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Filing date: **02/23/2016**

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

Proceeding	91213057
Party	Defendant Hylete LLC
Correspondence Address	KYRIACOS TSIRCOU TSIRCOU LAW PC 515 S FLOWER ST , FL 36 LOS ANGELES, CA 90071 2221 UNITED STATES kyri@tsircoulaw.com, johnbegakis@tsircoulaw.com
Submission	Testimony For Defendant
Filer's Name	Kyri Tsircou
Filer's e-mail	kyri@tsircoulaw.com
Signature	/kyri tsircou/
Date	02/23/2016
Attachments	Garrett Potter Exhibits 1-2.pdf(5344578 bytes) Garret Potter Exhibits 2 continued.pdf(1360167 bytes)

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

HYBRID ATHLETICS, LLC,

Opposer,

v.

HYLETE, INC.,

Applicant.

Opposition No.: 91213057

Application Serial No.: 85/837,045

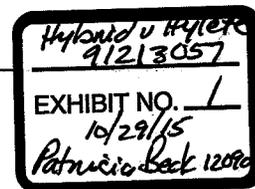
APPLICANT'S NOTICE OF TRIAL DEPOSITION

PLEASE TAKE NOTICE THAT pursuant to Trademark Rule 2.123 and Federal Rule of Civil Procedure 30, Applicant Hylete, Inc. ("Applicant"), by its attorneys of record, will take the trial deposition by oral examination of Garrett Potter, Hylete, Inc., 564 Stevens Avenue, Solana Beach, California 92075, to be held at the offices of Hylete, Inc., located at 568 Stevens Avenue, Solana Beach, California 92075, on Thursday, October 29, 2015, commencing at 9:00 a.m. The deposition will be taken before a notary public or other officer duly authorized to administer oaths, and will be recorded by stenograph. The deposition will continue from day to day until completed.

All counsel of record are invited to attend the deposition and examine the deponent in accordance with applicable rules.

DATE: October 16, 2015

/kyri tsircou/
Kyriacos Tsircou
Tsircou Law, P.C.
Attorneys for Applicant



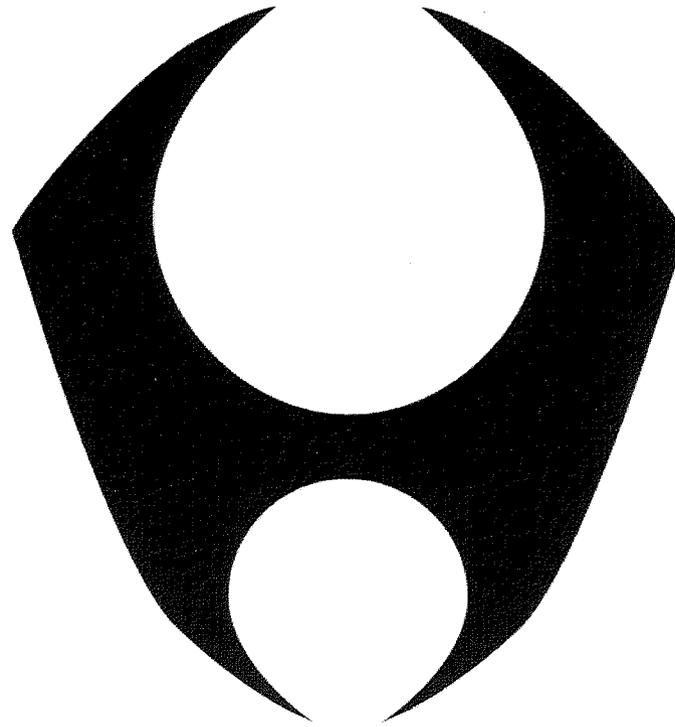
CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2015, I have sent a copy of APPLICANT HYTELE, INC.'S NOTICE OF TRIAL DEPOSITION to the foregoing, by electronic mail and U.S. Mail, First Class pre-paid postage, to:

Wesley W. Whitmyer
Whitmyer IP Group
600 Summer Street
Stamford, CT 06901
Tel. (203) 703-0800 Facsimile (203) 703-0801
Email:litigation@whipgroup.com

/kyri tsircou/

Kyriacos Tsircou, Esq.



HYLETE

investor overview
February 13th, 2014

Hyland v Hylete
91213057
EXHIBIT NO. 2
10/29/15
Patricia Leck 12020

This Confidential Investor Presentation has been prepared for discussion purposes only. It is being delivered on a confidential basis to specified parties solely to assist them in deciding whether to proceed with their investigation of HYLETE, Inc. ("HYLETE" or the "Company") in accordance with procedures established by the Company. This Investor Presentation does not purport to contain all of the information that may be required or relevant to a recipient's evaluation of any transaction and recipients will be responsible for conducting their own investigations and analysis.

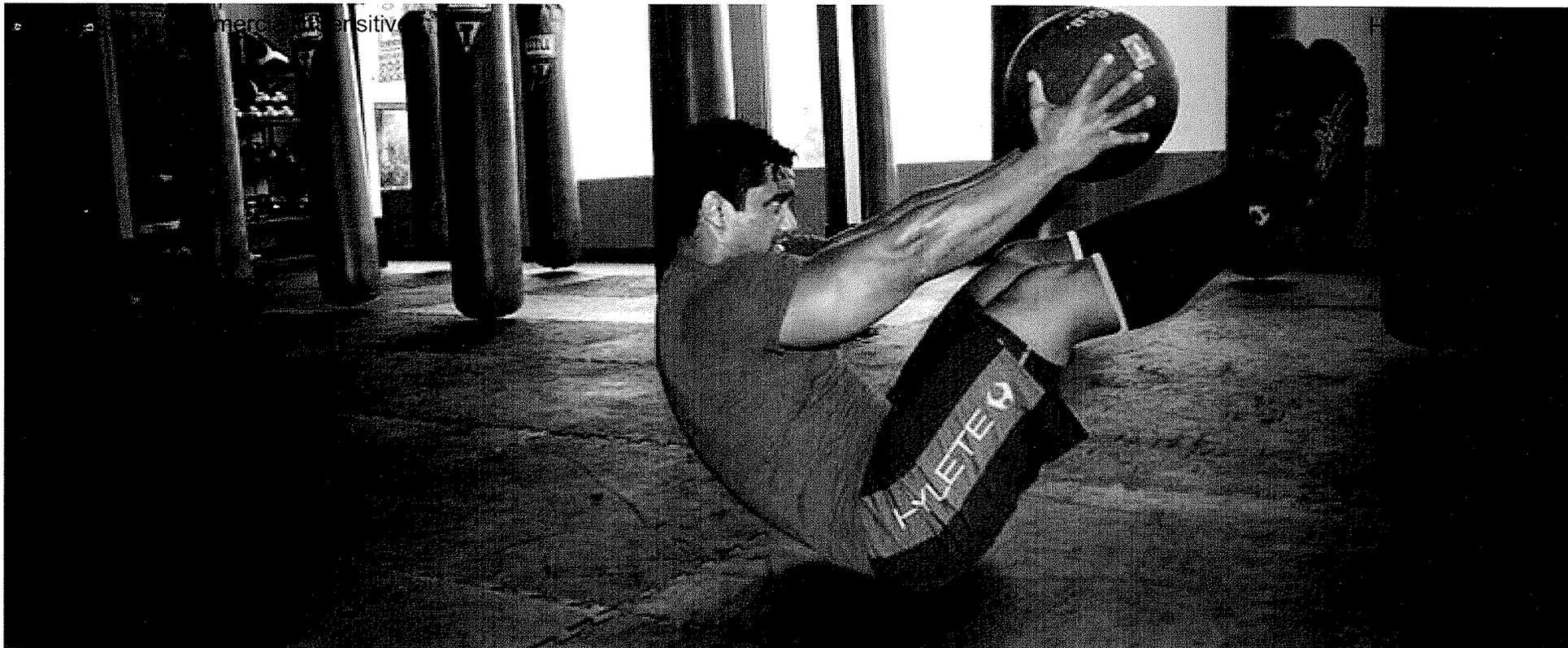
The distribution and use by each recipient of the information contained herein and any other information provided may not be distributed, reproduced or used without the express consent of the Company or for any purpose other than the evaluation of the transaction by the person reviewing this Investor Presentation.

