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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
Correspondence Address	KYRIACOS TSIRCOU TSIRCOU LAW PC 515 S FLOWER ST , FL 36 LOS ANGELES, CA 90071-2221 UNITED STATES kyri@tsircoulaw.com
Submission	Motion to Compel Discovery
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Date	02/04/2014
Attachments	Motion to Compel - Opposition 91213057.pdf(5804994 bytes)

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

HYBRID ATHLETICS, LLC,

Opposer,

v.

HYLETE, LLC,

Applicant.

Opposition No.: 91213057

Application Serial No.: 85/837,045

Mark:

APPLICANT HYLETE'S MOTION TO
COMPEL INITIAL DISCLOSURES,
RESPONSES TO DISCOVERY, AND
SANCTIONS

**MOTION TO COMPEL INITIAL DISCLOSURES, RESPONSES TO
DISCOVERY, AND FOR SANCTIONS**

Pursuant to Fed. R. Civ. P. 37 CFR § 2.120(e) Applicant Hylete, LLC (“Hylete” or “Applicant”) respectfully requests that the Board compel Opposer, Matthew Nickerson (“Opposer” or “Nickerson”), to produce initial disclosures, responses to Applicant’s First set of Interrogatories, and Applicant’s Request for Production. Per §2.120(e), “[i]f a party fails to make required initial disclosures or expert testimony disclosures, or fails to designate a person pursuant to Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure ... the party entitled to disclosure or seeking discovery may file a motion to compel disclosure...”

Accordingly, Applicant requests that Opposer be compelled to respond. In addition, Applicant is requesting the Board to sanction Opposer for failure to respond.

Initial Disclosures

Applicant Hylete served its initial disclosures on October 22, 2013. Opposer's initial disclosures were due on October 25, 2013. On November 11, 2013, Applicant emailed Opposer after Opposer failed to provide initial disclosures. *See Exhibit C.* Opposer failed to respond to Applicant's communication and request for initial disclosures.

First Set of Interrogatories

Applicant Hylete served first set of Interrogatories to Opposer by email and U.S. Mail on Friday, November 1, 2013. *See Exhibit A* "Applicant's First Set of Interrogatories." Opposer has refused to respond by the thirty (30) day deadline imposed. On December 3, 2013 and December 27, 2013, Applicant emailed Opposer after Opposer failed to provide a response. Opposer failed to contact Applicant for an extension and did not respond to Applicant's emails. *See Exhibit C.*

First Set of Request for Production of Documents

Applicant Hylete served its Request for Production of Documents by email and U.S. Mail, on Friday, November 1, 2013. *See Exhibit B* "Applicant's Request for Production." Opposer refused to respond by the thirty (30) day deadline imposed. On December 3, 2013 and December 27, 2013, Applicant emailed Opposer after Opposer failed to provide a response. Opposer failed to contact Applicant for an extension and did not respond to Applicant's emails. *See Exhibit C.*

Sanctions

Opposer has failed to make initial disclosures, and has failed to properly respond to discovery for several months past the allotted deadline. In addition, Opposer has disregarded Applicant's requests to provide the required discovery. Applicant respectfully requests that the Board dismiss this opposition based on Opposer's failure to provide initial disclosures, and willful evasion of discovery.

Respectfully Submitted,
TSIRCOU LAW, P.C.

515 S. Flower Street, 36th Floor
Los Angeles, California 90071
Telephone: (323) 660-9916
Facsimile: (323) 660-9917
kyri@tsircoulaw.com

By: /kyri tsircou/

Kyriacos Tsircou
Attorney for Applicant HYLETE, LLC

CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing APPLICANT HYTELE'S MOTION TO COMPEL INITIAL DISCLOSURES, RESPONSES TO DISCOVERY, AND SANCTIONS has been served on Opposer by electronic service via ESTTA, electronic mail, and depositing said copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Vincent M. Amberly
Attorney for Opposer
307 E. Market Street
Leesburg, VA 20176

Dated: February 4, 2014

_____/kyri tsircou/
Kyriacos Tsircou

EXHIBIT A:

APPLICANT HYTELE'S FIRST SET OF INTERROGATORIES

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

MATTHEW NICKERSON,

Opposer,

v.

HYLETE,

LLC,

Applicant.

Opposition No.: 91211622

Application Serial No.: 85/837,048

Mark: TRAIN. COMPETE. LIVE.

