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

Proceeding	91214578
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

LeMans Corporation,	)	Parent Opposition No. 91214578
	)	Mark: THORO
Opposer/Petitioner,	)	Serial No. 85/956,925
)	
v.	)	Opposition No. 91226723
	)	Mark: THÖRÖ
LeMar Xavier Lewis,	)	Serial No. 86/367,828
)	
Applicant/Respondent.	)	Cancellation No. 92063552
	)	Mark: THORO (Stylized)
	)	Reg. No. 3,206,498

**MOTION AND MEMORANDUM OF LAW IN SUPPORT OF
PETITIONER’S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, LeMans Corporation (“Petitioner”) respectfully moves for summary judgment in the Oppositions to Serial No. 85/956,925 for THORO and Serial No. 86/367,828 for THÖRÖ and the Cancellation of Registration No. 3,206,498 for ~~thoro~~, all in the name of LeMar Xavier Lewis (“Respondent”) and submits this memorandum of law in support thereof. The basis of this Motion is that the pending applications are *void ab initio* and that the registered mark has been abandoned.

BACKGROUND

Petitioner filed oppositions to the registration of Respondent’s applications for THORO (Opp. No. 91214578) (“Opposition 1”) and THÖRÖ (Opp. No. 91226723) (“Opposition 2”) on January 22, 2014 and March 7, 2016, respectfully. Petitioner filed an Amended Petition to Cancel Respondent’s registration for ~~thoro~~ (Canc. No. 92063552) (“Cancellation”) on April 21, 2016. Opposition 1, Opposition 2 and the Cancellation were consolidated on July 25, 2016.

Respondent’s applications for THORO (App. No. 85/956,925) and THÖRÖ (App. No. 86/367,828) shall be referred to as the “THORO Applications.” Respondent’s registration for ~~thoro~~ (Reg. No. 3,206,498) shall be referred to as the “THORO Registration.” The THORO Applications and THORO

Registration shall be collectively referred to as the “THORO Filings.” The THORO, THÖRÖ and THORO Stylized marks shall be collectively referred to as the “THORO Marks.” The collective coverages of the filings for the THORO Marks shall be referred to as the “THORO Goods.”

Petitioner’s Opposition 1 and Opposition 2 are based on identical claims: (i) Section 2(d) claims of likelihood of confusion between Petitioner’s previously registered THOR marks for certain motorcycle clothing and related products and services and Respondent’s THORO Applications for certain clothing products (unrestricted by market); and (ii) that the THORO Applications (based on use) should be considered *void ab initio* based on the lack of any use of the marks in the ordinary course of trade in commerce at the time the applications were filed.

Petitioner’s Cancellation is based on the following highly related claims: (i) Respondent’s use and registration of the subject THORO (Stylized) mark creates a deceptive and false suggestion of a connection with the Petitioner under Section 2(a); (ii) the THORO Registration has been abandoned as a result of Respondent’s failure to use the THORO (stylized) mark for over three consecutive years with no intent to resume use; and (iii) Respondent committed fraud in the procurement of the THORO Registration as Respondent knowingly submitted a false declaration of use in support of the continued maintenance of the registration.

Petitioner seeks summary judgment as a matter of law on grounds that: (i) the THORO Applications should be considered *void ab initio* as a result of the Respondent’s failure to use the subject mark in the ordinary course of trade in commerce at the time of the filing of these alleged use-based applications; and (ii) the THORO Registration has been abandoned as a result of Respondent’s failure to use the THORO Marks for over three consecutive years without an intent to resume use of the mark.

As demonstrated below, Respondent has admitted, by operation of law, he was not using the THORO Marks at the time of the filing of the THORO Applications. Further, despite over two years of discovery, including Trademark Trial and Appeal Board (“TTAB”) Orders compelling discovery responses,

Respondent has failed to produce any evidence of the use (sale or transport) of the THORO Marks in the ordinary course of trade in commerce for over three years.

Accordingly, Petitioner respectfully moves this Board to sustain Oppositions 1 and 2 and grant the Cancellation.

STANDING

Petitioner has a real interest in the proceedings as it has asserted claims of likelihood of confusion in Opposition 1 and Opposition 2 and a claim of false association in the Cancellation based on both Petitioner's common law use of the THOR mark and Petitioner's current ownership of valid and subsisting registrations for the THOR mark, which registrations have been made of record, for overlapping and closely related clothing items to those of Respondent. *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1844 (Fed. Cir. 2000); *Lipton Indus., Inc. v. Ralston Purina Co.*, 213 USPQ at 189. Accordingly, on this record, there is no genuine issue with respect to Petitioner's standing.

STANDARD

Summary judgment is appropriate when the record, viewed in a light most favorable to the non-moving party, shows there is no issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56; *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). To prevail on the motion, the moving party must show "an absence of evidence to support the non-moving party's case" considering the pleadings, depositions, answers to interrogatories, admissions, and affidavits. *Celotex* at 326. Thus, Petitioner, as the moving party, bears the initial burden to "point out . . . that there is an absence of evidence supporting the nonmoving party's case." *Sweats Fashions, Inc. v. Pannill Knitting Co., Inc.*, 833 F.2d 1560, 1563, 4 U.S.P.Q.2d 1793 (Fed. Cir. 1987); *see also Kellogg Co. v. Pack'Em Enters. Inc.*, 951 F.2d 330, 333, 21 U.S.P.Q.2d 1142, 1145 (Fed. Cir. 1991). Once shown, the burden then shifts to the nonmoving party, Respondent, to "set forth specific facts showing that there is a genuine issue for trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986) (quoting Fed. R. Civ. P. 56(e)).