Neither the Company or any of its affiliates or representatives makes any representation, warranty or guaranty of any kind, express or implied, as to the accuracy, completeness or reasonableness of the information contained herein or any other written or oral communication transmitted or made available to the recipient. The Company and its affiliates and representatives expressly disclaim any and all liability based on or arising from, in whole or in part, such information, errors therein or omissions therefrom.

In addition, this Investor Presentation includes certain projections and forward-looking statements provided by the Company with respect to the anticipated future performance of the Company. Such projections and forward-looking statements reflect various assumptions of management concerning the future performance of the Company, and are subject to significant business, economic and competitive uncertainties and contingencies, many of which are beyond the control of the Company. Accordingly, there can be no assurance that such projections or forward-looking statements will be realized. Actual results may vary from anticipated results and such variations may be material. No representations or warranties are made as to the accuracy or reasonableness of such assumptions or the projections or forward-looking statements based thereon.

Only those representations and warranties that are made in a definitive written agreement relating to a transaction, when and if executed, and subject to any limitations and restrictions as may be specified in such definitive agreement, shall have any legal effect. Each recipient should make an independent assessment of the merits of pursuing a transaction and should consult its own professional advisors. This Investor Presentation should not be considered to be an offer to buy the securities of the Company described herein. Any such offer, if and when made, will be in writing.

The delivery of this Investor Presentation should not create any implication that there has been no change in the business and affairs of the Company since such date. Neither the Company nor its affiliates or representatives undertakes any obligation to update any of the information contained herein. The Company is free to conduct the process for the transaction as it determines in its sole discretion (including without limitation, ceasing to proceed with any transaction, terminating further participation in the process by any party, negotiating with prospective buyers and entering into an agreement with respect to a transaction without prior notice to you or any other person) and any procedures relating to such transaction may be changed at any time without prior notice to you or any other person.



HYLETE

Founded upon three intertwined principles:
train to push yourself both physically and mentally;
compete so as to improve yourself, as well as those around you;
and *live* to be healthy in mind, body, and soul.

train. compete. live.

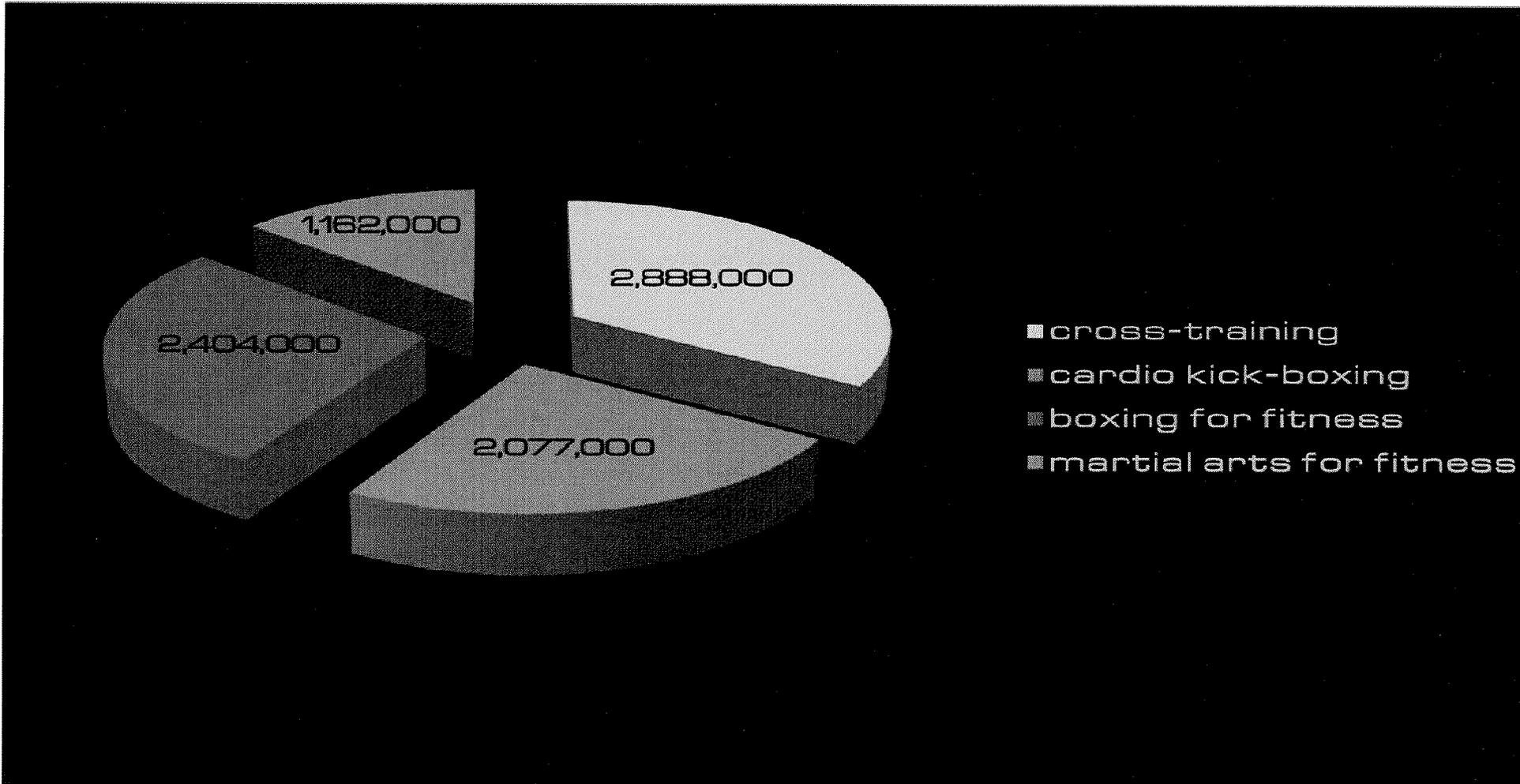
vision

our vision is to create innovative, performance cross-training apparel that captures the spirit of a new breed of hybrid athlete