APPLICANT HYLETE'S FIRST SET OF
INTERROGATORIES

APPLICANT'S FIRST SET OF INTERROGATORIES

Applicant Hylete, LLC ("Applicant" or "Hylete"), through its attorneys, hereby serves the following interrogatories upon Opposer Matthew Nickerson. ("Opposer" or "Nickerson"), pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, to be answered under oath within thirty (30) days of service. For purpose of these interrogatories, the following definitions and instructions apply:

DEFINITIONS AND INSTRUCTIONS

A. The terms "Opposer," "you," "your," or "Nickerson" as used herein shall include its past or present parent corporations, subsidiaries, affiliates, divisions, partnerships, joint ventures, predecessors, successors and their past or present officers, directors, partners, employees, agents, consultants, representatives, trustees or persons acting or purporting to act on behalf of any of them.

B. The terms "Applicant" or "Hylete" as used herein shall mean Hylete, LLC.

C. The term “the Mark” as used herein shall mean Applicant’s mark named “TRAIN. COMPETE. LIVE.”

D. The term “concerning” means referring to, describing, evidencing, constituting, supporting and/or contradicting or having to do with it in anyway.

E. The term “relating to” means concerning, referring to, describing, evidencing, constituting, supporting and/or contradicting or having to do with it anyway.

F. The term “person” as used herein means and includes any natural person, any firm, agency, corporation, partnership, proprietorship, group, association, joint venture, or other legal entity, included but not limited to government entities, bodies, or agencies.

G. The term “documents” shall mean and include, without limitation, all writing or graphic materials or any other means of preserving thought or expression of every kind, source, and authorship, both originals and non-identical copies thereof, in the possession, custody or control of Opposer or known by Opposer to exist. The term “documents” shall include all tangible things of any kind or character however stored, retrieved, produced, processed or transferred. For purposes of illustration only, and not limitation the term “document” shall include the following:

i. Correspondence, memoranda, notes, messages, letters, telegrams, e-mails, record of any telephone calls or face-to-face communications;

ii. Minutes, books, reports, studies, charts, ledgers, invoices, worksheets, electronic documents or files, receipts, canceled checks, financial statements, schedules, affidavits,

contracts, exhibits, transcripts, statistics, surveys, summaries, compilations, blueprints, specifications, plans, file folders and flaps, test data and graphs the contest results, interoffice memoranda, interoffice memoranda, stock certificates, balance sheets; and

iii. Notations or statements of any kind whatsoever of communications containing conversations, dialogue, discussions, interviews, consultations, or other understandings between or among two or more persons, whether oral, written, electronic or digital.

H. Wherever in the following interrogatories Opposer Nickerson is asked to identify documents, it is requested that the documents be identified by stating: (1) general type of document, e.g., letter, memorandum, report, miscellaneous, notes, etc.; (2) date; (3) author; (4) organization, if any, with which author was connected; (5) addressee or recipient; (6) other distributees; (7) organization, if any, with which addressee or recipient, or distributees the work; (8) general nature of the subject matter to the extent that Opposer Nickerson can do so without divulging matter considered by the privilege; (9) present location of such documents known to Opposer Nickerson, including the title, index number and location, if any. If removed for the purposes of this case, the identity of all persons responsible for filing or other disposition of the document.

I. Words used in the singular shall, where the context permits, be deemed to include the plural, and words used in the plural shall, where the context permits, be deemed to include the singular.

J. The words "and" and "or" shall not be construed to limit the scope of this request due to either their disjunctive or injunctive form.

K. These interrogatories require supplemental responses to the full extent required by the Federal Rules of Civil Procedure, and shall be deemed to be continuing requests for supplemental responses.

INTERROGATORY

INTERROGATORY NO. 1:

Identify the place of incorporation of the Opposer, each and every division or related company by name, address, and the nature of the business where goods and/or services bearing the Opposer's Marks are offered, sold, advertised, displayed, or utilized.

INTERROGATORY NO. 2:

Identify each officer and managing agent of the Opposer, including each officer's name, title, address, and job duties at any time.

INTERROGATORY NO. 3:

Identify each predecessor, parent or subsidiary of the Opposer that has any involvement whatsoever with respect to the sale, distribution, advertising, marketing, and/or promotion of the Opposer's Goods bearing the Opposer's Marks.