To meet its burden in contesting a summary judgment motion on grounds of abandonment, the non-moving party may not simply present a self-serving affidavit, attesting to conclusory statements of an intent not to abandon. *Imperial Tobacco Ltd, Assignee of Imperial Group PLC v. Philip Morris, Inc.*, 899 F.2d 1575, 1581, 14 U.A.P.Q. 1390 (Fed. Cir 1990). A vague and nebulous intention to resume use of the mark at some indeterminate date is not sufficient to prove an intent to resume use. *Rivard v. Little*, 133 F.3d 1446, 1449, 45 U.S.P.Q.2d 1374 (Fed. Cir. 1988) (“a registrant’s proclamations of his intent to resume or commence use in United States commerce during the period of nonuse are awarded little, if any, weight.”); *Lesley Hornby a/k/a Lesley Lawson a/k/a Twiggy v. TJX Companies, Inc.*, 87 U.S.P.Q.2d 1411 (TTAB 2008)(“Merely because a party used a mark a long time ago and it could use the mark in the future is not sufficient to avoid abandonment.”). Instead, for a non-movant to prevail on a motion for summary judgment, Rule 56(e) “requires the nonmoving party to go beyond the pleadings” to present “concrete evidence” it could produce at trial supporting its position. *Celotex*, 477 U.S. at 324.

PETITIONER’S STATEMENT OF UNDISPUTED FACTS

Petitioner is relying upon operative facts (filings by and rights of the parties, etc.), and on discovery facts (responses by the Respondent and admissions made by operation of law) as organized and set forth below.

Operative Facts

These asserted undisputed operative facts are presented in chronological order.

1. Petitioner is the owner of a number of U.S. trademark registrations for the mark THOR for various motorcycle racing clothing items and related products and services, all of which are valid, subsisting and incontestable, all of which have priority dates which precede that of Respondent’s filings which are the subject of this consolidated proceeding and all of which have been made of record at the initial pleading stage for each proceeding.

2. On January 27, 2003, Respondent filed an application with the United States Patent and Trademark Office (the “USPTO”) for registration of the mark ~~thoro~~ (App. No. 76/485,312) which

became Reg. No. 3,206,498 covering “clothing, namely t-shirts; denim jeans, caps, bandanas, pants, sweaters, shorts, shoes, sneakers, hats, sweatshirts, sweat pants, socks, jackets, coats, head bands, suits, wristbands, neckties, underwear, undershirts, pajamas, jerseys, rainwear, scarves, vests, belts for clothing, swimwear, blouses, dresses, footwear, hosiery, sleepwear, visors, boots, sandals, gloves.” App. No. 76/485,312 was based on use under Section 1(a) with respect to the “clothing namely t-shirts” coverage and on an intent to use under Section 1(b) for the remaining coverage.

3. The specimen filed in connection with App. No. 76/485,312 in support of the use of THORO (Stylized) for “clothing namely t-shirts” was refused as an ornamental use only. A substitute specimen consisting of a standalone label was filed on behalf of Respondent on September 10, 2004. The substitute specimen was refused by the Examiner on October 28, 2004, because the substitute specimen was not accompanied by a declaration asserting the substitute specimen was in use at the time the application was filed. A declaration, signed by Respondent’s attorney was filed on February 22, 2006.

4. Following the allowance of App. No. 76/485,312, Respondent filed a Statement of Use in connection with “tank tops, polo shirts, hats, undershirts, jerseys” on August 9, 2006. The specimen which accompanied the Statement of Use consisted of pictures of clothing items with the designation THORO. These specimens were again rejected on the basis of ornamental use of the designation.

5. On October 4, 2006, Respondent filed additional specimens to support App. No. 76/485,312 which consisted of pictures of clothing items with labels displaying the THORO (Stylized) designation.

6. On February 6, 2007, Respondent’s App. No. 76/485,312 matured to registration under Reg. No. 3,206,498 for “clothing namely T-shirts; tank tops, polo shirts, hats, undershirts, jerseys”.

7. On October 21, 2012, Respondent filed a Declaration of Continued Use under Section 8 with the USPTO in connection with Reg. No. 3,206,498 for “clothing namely T-shirts; tank tops, polo shirts, hats, undershirts, jerseys”. The specimen which accompanied the Declaration consisted of the below

image identified as “the ‘Thoro’ mark printed on a woven label/hangtag that is affixed to the back of the collar:



8. On June 11, 2013, Respondent filed an application for THORO (App. No. 85/956,925) with the USPTO for “Athletic shorts; baseball caps and hats; t-shirts” claiming use of the mark in commerce under Section 1(a) with a first use date claim of September 3, 2001.

9. The specimen accompanying App. No. 85/956,925 consisted of the below image identified as “Label/Tag” for THORO “written in White”:



10. On August 15, 2014 Respondent filed an application for THŌRŌ (App. No. 86/367,828) for “hooded sweatshirts” under Section 1(a) with a first use date claim of May 2, 2014:

11. The specimen accompanying App. No. 86/367,828 was the following image identified as “a Woven Label with the word THORO written in capital letters”:



Discovery Facts

12. During the discovery period in Opposition 1, Petitioner served the Respondent with the following discovery requests: First Set of Interrogatory Requests, First Set of Document Requests, Second Set of Interrogatory Requests, Second Set of Document Requests and a First Set of Requests for Admissions.

13. As detailed in the “Summary of Procedural History” below, Respondent served petitioner with responses and supplemental responses to Petitioner’s First Set of Interrogatories and First Set of

Interrogatory Requests or Document Requests along with 17 pages of documents (only after having been ordered to do so by the Board). Respondent never served Petitioner with any responses to Petitioner's Second Set of Document Requests (despite being ordered by the Board to do so). Respondent also never responded to Petitioner's First Set of Requests for Admission.