hybrid training market

8,531,00 core participants

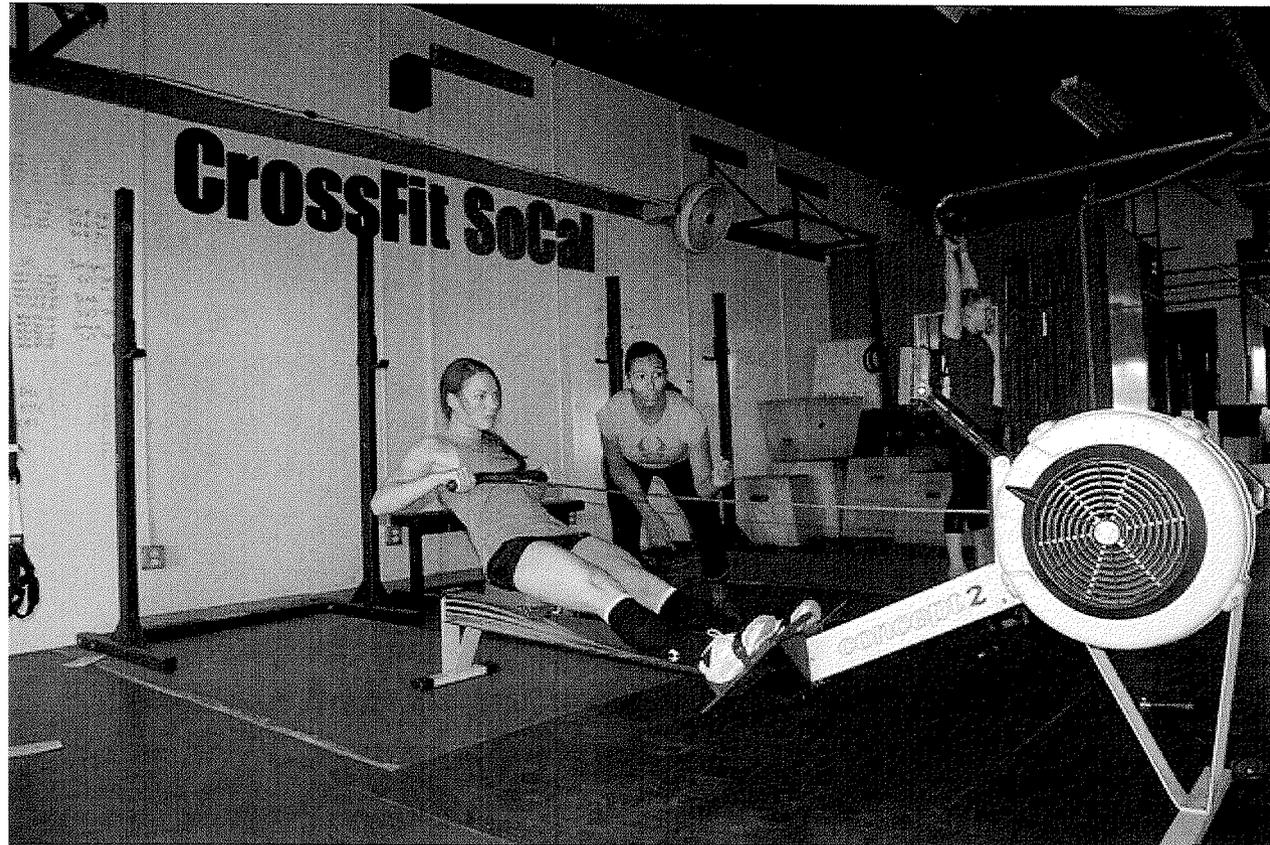


1. 2012 Sports Fitness and Leisure Activities Participation Report (SGMA)

2. core participant=50+ times/year

CrossFit market

1. There are approximately 7,000 CrossFit Boxes with most currently located in the United States¹
2. The average CrossFit box has between 100 and 150 members²
3. HYLETE launched at the 2012 CrossFit Games with their signature product (cross-training shorts) which was an immediate hit and resulted in virtually a complete sell-through of the first production run at the event
4. 39.8% of HYLETE customers participate in CrossFit³



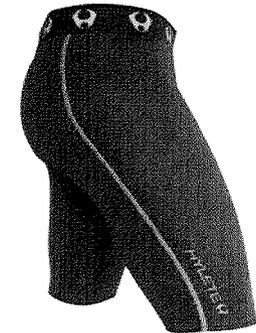
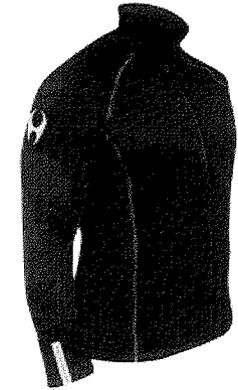
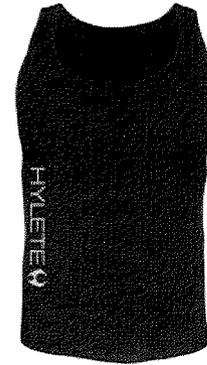
1. Wikipedia
2. <http://clubindustry.com/profits/crossfit-makes-affiliates-trainers>
3. Exit Survey at HYLETE.com

the hybrid athlete

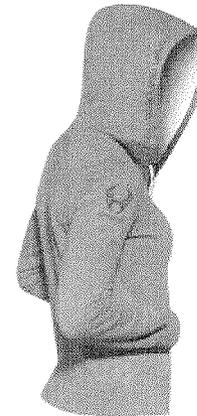
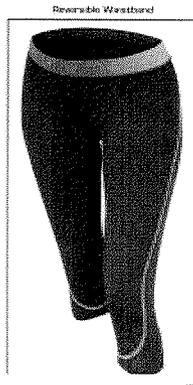
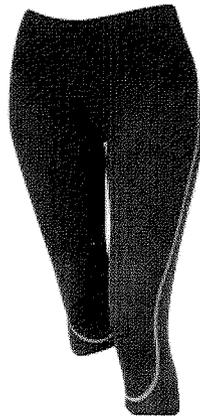


enjoys mental as well as physical challenges,
loves the camaraderie of cross training, and adopts new, authentic
brands if (s)he learns of them in a personal and organic manner

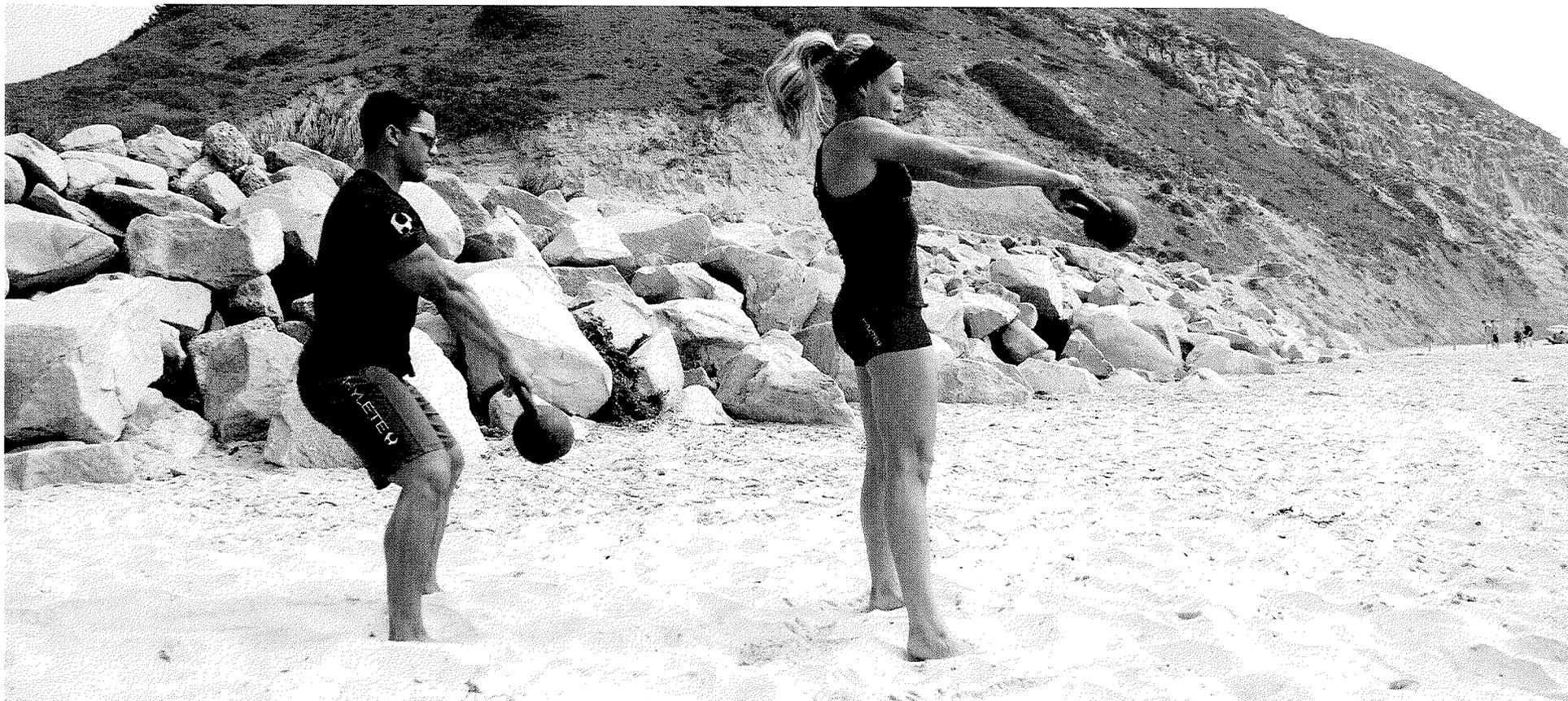
men's line



women's line



competitive product advantage



HYLETE's performance cross-training apparel is the result of the relentless, passionate drive to infuse each item with technical performance that is comfortable, durable, and styled to resonate with the hybrid athlete