INTERROGATORY NO. 4:

Describe in detail the circumstances through which the Opposer first became aware of the Applicant's Mark.

INTERROGATORY NO. 5:

Identify each person or entity that participated in the creation of the Opposer's Marks at any time.

INTERROGATORY NO. 6:

Identify each person or entity that participated at any time in the design and/or development of any advertising or marketing materials for use with any of Opposer's Goods bearing the Opposer's Marks.

INTERROGATORY NO. 7:

Identify all advertising and marketing materials bearing any of Opposer's Marks, including without limitation, materials used in Web sites, signage, periodicals, and similar materials, and also including the date of first publication for each advertising and marketing material so identified at any time.

INTERROGATORY NO. 8:

Identify each good and/or service that bears the Opposer's Marks; or such that the Opposer's Marks is used in connection with, including an identification of which of Opposer's Marks are used in connection with each good or service.

INTERROGATORY NO. 9:

For each good and/or service identified in Interrogatory No. 8, list and state the facts that support the exact date upon which the Opposer intends to rely for the date of first use in commerce for each good and/or service identified for each of the Opposer's Marks.

INTERROGATORY NO. 10:

For each good and/or service identified in Interrogatory No. 8, list by calendar year the annual sales for each good and/or service that was offered for each of Opposer's Marks, beginning at least as early as June 2008 through to the present as alleged in Paragraph 2 of the Opposer's Notice of Opposition Brief.

INTERROGATORY NO. 11:

For each good and/or service identified in Interrogatory No. 8, list by calendar year the dollar amount spent annually on advertising and marketing for each good and service, beginning at least as early as June 2008 through to the present as alleged in Paragraph 2 of the Opposer's Notice of Opposition Brief.

INTERROGATORY NO. 12:

For each good and/or service identified in Interrogatory No. 8, list the geographic area(s) in which each good and service was advertised and/or sold, including the date that each good and/or service entered each geographic area(s).

INTERROGATORY NO. 13:

For each good and/or service identified in Interrogatory No. 8, describe in detail, the extent to which there has been any interruption, of at least six months, in the continuous use of each good and/or service.

INTERROGATORY NO. 14:

State in detail the factual basis for Opposer's allegation in Paragraph 7 of the Notice of Opposition that "[a]s a result of Opposer's investment, the TRAIN. COMPETE. LIVE.name and mark has become synonymous with high quality goods in its industry."

INTERROGATORY NO. 15:

Describe in detail the Opposer's knowledge of any investigations, tests, studies, analysis, evaluations, opinions, reports, research memorandum, surveys, or other documents, requested or received by the Opposer related to consumer recognition of the Opposer's Marks, including identifying the persons requesting such document, the person preparing such document, and the nature and the general conclusion and summary of each document.

INTERROGATORY NO. 16:

Describe in detail Opposer's knowledge of any investigations, tests, studies, analysis, evaluations, opinions, reports, research memorandum, surveys or other documents, requested or received by the Opposer related to the similarities between the Opposer's Marks and the Applicant's Mark, including identifying the persons requesting such document, the person preparing such document, and the nature and the general conclusion and summary of each document.

INTERROGATORY NO. 17:

Describe in detail each incident that is known to the Opposer of any actual confusion between any goods and/or services bearing the Opposer's Marks and any goods and/or services bearing the Applicant's Mark, including identifying the persons most knowledgeable with respect to each incident identified.

INTERROGATORY NO. 18:

Identify and describe any agreements in which the Opposer has licensed or intends to license the Opposer's Marks for use by a third party, including the name and business addresses of any third party that has been authorized, licensed, assigned, or granted, or to whom the Opposer intends to authorize, license, assign, or grant, the right to use any of the Opposer's Marks.

INTERROGATORY NO. 19 :

Describe in detail all efforts that the Opposer has made to enforce the Opposer's rights in Opposer's Marks against third parties, other than the Applicant.

INTERROGATORY NO. 20:

Describe in detail any instances in which a third party has challenged the Opposer's right to

use the Opposer's Marks, other than the Applicant.

INTERROGATORY NO. 21:

Identify each person who prepared, who assisted in the preparation of, or who provided information for the answers to these interrogatories, stating each interrogatory which each such individual prepared, assisted in the preparation of, and/or provided information for the answer.

Dated: November 1, 2013

Respectfully submitted,
TSIRCOU LAW, P.C.