14. Respondent has produced no documents or information reflecting the actual production of THORO Goods bearing THORO Marks, despite having been specifically asked for this information and having had multiple opportunities to do so.

15. Respondent has produced no documents or information reflecting sales or shipping records for any THORO Goods bearing THORO Marks despite having been asked for this information and having had multiple opportunities to do so.

16. Respondent has produced no documents or information that would reflect use (sales or transport) of the THORO Marks for the THORO Goods in the ordinary course of trade in commerce despite having been asked for this information and having had multiple opportunities to do so.

17. In failing to respond to Requests for Admissions served by Petitioner on June 10, 2015, Respondent has admitted each and every one of the admissions contained therein by operation of law.

PETITIONER'S SUMMARY OF THE PROCEDURAL HISTORY

These consolidated cases had their genesis with the filing of Opposition 1 on January 22, 2014. Since that time there have been inordinate delays and interruptions with the progress of discovery due to the actions of Respondent. The tactics, delays and refusals of Respondent to provide timely and legitimate responses are an important context for this Motion, and the limitations that exist on Respondent should

result in the forfeiture of his right to now introduce any previously requested and unsupplied information and documents. Consequently, Petitioner is setting out the pertinent procedural history below.

1. On April 24, 2014, Petitioner served Respondent with Opposer's First Set of Interrogatories 1-16 (*Exhibit 1*) and Opposer's First Set of Document Requests (*Exhibit 2*) (collectively, "Opposer's First Set of Discovery Requests") in Opposition 1 (the Parent proceeding).

2. When no responses were received to Opposer's First Set of Discovery Requests, Petitioner filed a Request for Intervention with the Board on September 23, 2014. *Parent, 19 TTABVUE 1.*

3. On October 17, 2014, the Board issued an Order allowing Respondent until October 31, 2014 to serve initial disclosures and until November 14, 2014 to serve responses to Opposer's First Set of Discovery Requests. *Parent, 21 TTABVUE 3.*

4. On October 31, 2014, Respondent served Petitioner with Initial Disclosures in Opposition 1.

5. On December 17, 2014, having received no responses from Respondent to Opposer's First Set of Discovery Requests, despite multiple follow-ups and accommodations by Petitioner to Respondent, Petitioner filed a Motion to Compel. *Parent, 23 TTABVUE 3.*

6. On December 19, 2014, Respondent served Petitioner with "Applicant's Response to Opposer's First Set of Interrogatories 1-16" (*Exhibit 3*) and "Applicant's Response to Opposer's First Set of Requests for Production Nos. 1-27" (*Exhibit 4*) and then with Applicant's First Production of Documents (THO 00001 - THO 00017) (*Exhibit 5*) on December 30, 2014.

7. On December 31, 2014, Petitioner made a Supplemental Filing in Support of its Motion to Compel informing the Board of receipt of purported responses from Respondent to Opposer's First Set of Discovery Requests, but noting procedural and substantive deficiencies with the responses and identifying Respondent's continuing non-compliance with aspects of the Board's October 17, 2014 Order. *Parent, 25 TTABVUE 1.*

8. On January 30, 2015, the Board issued an Order granting as conceded the Petitioner's Motion to Compel and ordering Respondent, in relevant part, to serve "full and complete" responses to Opposer's First Set of Discovery Requests. *Parent, 26 TTABVUE 1.*

9. On April 7, 2015, Petitioner filed a Motion for Sanctions with respect to Respondent's failure to comply with the Board's Orders on discovery responses. *Parent, 30 TTABVUE 1.*

10. On April 16, 2015, the Board issued a new Order requiring Respondent to serve on Petitioner: "(1) written and verified supplemental responses to Opposer's first set of interrogatories without objections on the merits; (2) written supplemental responses to Opposer's first set of document requests without objections on the merits; and (3) all responsive documents by copying them at Applicant's own expense and delivering them to Opposer." *Parent, 31 TTABVUE 1.*

11. On May 5, 2015, Respondent served Petitioner with asserted "updated" Responses to Opposer's First Set of Interrogatory Requests (*Exhibit 6*) and Opposer's First Set of Document Requests (*Exhibit 7*). The "updated responses" to Opposer's First Set of Interrogatories differed in substance from previous responses only in that the objections were removed. The updated responses to Opposer's First Set of Document Requests differed in substance from the previous responses only in that the objections were removed (with the exceptions of the response to Request Nos. 19 and 26) and : (i) the wording "Please see attached document" was inserted in the responses to Request Nos. 2, 3, 4, 5, 6, 9, 18, 19, 20 and 27; (ii) the wording "the requested documents are unavailable at this time" or "not available" or "none available at this time" was inserted to responses to Request Nos. 7, 8, 10, 11, 12, 13, 16, 17, 23, 24, and 25; and (iii) the wording "none" was inserted in the responses to Request Nos. 14 and 15. No additional documents were attached to the responses or produced in connection with the responses.

12. On June 10, 2015, Petitioner sent an email to Respondent identifying with specificity the continued deficiencies in Applicant's responses to Opposer's First Set of Discovery Requests.

13. On June 10, 2015, Petitioner also served Respondent with Opposer's Second Set of Interrogatories 17-22 (*Exhibit 8*), Opposer's Second Set of Document Requests (*Exhibit 9*) and Opposer's First Requests for Admission (*Exhibit 10*) ("Opposer's Second Set of Discovery Requests").

14. On July 16, 2015, Petitioner sent email correspondence to Respondent reminding Respondent that his responses to Opposer's First Set of Discovery Requests were deemed deficient and that his responses to Opposer's Second Set of Discovery Requests were overdue. Petitioner granted Respondent additional time until July 20, 2015 to provide complying responses to the Opposer's First Set of Discovery Responses and until July 24, 2015 to provide responses to the Opposer's Second Set of Discovery Requests.