direct to consumer

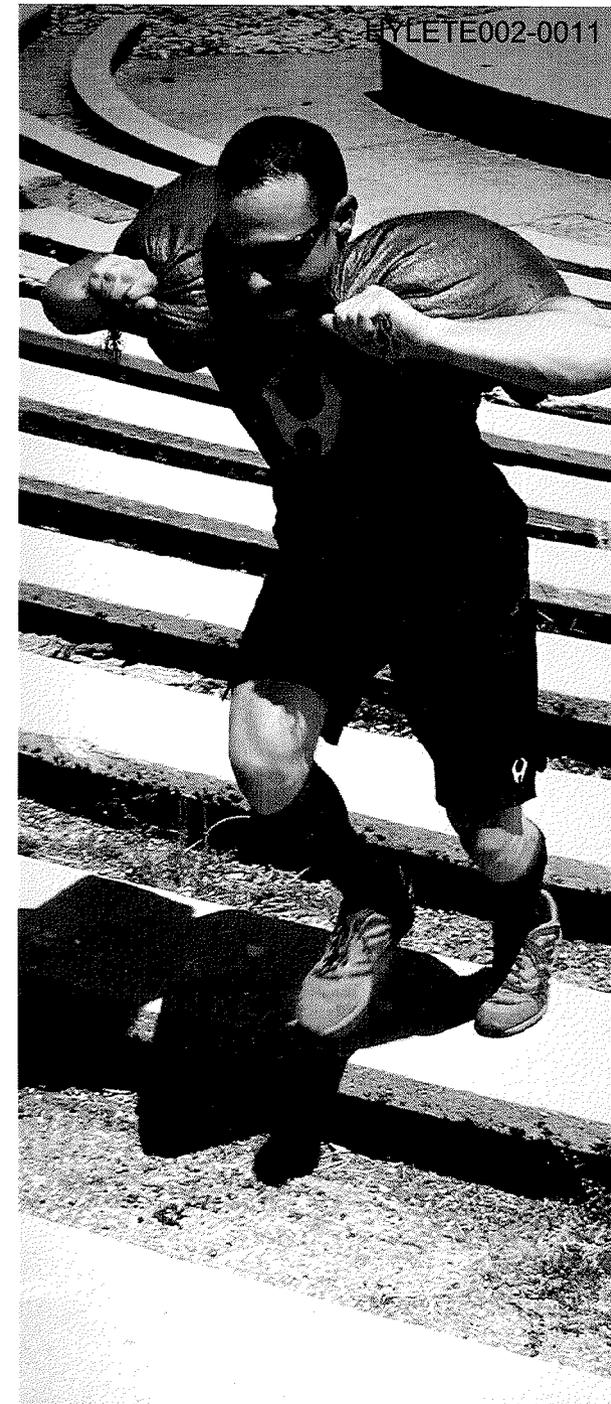
HYTELE has created a controlled direct to consumer distribution platform that leverages three distinct consumer segments that have substantial influence capacity.

The **first are certified trainers** (TrainTeam) who hold certifications in a wide array of disciplines including CrossFit, TRX, functional fitness, etc. There are over 251,400* certified trainers in the US with an average of twenty-seven clients each.

The **second influencer group are competitive athletes** (Compete Team) who compete in CrossFit, Olympic Lifting, powerlifting, bodybuilding, etc. These athletes train in the same facilities/disciplines providing aspiration to the target consumer/everyday athlete.

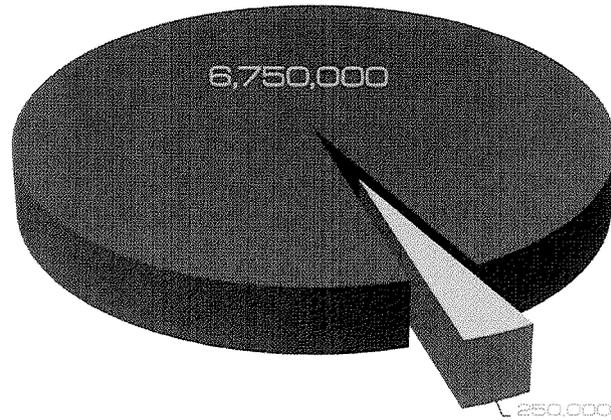
The **third target consumer segment are service personnel** (Service League) that require fitness as part of their job responsibilities and include active military, police, fire and paramedics. Over 2.5 million** consumers qualify for our service personnel segment.