TSIRCOU LAW, P.C.
515 S. Flower Street, 36th Floor
Los Angeles, California 90071
Telephone: (323) 660-9916
Facsimile: (323) 660-9917
kyri@tsircoulaw.com

By: _____ /kyri tsircou/
Kyriacos Tsircou
Attorney for Applicant
HYLETE, LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2013, I have sent a copy of Applicant's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1) to the foregoing, by electronic mail and U.S. Mail, First Class pre-paid postage, to:

Vincent M. Amberly
AMBERLY LAW
307 E. Market Street, Suite 202
Leesburg, VA 20176
vince@amberlylaw.com

/kyri tsircou/
Kyriacos Tsircou, Esq.

EXHIBIT B:

APPLICANT'S FIRST SET OF REQUESTS FOR DOCUMENTS AND THINGS

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

MATTHEW NICKERSON,

Opposer,

v.

HYLETE, LLC,

Applicant.

Opposition No.: 91211622

Application Serial No.: 85/837,048

Mark: TRAIN. COMPETE. LIVE.

APPLICANT HYLETE'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS

APPLICANT'S FIRST SET OF REQUESTS FOR DOCUMENTS AND THINGS

The Applicant, Hylete, LLC ("Hylete" or "Applicant"), by and through counsel, pursuant to Fed. R. Civ. P. 34 and 37 C.F.R. § 2.120(d)(2), directs the Opposer, Matthew Nickerson ("Nickerson" or "Opposer"), to produce for inspection each document and tangible thing identified as responsive to this request within thirty (30) days after service of the request by delivering the original of each such document and thing to the office of the Applicant's counsel for copying by the Applicant's counsel and also indicating to which request each such document and tangible thing is responsive.

For the purposes of this request, the following definitions and instructions apply.

DEFINITIONS

1. The terms "Applicant," "the Applicant," or "Hylete" include Hylete, LLC as well as affiliated corporations or entities, including subsidiary or parent corporations, their predecessors, officers, directors, employees, agents, and representatives thereof.

2. The terms "Opposer," "the Opposer," "Nickerson" "you," or "your" include Matthew

Nickerson its affiliated corporations or entities including subsidiary or parent corporations, its predecessors, officers, directors, employees, agents, and representatives thereof.

3. The term “document” or “documents” includes without limitation originals, master, and every copy of a writing that is not an identical duplicate of the original, including handwritings, and printed, typed, or other graphic or photographic matter including film or microfilm of any kind or nature, video tape, recordings (tape, disk, CD-ROM, or other) of oral communications and other data, compilations from which information can be obtained, including computer files and electronic mail messages, in the possession, custody, or control of the Opposer or any present or former officers, employees, or agents thereof, or known by the Opposer to exist. The term “document” or “documents” includes, without limiting the generality of the foregoing, all letters, teletypes, correspondence, contracts, agreements, notes to files, shop notebooks, reports, memoranda, flow sheets, formal or informal drawings or diagrams, calendar or diary entries, memoranda of telephone or personal conversations or of meetings or conferences, studies, reports, interoffice communications, price lists, bulletins, circulars, statements, manuals, summaries or compilations, minutes of meetings, maps, charts, graphs, order papers, articles, announcements, books, catalogs, records, tables, books of accounts, ledgers, vouchers, analyses, or statistical data.

4. The term “person” or “persons” includes your company and, without limitation, individuals, associations, companies, divisions, corporations, partnerships, trusts, joint venture and any business entity associated with your company.

5. The term “plan” includes proposals, recommendations, analyses, outlines, or studies, whether or not finalized or authorized, in addition to those already implemented.

6. The terms “and” and “or” shall have both conjunctive and disjunctive meanings.

7. The term “oral communications” shall mean any utterance heard by any other person, whether in person, by telephone, or otherwise.

8. The term “control” shall mean the authority of the individual to direct the management or policies of any person, entity, association, firm, or corporation.

9. The term “related to” or “relating to” shall mean directly or indirectly mentioning or describing, pertaining to, being connected with, or reflecting upon a stated subject matter.

10. “Trademark,” “service mark,” “mark,” or “name” shall mean any words and/or designs used by any persons or entities to identify their products, their services, or their business identity.