15. On July 20, 2015, Respondent served Petitioner with alleged further "updated" responses to select interrogatories and document requests from Opposer's First Set of Discovery Requests combined in a single document.¹ (*Exhibit 11*). The responses to Opposer's First Set of Interrogatory Requests differed in substance from those previously provided only as follows: (i) in response to Interrogatory No. 2, Respondent provided an address (for one) and phone number (for one) for the two individuals identified as having knowledge of the first use of the THORO Marks; and (ii) Respondent removed a remaining objection in response to Interrogatory 13. The responses to Opposer's First Set of Document Requests differed in substance from those previously provided only in that the responses to Request Nos. 7, 8, 10, 11, 12, 13, 16, 17, 19, 23, 24, 25 and 26 were amended from "The requested documents are not currently available at this time" or "not available" or "none available at this time" to "no such documents exist". Respondent did not attach any additional documents nor serve any responses to Opposer's Second Set of Discovery Requests, including to Opposer's First Requests for Admission.

16. On July 21, 2015, Petitioner sent an email to Respondent again identifying with specificity the continued deficiencies in Respondent's responses to Opposer's First Set of Discovery Requests and reminding Respondent of the responses due for Opposer's Second Set of Discovery Requests.

¹ Many of the responses incorrectly labelled a pertinent Document request as an "Interrogatory request".

17. On August 7, 2015, after an additional follow up to Respondent with no responses being received, Petitioner filed a Further Motion to Compel and Request for Sanctions with the Board regarding Opposer's First and Second Set of Discovery Requests. *Parent, 40 TTABVUE 1.*

18. On October 9, 2015, the Board issued an Order granting Respondent another 20 days to respond to the Petitioner's Further Motion to Compel and Request for Sanctions to allow for the remaining of a previous suspension order in light of Respondent's having filed a change of address. *Parent, 48 TTABVUE 1.*

19. On October 29, 2015, Respondent served Petitioner with yet another purported full set of written Responses to Opposer's First Set of Interrogatories (*Exhibit 12*) and First Set of Document Requests (*Exhibit 13*) along with the identical documents previously produced (THO 00001 - THO 00017) (see *Exhibit 5*). The Responses to Opposer's First Set of Interrogatories differed in substance from those previously provided only in that: (i) Respondent identified two additional individuals in response to Interrogatory No. 2 (without any identification information for any of the individuals) and (ii) Respondent added an additional domain name (storenv.com) as a publication or broadcast of the THORO mark in response to Interrogatory No. 3. The Responses to Opposer's First Set of Document Requests differed in substance from those previously provided in that responses to Requests Nos. 2, 3, 4, 5, 6, 18, 20 and 27 were changed from "please see attached" to "Requested 'visual' documentation is not available. The standard mark Serial No. 85/956m925 THORO' was affixed to the inside neck collar and inside labeling of apparel." In addition, the response to Request No. 22 was changed from "Athlete and fitness enthusiasts. Please see attached document" to "Athletes and fitness enthusiasts."

20. No responses were provided to Opposer's Second Set of Discovery Requests and no response to the Petitioner's Further Motion to Compel and Request for Sanctions was served or filed with the Board.

21. On November 4, 2015, Respondent filed a paper with the Board asserting the position that he had submitted the necessary responses to Petitioner's First Set of Discovery Requests and confirming he had not responded to Petitioner's Second Set of Discovery Requests. *Parent, 54 TTABVUE 1.*

22. On March 2, 2016, the Board issued an Order addressing, amongst other issues², Petitioner's Request for Sanctions: (1) ordering Respondent to re-serve and supplement certain responses to Opposer's First Set of Discovery Requests within 30 days of the Order; (2) indicating the willingness of the Board to accept as authentic and admissible any documents or things produced by Respondent which are introduced by Petitioner at trial; (3) prohibiting Respondent at trial from introducing or relying on any documents or information requested by Petitioner during discovery but not produced in accordance with the Board's orders; and (4) indicating the Board would grant no extension of time to Respondent to comply with the Order absent exceptional circumstances. *Parent, 57 TTABVUE 1.*

23. The Board's March 2nd Order also addressed Petitioner's Further Motion to Compel ordering Respondent to serve on Petitioner: (1) verified written responses, without objection on the merits, to Petitioner's second set of interrogatories; (2) written responses without objections on the merits to Petitioner's second set of documents requests; and (3) all responsive documents by copying them at Respondent's own expense and delivering them to Petitioner with an identification of the document request(s) to which each produced document is responsive. In Footnote 10 of the Order, the Board found unnecessary Petitioner's request that the Board "deem as admitted each of the unanswered requests in Opposer's First Set of Requests for Admission" stating "such requests for admission are deemed admitted by operation of law where the party on which the requests were served fails to timely respond thereto. Fed. R. Civ. P. 36(a)(3)." Finally, the Board indicated that if Respondent failed to comply with the Order, the Board would entertain a renewed motion for sanctions, including the possible entry of judgment against Respondent.

² The Order also addressed two procedural issues, Applicant's Failure to Maintain an Accurate Correspondence Address and Applicant's Failure to Comply with Trademark Rule 2.119.

24. Respondent did not serve any supplemental responses to Opposer's First Set of Discovery Requests within 30 days of the March 2, 2016 Order.

25. On April 22, 2016, Respondent served Petitioner with unverified responses to Opposer's First Set of Interrogatory Requests (Exhibit 14) which did not fully comply with the Board's Order.

26. Respondent has never served Petitioner with supplemental responses to Opposer's First Set of Document Requests per the Board's March 2, 2016 Order.