* see page 29 for source info



personal training market

7 million people

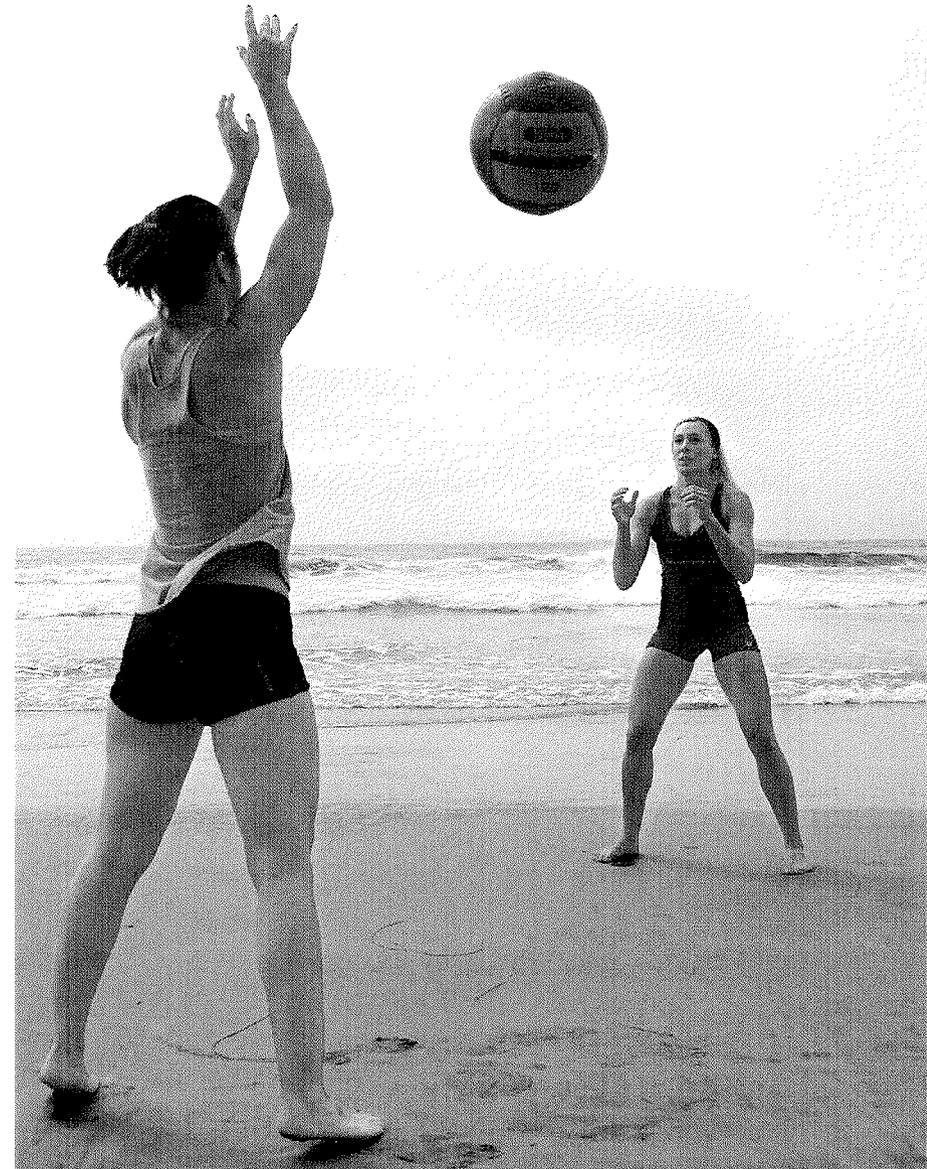


■ certified trainers

■ total clientele of certified trainers

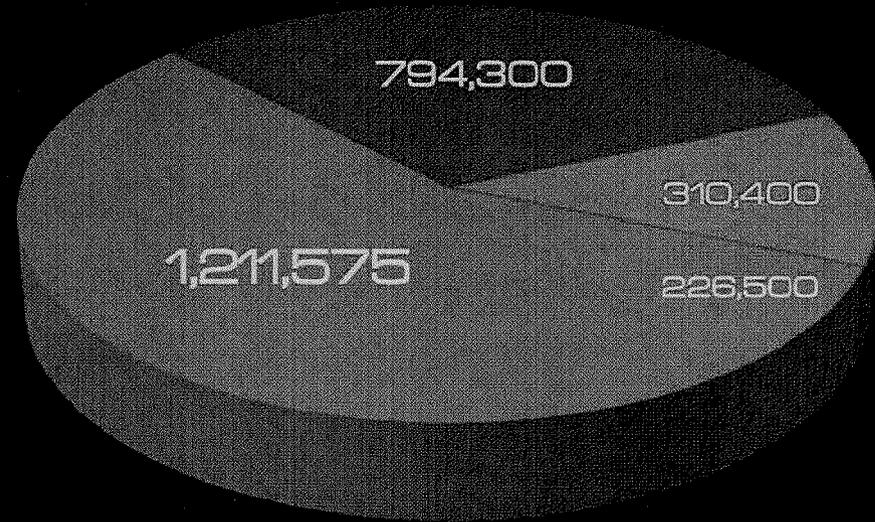
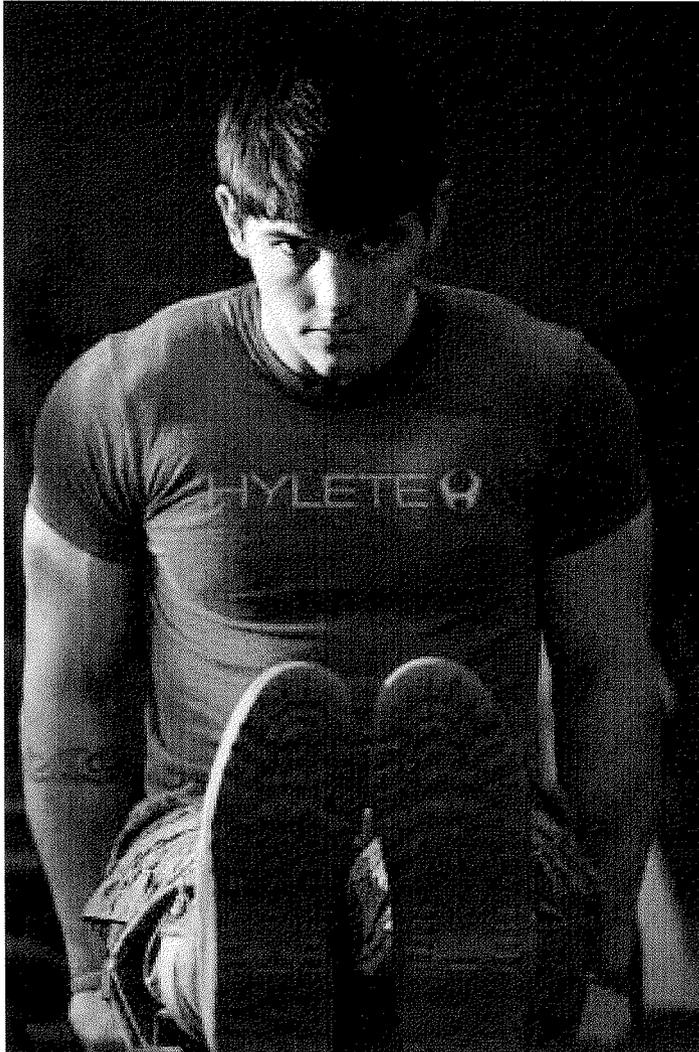
HYLETE Train Team members are offered substantial discounts and referral commissions as an additional incentive to promote the brand. Certified trainers influence a significant number of consumers through direct contact with clientele and their social networks. Compete Team and Service League members are offered similar incentives to wear and promote HYLETE.

source; Department of Labor; IHSRA
<http://www.ihrsa.org/research-faqs/>



service personnel market

2.5 million people

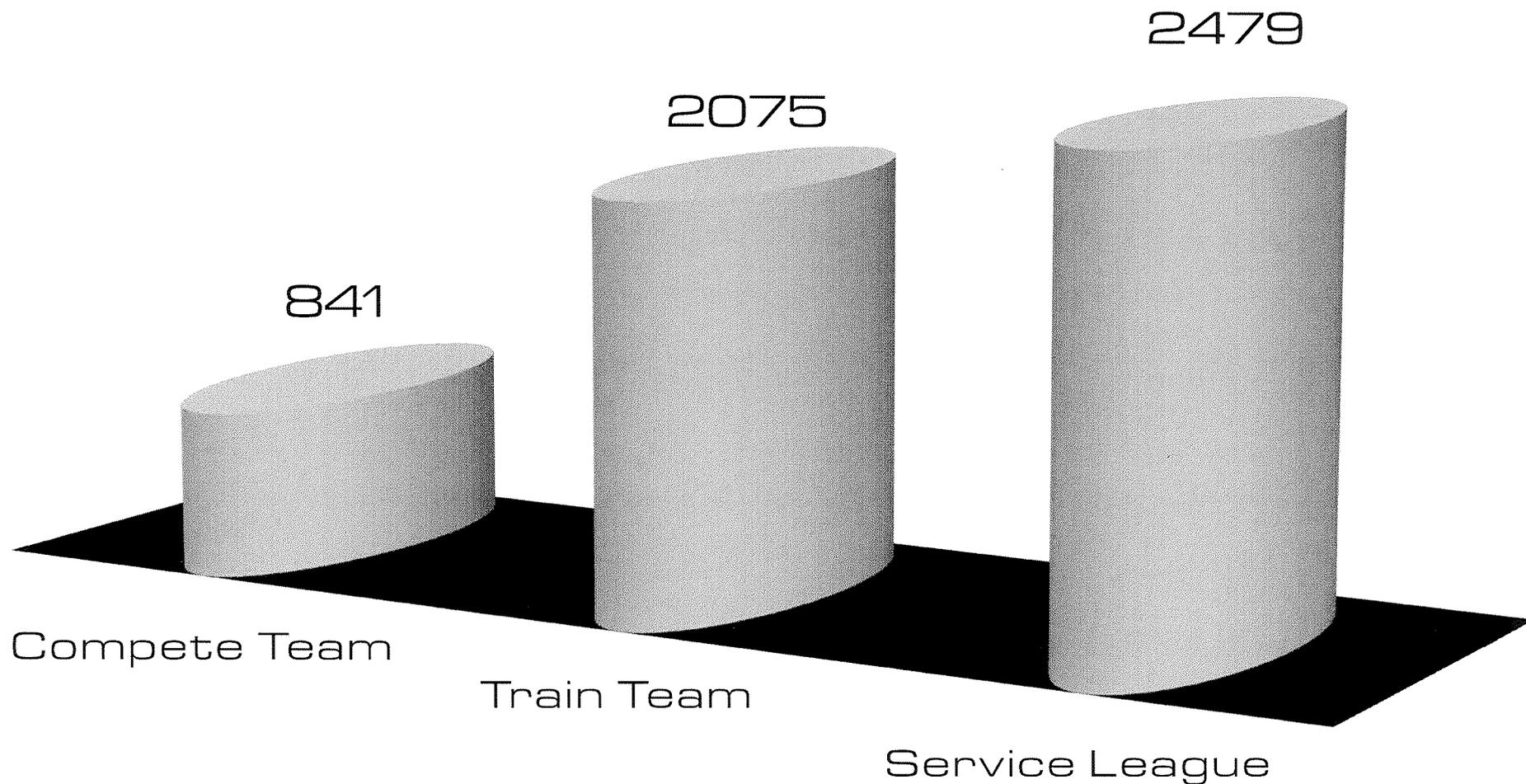


- active military
- police & detectives
- fire fighters
- emergency medical technicians & paramedics