11. For the purpose of these interrogatories, “Applicant's Mark” shall mean the mark “TRAIN. COMPETE. LIVE.” identified in Application Number 85/837,048, as well as the mark referred to in the Opposer's Notice of Opposition, and any derivatives or formatives thereof are to be considered equivalent to and identical with each other as subject to Application Number 85/837,048, as well as the mark referred to in the Opposer's Notice of Opposition.

12. "Applicant's Goods" shall mean the goods identified in Application Number 85/837,048as well as Opposer's Notice of Opposition.

13. The term "in commerce" shall have the same meaning as that defined in 15 U.S.C.A. § 1127.

14. The term "identify" as used herein in connection with a "document" or "documents" means:

(a) Furnish the name and date of the document (and if not dated, the approximate date), the date the document was prepared, the date the document was sent, the number of pages comprising the document, the subject matter of the document, the name, address, and title (if any) of the author of the document, the name, address, and title (if any) of the person to whom the document was addressed, the names and addresses of all persons to whom copies of the document were or have been sent, and the entity or entities with which all such persons were connected on the date of the document;

(b) State whether the Opposer is in possession of the original, master, or a copy of the document and, if not in possession of the original, master, or copy, furnish the name and last known address of the custodian of the original, master, or copy;

(c) Provide a general description of the document (i.e., letter, drawing, etc.); and

(d) Provide a general description of the subject matter to which the document pertains.

15. The singular form of a term shall include the plural form of that term, and the plural form of

a term shall include the singular form of that term.

16. A masculine, feminine, or neuter pronoun shall not exclude the other genders.

INSTRUCTIONS

1. Each of the documents and things requested herein is to be produced for inspection and copying at the offices of the Applicant's counsel, Kyri Tsircou, Tsircou Law located at 515 S. Flower Street, 36th Floor, Los Angeles, CA 90071. Photocopies may be submitted in lieu of the original documents as long as they are accompanied by a verification to the effect that the photocopies are true and correct copies of what they purport to represent and are produced in response to the Applicant's First Request for Production of Documents.

2. If the Opposer refuses to produce any document on the grounds of privilege or based on the "work product" rule, the Opposer is requested to identify each such document by title, subject matter, date, author, and (if applicable) the individual to whom the document was addressed, along with a brief statement setting forth the Opposer's reason for withholding the document. All nonprivileged portions of any responsive document for which a claim of privilege is asserted shall be submitted with notations where redactions have been made.

3. Computer files shall be produced in hard copy and in machine-readable form with any instructions required to use the data. Electronic mail messages shall be provided even if only available on "backup" or archive tapes or disks. Any policy for deletion or destruction of electronic mail messages, if implemented, shall be described, and the date of inception of the

policy is to be identified.

4. This request shall be deemed continuing in nature so as to require production of any and all documents and things responsive to any requests that are created or obtained by the Opposer after the date of the Opposer's compliance with this request. A complete response to this request implies a continuing obligation to provide the Applicant with current, updated documents relevant to each request. This obligation continues throughout all subsequent proceedings of this opposition.

5. If a document identified to be responsive no longer exists, has been destroyed, or is alleged to have been destroyed, state the date of and reason for its destruction, identify each person having any knowledge of its destruction, each person responsible for its destruction, and describe the document to the extent possible. If a document retention program has been implemented, describe the program and identify the date when the program was initiated.

6. Where a request is considered vague, confusing, and/or unclear, the Opposer is requested to produce the documents most reasonably believed to be responsive to the request with an explanation as to the reason the request is believed to be vague, confusing, and/or unclear. Alternatively, the Opposer's attorney is requested to contact the Applicant's attorney by telephone for clarification of the request.

7. Where production to a request is considered burdensome, the Opposer is requested to provide a reasonable production of the most relevant documents and things with an explanation as to the

reason the production will be burdensome. Alternatively, the Opposer's attorney is requested to contact the Applicant's attorney by telephone and/or letter for clarification of the request.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things relating to Opposer's creation, selection and/or adoption of each of the Opposer's Marks.

REQUEST FOR PRODUCTION NO. 2.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents relating to the Opposer's conception, planning, design, and development of each of the Opposer's Marks.

REQUEST FOR PRODUCTION NO. 3.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents relating to any business plans, discussions, feasibility studies, or recommendations to produce a product or products under the Opposer's Marks.

REQUEST FOR PRODUCTION NO. 4.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents relating to the Opposer's first use of each of the Opposer's Marks.

REQUEST FOR PRODUCTION NO. 5.