27. Respondent has never responded to Petitioner's Second Set of Discovery Requests.³

ARGUMENT

I. Opposition 1/Opposition 2: The THORO Applications Are Void Ab Initio As Respondent Has Admitted By Operation Of Law There Was No Use Of The THORO Marks For The THORO Goods At The Time The Applications Were Filed.

A. Respondent's Assertions of Use

On June 11, 2013, Respondent filed a use-based application for THORO (App. No. 85/956,925) for "athletic shorts; baseball caps and hats; T-shirts". In the application, Respondent attested that "the mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as September 5, 2001, and first used in commerce at least as early as September 5, 2001 and is now in use in such commerce." The specimen accompanying the filing was a standalone label as depicted above.

On August 15, 2014, Respondent filed an application for THORŌ (App. No. 86/367,828) for "hooded sweatshirts." In the application, Respondent attested that "the mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as May 2, 2014, and first used in commerce at least as early as May 2, 2014 and is now in use in such commerce." The specimen accompanying the filing was a standalone label as depicted above.

³ Petitioner considers this Motion to be an appropriate vehicle for the Board to implement sanctions for Respondent's failure to comply with the March 2, 2016 Board Order.

B. Respondent's Admissions by Operation of Law

In failing to respond to Petitioner's Requests for Admissions (despite repeated follow-ups from Petitioner), Respondent has admitted, by operation of law⁴, that none of the listed items in the THORO Applications had been sold in commerce under the THORO Marks⁵ as of the time of the filing of the use-based THORO Applications under 15 U.S.C. §1051(a). Petitioner specifically notes the following admissions:

51. Admit Applicant had not sold in commerce any athletic shorts with the THORO mark as of June 11, 2013.
52. Admit Applicant had not sold in commerce any baseball caps with the THORO mark as of June 11, 2013.
53. Admit Applicant had not sold in commerce any hats with the THORO mark as of June 11, 2013.
54. Admit Applicant had not sold in commerce any t-shirts with the THORO mark as of June 11, 2013.

⁴ Unresponded to Requests for Admission are deemed admitted by operation of law. Fed R. Civ. P. 36(a)(3); TMBP §407.03(a). While the decision to allow a party to withdraw its admission is quintessentially an equitable one, *see Giersch v. Scripps Networks Inc.*, 85 USPQ2d 1306, 1308 (TTAB 2007) (citation omitted), allowing Respondent to withdraw or amend the admissions would not promote the presentation of the merits of this proceeding. Despite repeated requests by Petitioner and a Board Order recognizing the admissions by operation of law, Respondent has made no attempt to provide any relevant information. Further, after two years of discovery, Respondent has produced no evidence to suggest that the admissions are disputable. Finally, Petitioner has spent substantial sums attempting to get Respondent to comply with the requirements of this proceeding. The equity clearly favors the Petitioner in this case.

⁵ Opposer's First Set of Interrogatories contained the following definition of THORO:

All references in these discovery requests to the term, mark or designation "THORO" refer to the stand-alone, block letter term THORO as well as any variations thereof used by Applicant, such as plural forms, abbreviations or design presentations, or composites including THORO, or which Applicant intends to use, or on which Applicant may rely in any way in this proceeding, including, but not limited to, Applicant's mark which is the subject of Application Serial No. 85/956,925.

This definition was incorporated into Opposer's First Request for Admissions.

59. Admit Applicant had not sold in commerce any hooded sweatshirts with the THORO mark as of August 15, 2014.

These are all the goods in the THOR Applications. As such, the applications should be considered *void ab initio*. See *ShutEmDown Sports Inc. v. Lacy*, 102 USPQ2d 1036 (TTAB 2012) (application deemed void ab initio where respondent admitted mark not in use in commerce at the time of the filing of his use-based application). Further, these admissions do not stand in a vacuum. The lack of information and documents from Respondent which would normally exist in connection with any use of a mark in the ordinary course of trade (as discussed in more detail below) corroborate the lack of use reflected by the admissions.

II. Cancellation: The THORO Registration Should Be Cancelled For Abandonment As Petitioner Has Demonstrated No Use Of The THORO Marks For At Least Three Consecutive Years With No Evidence of An Intent To Resume Use.

A. Grounds for Abandonment

Section 14(3) of the Trademark Act, 15 U.S.C. § 1064(3), lists abandonment as one of the grounds for cancellation, and Section 45 of the Act, 15 U.S.C. § 1127, in pertinent part, defines "abandonment" of a mark as follows:

When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. "Use" of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.

There are two elements to an abandonment claim: nonuse and an intent not to resume use. A plaintiff must show both of these elements unless it can show three consecutive years of nonuse, which *prima facie* establishes abandonment, in which case the burden shifts to the defendant to show either that it has used the mark in the ordinary course of trade, or that it has a legitimate intent to resume use. See *Cerveceria Centroamericana S.A. v. Cerveceria India Inc.*, 892 F.2d 1021, 13 USPQ2d 1307, 1309 (Fed. Cir. 1989); See also *Imperial Tobacco Ltd. v. Philip Morris Inc.*, 899 F.2d 1575, 14 USPQ2d 1390, 1393 (Fed. Cir, 1990) (presumption arising from 3 consecutive years of non-use eliminates plaintiff's burden to establish the intent element of abandonment as part of its case).

B. Respondent's Assertions of Use with the USPTO

On October 21, 2012, Respondent filed a Declaration of Continued Use under Section 8 in connection with Reg. No. 3,206,498 which covered "clothing namely T-shirts; tank tops, polo shirts, hats, undershirts, jerseys". In his Section 8 Declaration, Respondent attested that "the mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce." As noted above, the specimen accompanying the filing was a standalone label. No pictures of clothing items bearing a ~~thoro~~ label were submitted.