* see page 29 for source info

team members

as of February 10th, 2014



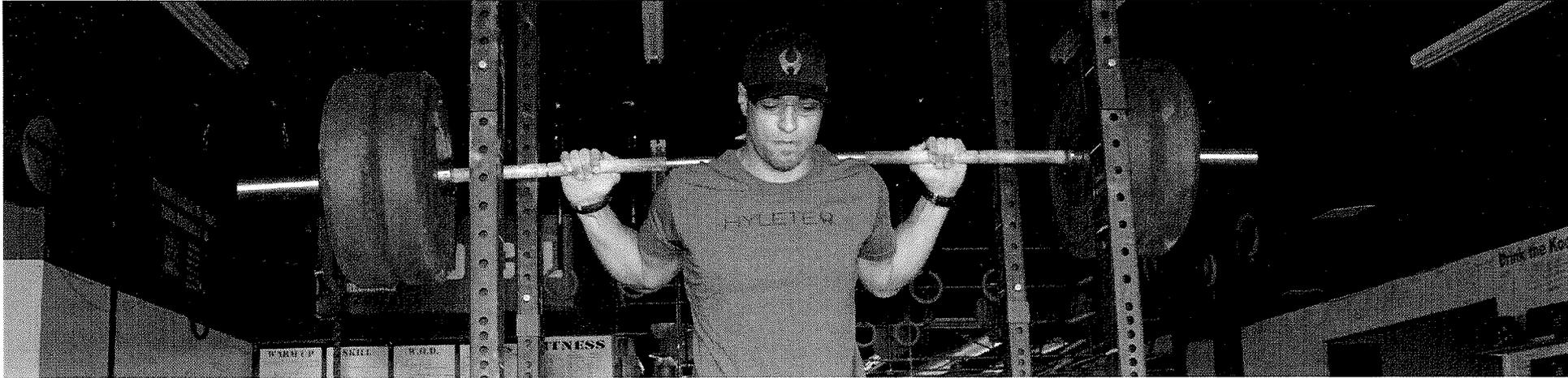
“powered by HYLETE” strategy



HYLETE’s marketing strategy is comprised of 3 major pillars of execution:

1. event sponsorship
2. co-branding/uniform programs
3. affiliate referral programs

"powered by HYLETE": events



objective: consistent, weekly brand visibility at events nationwide

goal: sponsor over 500 events during calendar year 2014

execution:

- leverage competitor and judge discount coupons to ensure significant brand visibility at each event
- add referral program element to event sponsorship to gain exposure with spectators, as well as other potential customers via the on-going promotion efforts of event coordinators (incentivized via commissions)
- garner goodwill through prize sponsorship (gift cards)
- where possible supply the co-branded apparel and gear for the event

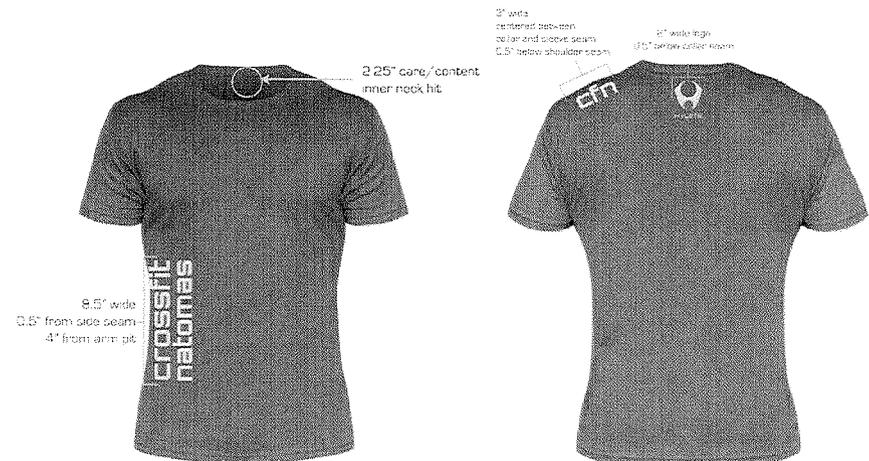
"powered by HYLETE": co-branding

objective: brand awareness and building a large direct marketing database

goal: sign up 250+ CrossFit affiliates/
functional fitness gyms to program by end
of fiscal year

execution:

- continue to build a competency around providing high quality co-branded apparel
- create compelling marketing materials/web portals to promote the program and capabilities
- adhere to strict upfront payment requirements to ensure positive cash flow



“powered by HYLETE”: affiliates



objective: brand awareness, revenue and database growth

goal: triple the size of each list within the loyalty program by end of fiscal year and grow
maintain monthly order percentages from each group

execution:

- continue to refine the marketing techniques to gain adoption into referral program
- analyze the success stories and develop strategies to scale them

web KPI's - visitors

Audience Overview

Jul 1, 2012 - Jan 31, 2014 ▾

Email Export ▾ Add to Dashboard Shortcut



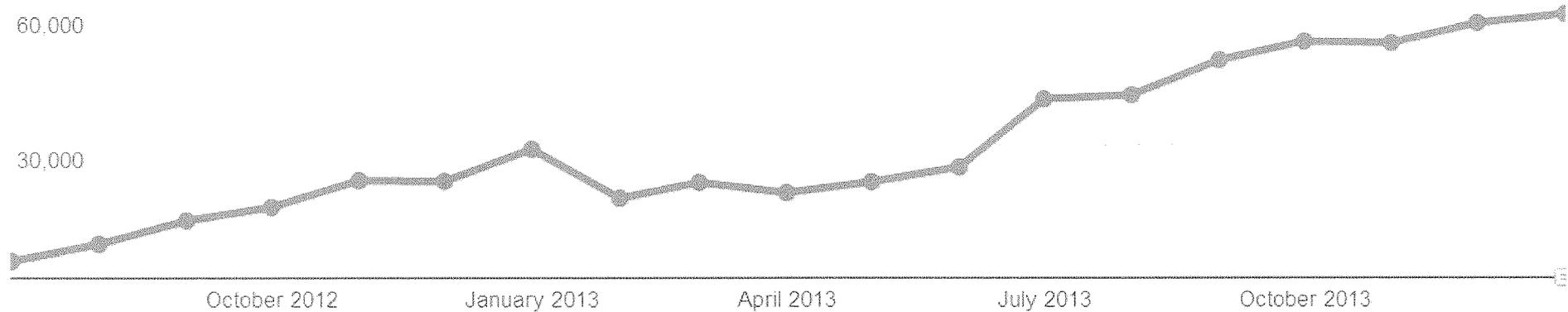
▾  All Visits
100.00%

Overview

Visits ▾ vs. Select a metric

Hourly Day Week **Month**

● Visits



visitor growth of 1500% from 3.7K visitors in July 2012 to 59.2K visitors in January 2014

web KPI's - average order value

Ecommerce Overview

Jul 1, 2012 - Jan 31, 2014 ▾

Email Export ▾ Add to Dashboard Shortcut



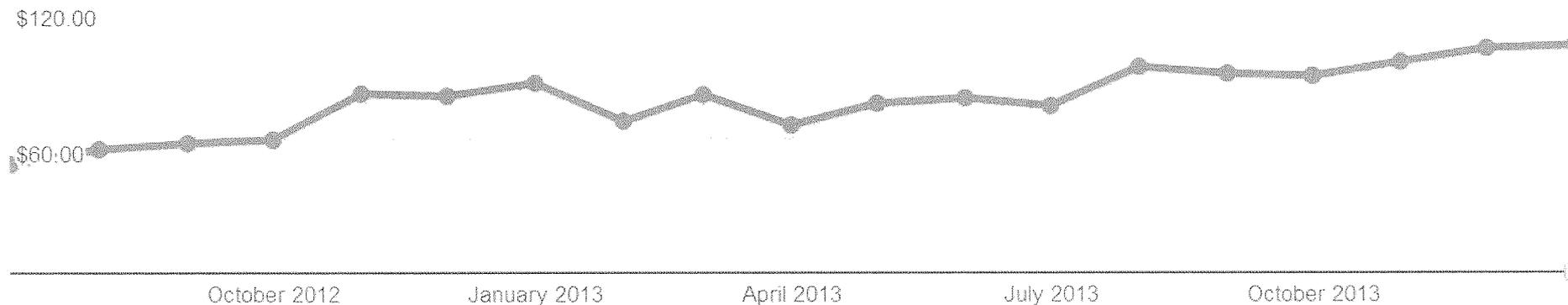
▾  All Visits
100.00%

Overview

Average Order Value ▾ vs. Select a metric

Hourly Day Week **Month**

● Average Order Value



average order value increase of 111% from \$47.79 in July 2012 to \$100.74 in January 2014