The Opposer is requested to identify, produce, and provide the Applicant with each different print and broadcast advertisement, promotion, packaging, URL or URI graphic, and

radio and/or television script, featuring the Opposer's Marks, including the date(s) of each presentation to the public.

REQUEST FOR PRODUCTION NO. 6.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents relating to business plans, studies, surveys, data compilations, recommendations, or oral communications concerning the marketing of any and all products identified under each of the Opposer's Marks and the region or geographical areas and markets within which the products are to be or have been sold in commerce.

REQUEST FOR PRODUCTION NO. 7.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things referring to any investigations, tests, studies, analysis, evaluations, opinions, reports, research memorandum, or surveys relating to consumer recognition of any goods and/or services bearing the Opposer's Marks as indicating the Opposer as the source or origin of the Opposer's Goods.

REQUEST FOR PRODUCTION NO. 8.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that the Opposer intends to use or will use in this proceeding.

REQUEST FOR PRODUCTION NO. 9.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that support the claimed date of the mark's first use in commerce of "at least as early as June 2008" as alleged in Paragraph 2 of the Notice of Opposition.

REQUEST FOR PRODUCTION NO. 10.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that are or refer, pertain, or relate to demonstrating continuous use of the Opposer's alleged Marks on the goods and/or services listed in the Opposer's Notice of Opposition from at least as early as June 2008 to the present.

REQUEST FOR PRODUCTION NO. 11.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things relating to any Communications between the Opposer or its counsel and the United States Patent and Trademark Office concerning trademark applications incorporating the Opposer's alleged mark.

REQUEST FOR PRODUCTION NO. 12.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that relate to the target markets to which the Opposer has offered, or intends to offer its goods and/or services bearing the Opposer's alleged Marks, including without limitation, customer lists, market identifications, market analyses, or market studies.

REQUEST FOR PRODUCTION NO. 13.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that are or refer, pertain, or relate to the knowledge by the Opposer of the Applicant or the Applicant's Mark.

REQUEST FOR PRODUCTION NO. 14.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things referring to any investigations, tests, studies, analysis, evaluations,

opinions, reports, research memorandum, or surveys relating to any likelihood of confusion between any of the Opposer's alleged Marks and the Applicant's Mark.

REQUEST FOR PRODUCTION NO. 15.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents sufficient to summarize:

- (a) The dollar amount spent on marketing and/or advertisements related to and/or bearing each of the Opposer's Marks;
- (b) The dollar amount received from sales of products sold under each of the Opposer's Marks; and
- (c) The dollar amount spent on developing and/or adopting each of the Opposer's Marks.

REQUEST FOR PRODUCTION NO. 16.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents related to licensing, assigning, and/or contractually obligating the rights to each of the Opposer's alleged Marks.

REQUEST FOR PRODUCTION NO. 17.

The Opposer is requested to identify, produce, and provide the Applicant with any and all market and/or consumer studies related to each of the Opposer's alleged Marks.

REQUEST FOR PRODUCTION NO. 18.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that refer to or relate to the Applicant and/or the Applicant's goods and/or the Applicant's Mark.

REQUEST FOR PRODUCTION NO. 19.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things relating to the Opposer's plans for future use of, or plans to license others in the future to use, the Opposer's Marks in connection with its associated goods and/or services.

REQUEST FOR PRODUCTION NO. 20.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things in which a third party has challenged the Opposer's use or registration of, or the rights that the Opposer claims in the Opposer's Marks, including but not limited to any demand to cease and desist.

REQUEST FOR PRODUCTION NO. 21.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things relating to any incident or proceeding in which the Opposer has challenged the rights of any third-party based upon the rights that the Opposer claims in the Opposer's Marks, including but not limited to any demand to cease and desist.

REQUEST FOR PRODUCTION NO. 22.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that refer to or relate to any one or more of the answers provided to the Applicant's First Set of Interrogatories.

REQUEST FOR PRODUCTION NO. 23.

The Opposer is requested to identify, produce, and provide the Applicant with any and all documents and things that refer to or relate to the avenue in which the Opposer's alleged Mark is sold.

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2013, I have sent a copy of Applicant's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1) to the foregoing, by electronic mail and U.S. Mail, First Class pre-paid postage, to:

Vincent M. Amberly
AMBERLY LAW
307 E. Market Street, Suite 202
Leesburg, VA 20176
vince@amberblylaw.com

 /kyri tsircou/
Kyriacos Tsircou, Esq.