As compelled by the Board, Respondent has provided multiple versions of written responses to Opposer's First Set of Discovery Requests (initially served on April 24, 2014) along with just 17 pages of documents (which are detailed below). Despite having over two years and multiple opportunities to supplement these written responses and document production, Respondent has produced no materials to support the *bona fide* use (sale or transport) of the THORO Marks, including the THORO Registration mark, in the ordinary course of trade.

Nevertheless, *even if* the materials produced by Respondent in discovery did create a question of fact as to whether such materials demonstrate use of the THORO Marks in commerce (which they do not) and *even if* the Board were to accept the Section 8 filing of the THORO label on October 12, 2012 as demonstrating use of the ~~thoro~~ mark in commerce (which it should not), as explained below Respondent has not produced any evidence of use of the THORO Marks for at least three years prior to November 4, 2015, the date of Respondent's filing with the Board indicating he had provided all necessary responses to Applicant's First Set of Discovery Requests and the last date of any substantive response to Petitioner's discovery requests. *Parent, 54 TTABVUE 1.*

C. Respondent Has Admitted He Has No Evidence of the Use of the THORO Marks for At Least 3 Consecutive Years

The Lanham Act Section 45, 15 U.S.C. §1127, provides that "*Nonuse for three consecutive years shall be prima facie evidence of abandonment.*"

In failing to respond to Opposer's First Requests for Admission (Exhibit 10), Respondent has admitted, by operation of law, Respondent does not possess any documentation, from any time period, that would typically be available to support the use of the THORO Marks for the THORO Goods in the ordinary course of trade. Respondent has made the following specific admissions with respect to each of the subject THORO Marks (see footnote 5), including the ~~thoro~~ mark covered by the THORO Registration:

17. Admit that Applicant has no sales records, including invoices, or receipts for products sold by Applicant under the THORO mark.
18. Admit that Applicant has no sales records, including invoices, or receipts for products sold by Applicant under the THORO mark in interstate commerce.
20. Admit Applicant has no documents reflecting any advertising expenditures relating to products sold by Applicant under the THORO mark.
33. Admit that Applicant has never collected sales tax in connection with any product actually sold under the designation THORO by Applicant.
34. Admit that Applicant has never paid sales tax to any state agency in connection with any product actually sold under the designation THORO by Applicant.
35. Admit that Applicant has never registered with any state revenue or tax agency as a retailer of tangible personal property.
36. Admit that Applicant has never reported sales income or revenue in connection with any product actually sold under the designation THORO by Applicant.
37. Admit that Applicant has never obtained a license or permit from any state, municipality or other governmental department in connection with any product actually sold under the designation THORO by Applicant.
38. Admit that Applicant has never reported sales income or revenue in connection with any product actually sold under the designation THORO by Applicant.

In failing to respond to Opposer's First Requests for Admission, Respondent also has admitted, by operation of law, that none of the specimens submitted to the USPTO in connection with the THORO Registration consisted of photographs of actual products:

30. Admit that the specimen supporting the Section 8 Affidavit for Reg. No. 3,206,498 for ~~thoro~~ filed October 21, 2012 consisted of a picture of a standalone label not attached to a product actually sold under the designation ~~thoro~~ by Applicant.
31. Admit that Applicant has not provided to the United States Patent and Trademark Office any photographs of any product sold under the designation THORO, THORŌ or ~~thoro~~ by Applicant since the submission of Applicant's Statement of Use for Reg. No. 3,206,498 on October 4, 2006.
32. Admit that the photographs of the products provided to support the Statement of Use for Reg. No. 3,206,498 submitted on October 4, 2006 reflect that the THORŌ label was sewn over the existing label or manufacturer's tag.

Likewise, the limited production of documents provided by Respondent in response to Opposer's First Set of Document Requests also supports the non-existence of any evidence of the use or transport of the THORO Marks in the ordinary course of trade in commerce. The relevant document requests with the most recent written responses from Respondent are reproduced below (verbatim with typos):

3. All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the THORO mark set forth in Registration No. 3,206,498 ("the THORO Design") by, or on behalf of, Applicant for the products identified in Registration No. 3,206,498 as of October 21, 2012.⁶

RESPONSE: See attached document. See Exhibit 11

RESPONSE: The standard mark Serial No. 85/956925 THORO" was affixed to the inside of the neck collar and inside labelling of apparel. See Exhibit 13

5. All documents and things which reflect, refer to, relate to, evidence or concern any trademark use or use analogous to trademark use of THORO (including any composite

⁶ See also Request to Admit No. 24. (Exhibit 10).

terms or designs incorporating the designation “THORO”) occurring on or before June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.⁷

RESPONSE: See attached document See Exhibit 11

RESPONSE: The standard mark Serial No. 85/956925 THORO” was affixed to the inside of the neck collar and inside labelling of apparel. See Exhibit 13

6. Representative documents and things which reflect, refer to, relate to or concern any trademark use or use analogous to trademark use of THORO (including any composite terms incorporating the designation “THORO”), occurring after June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.⁸

RESPONSE: See attached document. See Exhibit 11

RESPONSE: The standard mark Serial No. 85/956925 THORO” was affixed to the inside of the neck collar and inside labelling of apparel. See Exhibit 13

8. Representative documents and things which reflect, refer to, relate to or concern any advertising and/or promotional and/or marketing activity carried on or planned by Applicant in connection with any of Applicant’s Products and Services, including those products identified in application Serial No. 86/956,925, on which or in connection with which the designation “THORO” has been used or is intended to be used in any fashion by Applicant.