web KPI's - conversion rate

Ecommerce Overview

Jul 1, 2012 - Jan 31, 2014

Email Export Add to Dashboard Shortcut



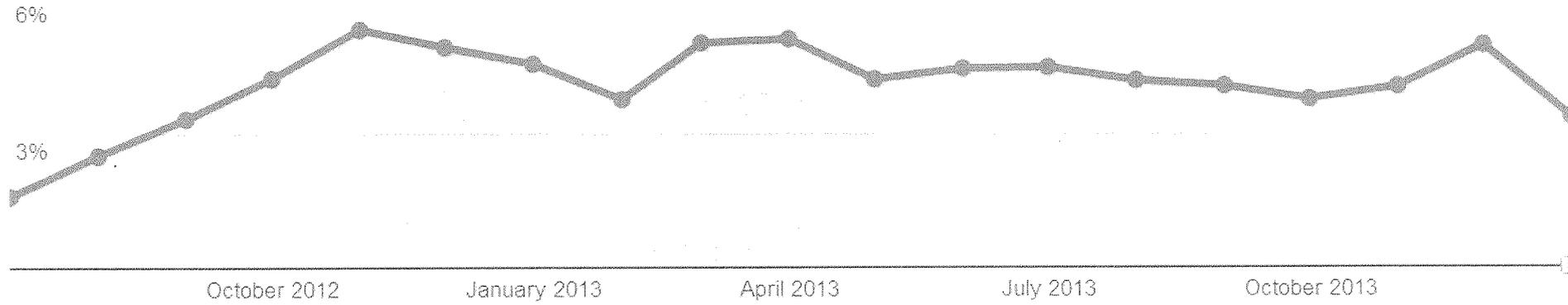
✓ All Visits
100.00%

Overview

Ecommerce Conversion Rate vs. Select a metric

Hourly Day Week **Month**

● Ecommerce Conversion Rate



conversion rate has increased by 112.7% from 1.58% in July 2012 to 3.36% in January 2014

web KPI's - revenues

Ecommerce Overview

Jul 1, 2012 - Jan 31, 2014 ▾

Email Export ▾ Add to Dashboard Shortcut



▾ All Visits
100.00%

Overview

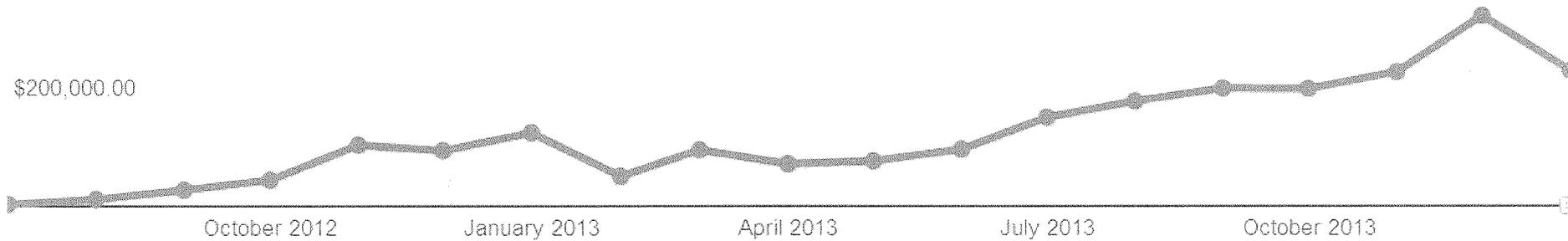
Revenue ▾ vs. Select a metric

Hourly Day Week **Month**

● Revenue

\$400,000.00

\$200,000.00



on-line revenue increase of 7011% from \$2,819 in July 2012 to \$200,469 in January 2014

customer lifetime value (CLV) vs. customer acquisition cost (CAC)

CLV = ARPU (average revenue per user) times Gross Margin % divided by churn

ARPU = \$250k revenue / 10k customers = \$25 per user

GM% = 42%

Churn = 88 unsubscribes in October / 10k total customers = 0.88%

CLV = (\$25 * 42%) / 0.88% = \$1,200

CAC = total monthly acquisition cost divided by the of new subscribers

Acquisition costs = advertising (\$4K) + commissions (\$3K) + marketing (\$8K) + acquisition related head count (\$15K)

Average number of new subscribers = 500

CAC = \$60

CLV:CAC = 20X

financials - 2013 P&L statement

	Jan - Mar, 2013		Apr - Jun, 2013		Jul - Sep, 2013		Oct - Dec, 2013		Total	
Income										
Direct Sales	\$217,462	72.4%	\$244,223	85.4%	\$464,455	91.7%	\$590,615	80.4%	\$1,516,755	83.0%
OEM/Uniform	82,944	27.6%	41,887	14.6%	42,076	8.3%	143,581	19.6%	310,488	17.0%
Total Income	300,406	100.0%	286,110	100.0%	506,531	100.0%	734,196	100.0%	1,827,243	100.0%
Cost of Goods Sold										
Product Cost	205,969	68.6%	157,711	55.1%	269,837	53.3%	372,450	50.7%	1,005,966	55.1%
Shipping Expense (net)	15,555	5.2%	24,236	8.5%	23,508	4.6%	39,372	5.4%	102,671	5.6%
Total Cost of Goods Sold	221,524	73.7%	181,946	63.6%	293,344	57.9%	411,822	56.1%	1,108,637	60.7%
Gross Profit	78,882	26.3%	104,164	36.4%	213,187	42.1%	322,374	43.9%	718,607	39.3%
Expenses										
Advertising	4,662	1.6%	7,836	2.7%	17,826	3.5%	16,694	2.3%	47,019	2.6%
Banking Fees	7,653	2.5%	8,374	2.9%	14,075	2.8%	15,181	2.1%	45,284	2.5%
Commissions	2,444	0.8%	4,236	1.5%	5,087	1.0%	9,500	1.3%	21,267	1.2%
Insurance	258	0.1%	169	0.1%	180	0.0%	180	0.0%	787	0.0%
Legal & Professional	13,276	4.4%	2,132	0.7%	19,329	3.8%	10,511	1.4%	45,249	2.5%
Logistics	17,171	5.7%	29,639	10.4%	27,448	5.4%	34,951	4.8%	109,209	6.0%
Marketing	19,324	6.4%	41,954	14.7%	23,907	4.7%	21,712	3.0%	106,896	5.9%
Office Expenses	5,513	1.8%	20,999	7.3%	5,799	1.1%	6,362	0.9%	38,673	2.1%
Payroll	26,109	8.7%	106,084	37.1%	120,806	23.8%	123,564	16.8%	376,562	20.6%
Product Development	4,325	1.4%	10,695	3.7%	15,003	3.0%	16,243	2.2%	46,266	2.5%
Rent & Utilities	16,902	5.6%	10,654	3.7%	10,718	2.1%	11,268	1.5%	49,542	2.7%
Travel	5,978	2.0%	22,661	7.9%	1,995	0.4%	5,610	0.8%	36,244	2.0%
Web/Systems	4,584	1.5%	18,658	6.5%	12,861	2.5%	21,835	3.0%	57,937	3.2%
Total Expenses	128,200	42.7%	284,092	99.3%	275,034	54.3%	293,611	40.0%	980,936	53.7%
Net Operating Income	(49,319)	-16.4%	(179,928)	-62.9%	(61,847)	-12.2%	28,763	3.9%	(262,330)	-14.4%
Interest Expense	3,649	1.2%	14,079	4.9%	19,282	3.8%	17,163	2.3%	54,173	3.0%
Net Income	(\$52,968)	-17.6%	(\$194,007)	-67.8%	(\$81,129)	-16.0%	\$11,601	1.6%	(\$316,503)	-17.3%