EXHIBIT C:

CORRESPONDENCE WITH COUNSEL FOR OPPOSER

Kyri Tsircou

From: Kyri Tsircou <kyri@tsircoulaw.com>
Sent: Tuesday, October 22, 2013 4:31 PM
To: 'Vince Amberly'
Subject: Initial Disclosures - Opposition No. 91211622- TRAIN COMPETE LIVE
Attachments: Hylete - Initial Disclosures to Nickerson.pdf

Attached please find Applicant Hylete's Initial Disclosures in the above-referenced matter.

Best regards,
Kyri Tsircou

TSIRCOU

INTELLECTUAL
PROPERTY LAW

515 S. Flower Street, 36th Floor
Los Angeles, CA 90071

TEL 323-660-9916
FAX 323-660-9917

WWW.TSIRCOULAW.COM

EMAIL kyri@tsircoulaw.com

This message is sent by a law office and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

Kyri Tsircou

From: Kyri Tsircou <kyri@tsircoulaw.com>
Sent: Friday, November 01, 2013 5:18 PM
To: 'Vince Amberly'
Subject: Discovery Requests - Opposition No. 91211622- TRAIN COMPETE LIVE
Attachments: Hylete - Request for Production.pdf; Hylete- 1st set of Interrogatories.pdf

Attached please find Applicant Hylete's First Set of Interrogatories and Request for Production in the above-referenced matter.

Best regards,
Kyri Tsircou

TSIRCOU

INTELLECTUAL
PROPERTY LAW

515 S. Flower Street, 36th Floor
Los Angeles, CA 90071

TEL 323.668.9916
FAX 323.668.9917

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EMAIL kyri@tsircoulaw.com

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Kyri Tsircou

From: Kyri Tsircou <kyri@tsircoulaw.com>
Sent: Monday, November 11, 2013 2:52 PM
To: 'Vince Amberly'
Subject: RE: Initial Disclosures - Opposition No. 91211622- TRAIN COMPETE LIVE

We have yet to receive Opposer's initial disclosures, which were due on Oct. 25, 2013. Please advise.

Regards,
Kyri Tsircou

TSIRCOU | INTELLECTUAL
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From: Kyri Tsircou [<mailto:kyri@tsircoulaw.com>]
Sent: Tuesday, October 22, 2013 4:31 PM
To: 'Vince Amberly'
Subject: Initial Disclosures - Opposition No. 91211622- TRAIN COMPETE LIVE

Attached please find Applicant Hylete's Initial Disclosures in the above-referenced matter.

Best regards,
Kyri Tsircou

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Kyri Tsircou

From: Kyri Tsircou <kyri@tsircoulaw.com>
Sent: Tuesday, December 03, 2013 7:09 PM
To: 'Vince Amberly'
Subject: Opposition No. 91211622- TRAIN COMPETE LIVE
Attachments: Discovery Requests - Opposition No. 91211622- TRAIN COMPETE LIVE; RE: Initial Disclosures - Opposition No. 91211622- TRAIN COMPETE LIVE

We have yet to receive Opposer's initial disclosures, which were due on Oct. 25, 2013. Moreover, we have yet to receive Opposer response to request for production or first set of interrogatories. Please advise.

Regards,
Kyri Tsircou

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Kyri Tsircou

From: Kyri Tsircou <kyri@tsircoulaw.com>
Sent: Friday, December 27, 2013 1:20 PM
To: 'Vince Amberly'
Subject: RE: Opposition No. 91211622- TRAIN COMPETE LIVE

We have yet to receive Opposer's initial disclosures, which were due on Oct. 25, 2013. Moreover, we have yet to receive Opposer response to request for production or first set of interrogatories, which were due Dec. 1, 2013. Please advise.

Regards,
Kyri Tsircou

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From: Kyri Tsircou [<mailto:kyri@tsircoulaw.com>]
Sent: Tuesday, December 03, 2013 7:09 PM
To: 'Vince Amberly'
Subject: Opposition No. 91211622- TRAIN COMPETE LIVE

We have yet to receive Opposer's initial disclosures, which were due on Oct. 25, 2013. Moreover, we have yet to receive Opposer response to request for production or first set of interrogatories. Please advise.

Regards,
Kyri Tsircou

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