RESPONSE: No such documents exist. See Exhibit 11

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925 See Exhibit 13

In short, despite multiple opportunities to describe any activity which would support a basis for a claim of bona fide use in the ordinary course of trade in commerce, including any claimed transport (at any time, let along the three years before November 4, 2015), Respondent failed to do so. See also Respondent’s Responses to Interrog. Reqs. 6, 7, and 8, Documents Reqs. 2-3 and Adm. Reqs. 26 and 27 at Exhibits 3, 4, 6, 7, 11, 12, 13.

The 17 pages of documents produced by Respondent (see Exhibit 5) also do not provide any evidence of the use of the THORO Marks in commerce for a period of at least three consecutive years prior

⁷ See also Request to Admit No. 25. (Exhibit 10).

⁸ See also Respondent’s Request to Admit No. 26. (Exhibit 10).

to November 4, 2015. These documents (which Respondent never associated with any particular Document Request) consist of:

- Witness Statements (THO 00001-00002) by Charlie Lewis (Applicant's father) and Rasheed Wiggins (now deceased) concerning knowledge of Applicant's first use of the mark in 2001;
- South Carolina State trademark registration dated 12/31/2002 (THO 00003);
- Unidentified and unauthenticated photographs of unidentified persons at unidentified locations wearing hats and t-shirts bearing ornamentation use of the THORO designation (THO 00004-00007, 00015, 00016) with only THO 00004 containing a legible date stamp of August 3, 2010;
- Unidentified, unauthenticated and undated mock ups of online advertising materials bearing the ornamentation use of the THORO designation and listing a www.thorowear.com web site (THO 00007-00010, 00012) and a thorohats.com domain name;
- Unidentified, unauthenticated and undated photographs of a boat with the THORO designation applied to the side (THO 00011);
- An unauthenticated, undated photographed copy of a business card referencing the www.thorosportswear.com web site (THO 00013); and
- Unidentified, unauthenticated and undated photographs of materials bearing the ornamentation use of the THORO designation (THO 00014 and 00017).

In failing to respond to Opposer's First Requests for Admission (*Exhibit 10*), Respondent has made the following admissions with respect to the produced documents:

5. Admit that none of the photographs produced by Applicant (THO 00004-00007) were taken after August 3, 2010.

6. Admit that the web site materials produced by Applicant (THO 00008-00010) were not accessible through the url www.thorowear.com after September 2011.

10. Admit that the website www.thorowear.com has not been active since September 2011.

13. Admit that the website www.thorosportswear.com has never displayed information relating to any product sold under the designation THORO by Applicant.
15. Admit that the website www.thorohats.com has never displayed information relating to any product sold under the designation THORO by Applicant.
23. Admit that no other documents exist in response to Document Request No. 3 beyond the documents previously produced by Applicant THO 00001-00017.
25. Admit that no other documents exist in response to Document Request No. 5 beyond the documents previously produced by Applicant THO 00001-00017.
26. Admit that no other documents exist in response to Document Request No. 6 beyond the documents previously produced by Applicant THO 00001-00017.
27. Admit that no other documents exist in response to Document Request No. 8 beyond the documents previously produced by Applicant THO 00001-00017.

By virtue of the admissions noted above, the 17 pages of produced documents represent the sole universe of materials that exist with relation to the alleged use of the THORO Marks from September 5, 2001 (the earliest claimed first use date) through at least November 4, 2015 (the date on which Respondent provided the last substantive statement on his Discovery Responses). As such, even if the Board were to consider the Respondent's produced documents as evidence of a *bona fide* use of the THORO Marks in the ordinary course of trade (which they are not) at some unidentified point in time, the documents do not create an issue of fact as to whether the THORO Marks have been used for at least a three consecutive year period prior to November 4, 2015.

Many of the documents are, on their face, not relevant to a continuing use analysis. *See Exhibit 5* (THO 00001-00003, 0013 and 0017). By Respondent's admissions, none of the photographed material (*see Exhibit 5* (THO 00004-00007, 00011-00017)) is probative of any use after August 3, 2010. Finally, Respondent's admissions render the mock up advertising material non-probative (*see Exhibit 5* (THO

00007-0010, 0012)) as the web sites listed on those materials either (i) have not been active since September 2011; or (ii) never displayed information relating to any product sold under the designation THORO by Respondent.⁹

The claimed four witnesses identified by Respondent as having knowledge of the current uses, and sales and advertising information of the THORO Marks, in the most recently submitted response to Opposer's First Set of Interrogatories on April 22, 2016, also do not create an issue of fact. See Exhibit 14, Response to Interrogatory No. 2. As noted above, even if the Board were to consider the limited information on these individuals as timely (which it should not in light of the sanctions granted in the March 2, 2016 Order), none of the witnesses is truly identifiable based on the information provided by Respondent. Respondent identified one of the individuals as "deceased," one as a "past business associate (no longer in contact with)," one as his "father" with no address and one at an undeliverable address as demonstrated by the repeated return to sender notices received by the Board (*see Parent*, 33 TTABVUE 1, 45 TTABVUE 1, 52 TTABVUE 1, 53 TTABVUE; *Cancellation*, 6 TTABVUE 1, 7 TTABVUE 1, 13 TTABVUE 1).

In short, despite having had well over two years to identify, collect and produce evidence of use of the THORO Marks in the ordinary course of trade, and despite multiple Board Orders requiring him to do so, Respondent has produced no responsive documents in the form of:

- Sales records for each of the years 2001-2015 for any product alleged to have been sold under the designation THORO by Applicant. See Responses to Doc Req. 17, Exhibits 4, 7, 11, 13
- Identifying information for any "sales event," "tradeshaw" and/or "promotional event" at which or web site or sportswear dealer through which Respondent alleges to have sold his goods. See Responses to Interrog. Nos. 17-20, Exhibits 3, 6, 11, 12

⁹ The witness statements (which relate to statements pertaining to the first use of the mark (THO 00001-00002) are non-probative with respect to any subsequent use of the mark; the state registration is irrelevant to the use of the THORO Marks (THO 00003) at any time.