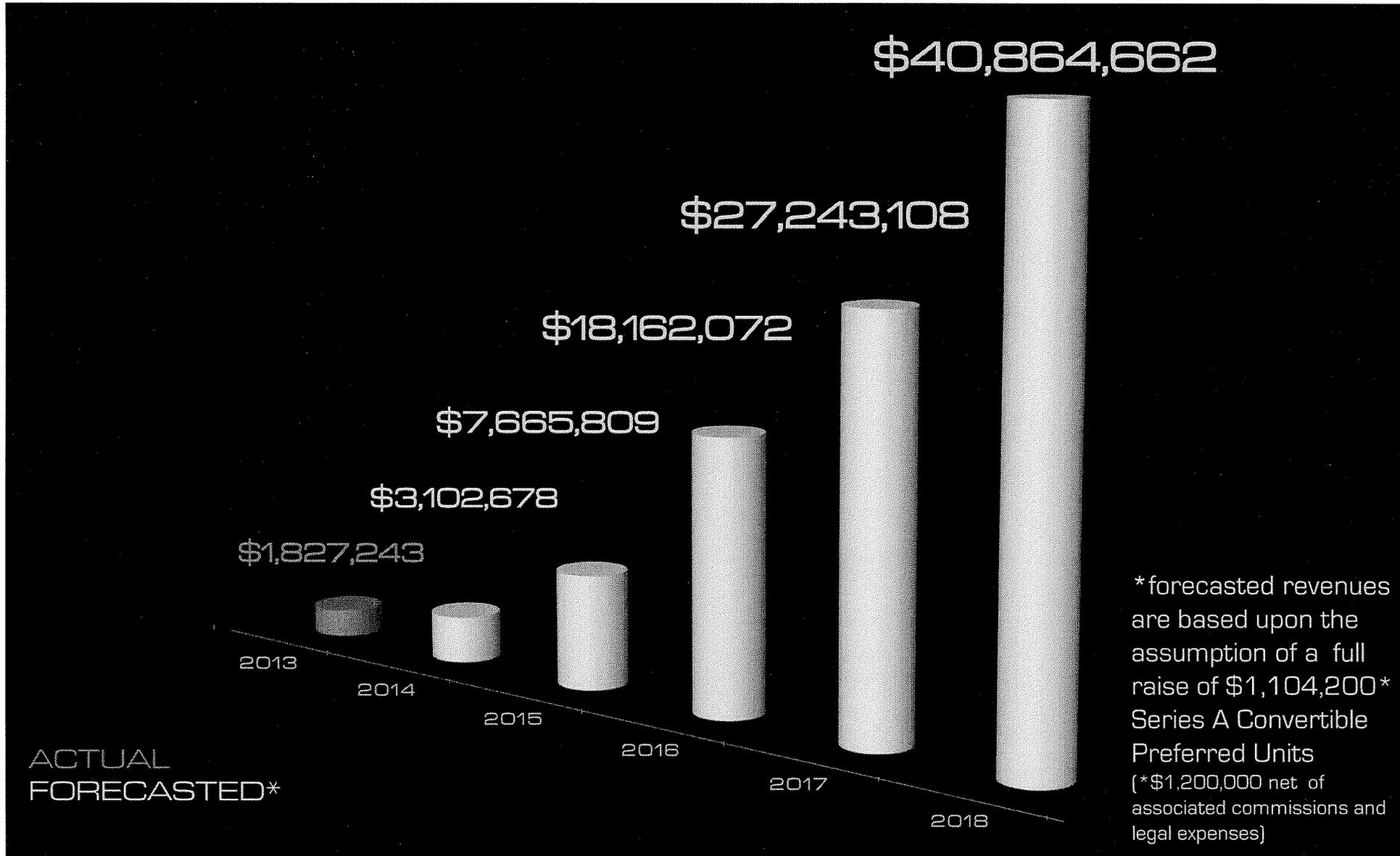
financials - 3 year plan

HYLETE Income Statement				
3 Year Budget				
	ACTUAL	FORECAST	FORECAST	FORECAST
	2013	2014	2015	2016
Sales by Type:				
HYLETE.com	\$1,516,755	\$3,216,424	\$7,665,809	\$18,162,072
Powered-by-HYLETE	310,488	466,188	582,735	728,418
Total Net Sales	1,827,243	3,682,611	8,248,544	18,890,490
Cost of Goods Sold	1,108,637	2,042,952	4,006,735	8,358,686
Gross Profit	718,606	1,639,659	4,241,809	10,531,804
<i>Gross Margin %</i>	<i>39.3%</i>	<i>44.5%</i>	<i>51.4%</i>	<i>55.8%</i>
Selling Expense	329,675	601,219	1,484,738	3,683,646
<i>% of Sales</i>	<i>18.0%</i>	<i>16.3%</i>	<i>18.0%</i>	<i>19.5%</i>
Payroll Expenses	376,562	987,949	1,726,592	2,260,134
<i>% of Sales</i>	<i>20.6%</i>	<i>26.8%</i>	<i>20.9%</i>	<i>12.0%</i>
G&A Expense	274,699	344,350	441,350	579,350
<i>% of Sales</i>	<i>15.0%</i>	<i>9.4%</i>	<i>5.4%</i>	<i>3.1%</i>
Total Operating Expenses	980,936	1,933,519	3,652,680	6,523,130
<i>% of Sales</i>	<i>53.7%</i>	<i>52.5%</i>	<i>44.3%</i>	<i>34.5%</i>
EBITDA	(262,330)	(293,859)	589,129	4,008,674
<i>% of Sales</i>	<i>-14.4%</i>	<i>-8.0%</i>	<i>7.1%</i>	<i>21.2%</i>
Interest Expense/(Income)	54,173	66,655	52,413	62,936
Net Income	(316,503)	(360,515)	536,716	3,945,738
	<i>-17.3%</i>	<i>-9.8%</i>	<i>6.5%</i>	<i>20.9%</i>

Notes:

- 1) forecasted revenues are based upon the assumption of a full raise of \$1,104,200* Series A Convertible Preferred Units (*\$1,200,000 net of associated commissions and legal expenses)
- 2) salaries for FY13 were below market and are budgeted to be at market for FY14

financials - revenues by year



investment proposal

Offering Amount:	\$150,000 to \$1,200,000
Pre-Money Valuation:	\$3,000,000
Use of Funds:	Inventory and strategic growth initiatives
Security:	Series A Convertible Preferred Units
Preference:	One (1) times liquidation preference with 12% cumulative dividend
Redemption:	Five (5) years
Structure:	California LLC
Board Composition:	Steelpoint (1); Series A (1)*; Common (1); CEO (1); Independent (1)
Other Terms:	Standard protective positions, registration rights, etc.

*Kevin Park will hold the Series A Board Seat while the Convertible Promissory Note dated February 10th, 2014 is outstanding

use of proceeds

Use of Proceeds	Current	As of 12/31/2014	Net Change	Notes:
Inventory: increase inventory levels on most popular SKUs, introduction of new product offerings; reduce transportation costs via ocean freight vs. air freight	\$ 533,478	\$ 1,154,357	\$ 620,879	see 3 YR budget for monthly increases through 12/31/2014
Strategic Marketing Initiatives: Web-site update leveraging external resource (including creating a responsive site)	n/a	\$ 50,000	\$ 50,000	current marketing is covered by cash flow from operations
Inventory Financing Note	\$ 330,629	\$ -	\$ 350,870	current Inventory Financing Note is due in December 2014; the plan is to replace with more traditional financing at a lower rate (so may not be a use of proceeds ultimately)
Reserve			\$ 178,251	reserve
Total			\$ 1,200,000	

reference sources

page 10, 12:

*Department of labor - <http://www.bls.gov/ooh/personal-care-and-service/fitness-trainers-and-instructors.htm>

**Department of labor - <http://www.bls.gov/ooh/military/military-careers.htm#tab-2> and <http://www.bls.gov/ooh/Protective-Service/Police-and-detectives.htm> and <http://www.bls.gov/ooh/protective-service/firefighters.htm> and <http://www.bls.gov/ooh/healthcare/emts-and-paramedics.htm>