifer A. Widmer  
Merz & Associates, P.C.  
Attorneys at Law  
1010 Lake Street, Suite 400  
Oak Park, Illinois 60301

A handwritten signature in blue ink, appearing to read 'A. Gonzalez', is written over a horizontal line.

Andrew A. Gonzalez, Esq.