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

Proceeding	91213057
Party	Defendant Hylete LLC
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Submission	Answer
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Date	11/12/2013
Attachments	Hylete-Answer to Notice of Opposition - H Logo.pdf(177671 bytes)

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

HYBRID ATHLETICS LLC)	Opposition No.: 91213057
)	
Opposer,)	Application Serial No.: 85/837,045
)	Mark:
v.)	
)	
HYLETE, LLC,)	
)	
Applicant.)	
)	

ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES

Applicant, Hylete LLC, (“Applicant”) hereby answers the allegations set forth in the Notice of Opposition and asserts affirmative defenses as follows:

Applicant has insufficient knowledge or information as to the truth of the allegations that Hybrid Athletics, LLC (“Opposer”) is a Connecticut Limited Liability Company having a principal place of business at 7 Hyde Street, Stamford, Connecticut 06907 and therefore denies the allegations in Opposer’s first unnumbered paragraph.

1. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition and therefore denies the same.
3. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition and therefore denies the same.
4. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 4 of the Notice of Opposition and therefore denies the same.

5. Applicant admits that it is a California limited liability company with a business address at 135 S. Sierra Ave, Unit 20, Solana Beach, California 92075, United State.

6. Applicant admits that it is the owner of the following trademark application (“the ‘045 application”):

Mark	Application No.	App. Filing Date	Date of First Use	Goods
	85/837,045	Jan. 30, 2013	At least as early as Apr. 2012	Athletic apparel, namely, shirts, pants, shorts, jackets, footwear, hats, and caps.

7. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 7 of the Notice of Opposition and therefore denies the same.

8. Applicant admits that the goods of the ‘045 application are in International Class 25 and include athletic apparel. Applicant has insufficient knowledge or information as to the truth of the remaining allegations set forth in Paragraph 8 of the Notice of Opposition and therefore denies the same.

9. Applicant denies the allegations of Paragraph 9.

10. Applicant denies the allegations of Paragraph 10.

11. Applicant denies the allegations of Paragraph 11.

12. Applicant denies the allegations of Paragraph 12.

13. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 13 of the Notice of Opposition and therefore denies the same.

14. Applicant denies the allegations of Paragraph 14.

15. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 15 of the Notice of Opposition and therefore denies the same.

AFFIRMATIVE DEFENSES

Applicant, without affecting the appropriate burden of proof and otherwise without waiver, limitation, prejudice or right to amend, hereby asserts its affirmative defenses against Opposer. Applicant reserves the right to raise additional affirmative defenses or add counterclaims based upon further discover and investigation.

FIRST AFFIRMATIVE DEFENSE

The Notice of Opposition, and each paragraph thereof, taken individually or collectively, fails to state claims upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer has abandoned any and all rights to the alleged mark in this Opposition.

THIRD AFFIRMATIVE DEFENSE

Opposer's alleged mark is not protectable as sought in this Opposition.

FOURTH AFFIRMATIVE DEFENSE

Opposer's alleged rights in its mark, if any, are narrow and not subject to wide protection due to dilutive third party use of similar marks for similar goods and services.

FIFTH AFFIRMATIVE DEFENSE

Opposer does not have standing to oppose registration of Applicant's application.

ADDITIONAL DEFENSES

Applicant reserves all right to assert additional defenses should Applicant learn of grounds for such defenses during the course of this proceeding.

WHEREFORE, Applicant respectfully submits that the Opposition be dismissed, with prejudice to the Opposer, and that Application Serial No. 85/837,045 be approved for registration to the Applicant.

Dated: November 12, 2013

Respectfully submitted,
TSIRCOU LAW, P.C.

By: /kyri tsircou/

Kyriacos Tsircou
Attorney for Applicant
HYLETE, LLC

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CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO THE NOTICE OF OPPOSITION has been served on Opposer by email and by depositing said copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Wesley W. Witmyer
St. Onge, Steward, Johnston & Reens LLC
986 Bedford Street
Stamford, CT 06905

Email: litigation@ssjr.com

Dated: November 12, 2013

/kyri tsircou/

Kyriacos Tsircou