- Records of advertising expenditures for for each of the years 2001-2015 for any product offered under the designation THORO by Respondent. See Responses to Doc Req. 18, *Exhibits 4, 7, 11, 13*
- Records of marketing expenditures for each of the years 2001-2015 for any product offered under the designation THORO by Respondent. See Responses to Doc. Req. 19, *Exhibits 4, 7, 11, 13*
- Agreements for each of the years 2001-2015 with suppliers to Applicant of the textiles and/or finished clothing items used in connection with any product sold under the designation THORO by Respondent. See Responses to Doc. Req 20. *Exhibits 4, 7, 11, 13*
- Any and all Agreements for each of the years 2001-2015 with suppliers to Applicant of any labels for any product sold under the designation THORO by Respondent. See Responses to Doc. Req. 21, *Exhibits 4, 7, 11, 13*
- Any documents relating to Applicant's purchase of labels bearing the mark THORO. Doc. Req. See Responses to 22, *Exhibits 4, 7, 11, 13*
- Identifying information for any supplier of textile and/or finished clothing items, or labels or tags for any product sold under the designation THORO by Respondent. See Responses to Interrog. Req. No. 21, *Exhibits 3, 6, 11, 12*
- Documents relating to Applicant's purchase of clothing items on which the THORO mark has been applied. See Responses to Doc. Req. 23, *Exhibits 4, 7, 11, 13*
- Applicant's tax records for each of the years 2001-2015 which reflect any expenses incurred and/or income received for any product sold under the designation THORO by Respondent or for any company which Applicant is a principal. See Responses to Doc. Reqs. 25 and 26, *Exhibits 4, 7, 11, 13*
- The Respondent's records for complying with any state sales tax obligations for sale of any products offered under the designation THORO, including but not limited to North Carolina and South Carolina from 2001-2015. See Responses to Doc. Req. 27, *Exhibits 4, 7, 11, 13*

It is Petitioner's burden to show abandonment or to establish *prima facie* abandonment through evidence of nonuse for three consecutive years of the THORO mark. Respondent's admissions and accompanying failure to produce any evidence corroborating use in response to Petitioner's specific discovery requests establishes a *prima facie* case of abandonment and should leave the Board little doubt about concluding the Respondent has not used the THORO Marks in the ordinary course of trade in commerce on the THORO Goods for more than a three consecutive year period prior to November 4, 2015. Where, as here, there is a dearth of documents and properly identified witnesses as to the use of a mark, an inference that the evidence does not exist is justified. *Auburn Farms, Inc. v. McKee Foods Corp.*, 51 U.S.P.Q.2d 1439 (TTAB 1999); McCarthy's §17.9.

Regardless, even in the unlikely event any further documents or reachable witnesses did exist, Respondent is prohibited pursuant to the Board's March 2, 2016 Order from introducing such documents at trial or relying on any such documents or information because the documents and information were requested by Petitioner in Opposer's First Set of Discovery Requests and Opposer's Second Set of Discovery Requests and were not provided or produced by Respondent in accordance with the Board's Orders.

Respondent's transgressions include repeated failures to provide updated street addresses to the Board, repeated failures to adhere to the Board's scheduling orders, providing incomplete and inconsistent responses to Petitioner's Discovery requests, and ignoring Board Orders requiring verified interrogatory answers and proper responses to document requests (See 21 TTABVUE 3, 31 TTABVUE 2, 57 TTABVUE 9). The Board has patiently informed Respondent of his obligations many times, even going so far as to direct Respondent to Board resources and guidelines, and has been generous in accepting Respondent's vague and unsubstantiated bases as grounds for late filings. Moreover, the Board has warned Respondent on previous occasions that if he failed to comply with Board orders, Petitioner's remedy would lie in a motion for sanctions under Trademark Rule 2.210(g)(1) including the imposition of judgment. (See 26

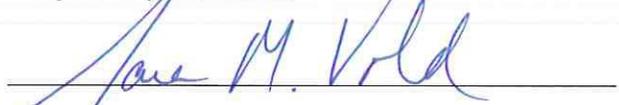
TTABVUE 1, 31 TTABVUE 3, 57 TTABVUE 10). Given the continuing nature of Respondent's violations despite prior admonition from the Board, any sanction short of judgment (or at the very least prohibiting Respondent from introducing new "evidence"), particularly here where Petitioner also has established its case on the merits, would be futile and unfair to Petitioner who, despite diligent efforts, has endured significant expense in moving the case forward as a result of Respondent's intransigence and deliberate efforts to forestall a substantive consideration of the issues identified in these proceedings.

CONCLUSION

Petitioner respectfully requests the Board grant this Motion for Summary Judgment and sustain Opp. Nos. 91214578 and 91226723 and grant Cancellation No. 92063552 because the applications for THORO Marks were void *ab initio*, and the mark which is the subject of the THORO Registration has been abandoned.

Dated: August 31, 2016

Respectfully submitted,



Tara M. Vold
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571-395-4630
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION AND MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT was served via email on this 31st day of August, 2016 to Respondent at the following address:

lemarlewis@hotmail.com



Alexandra Thiery-Gore

Exhibit 1

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

LeMans Corporation,)	
	)	Opposition No. 91214578
Opposer,)	
)	
V.	)	Mark: THORO
	)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

OPPOSER'S FIRST SET OF INTERROGATORIES NOS. 1-16 TO APPLICANT

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, and Rule 2.120 of the Trademark Rules of Practice, Opposer, LeMans Corporation, requests that Applicant, Lemar Xavier Lewis, serve upon Opposer sworn answers to the interrogatories set forth below within thirty (30) days after service, in accordance with the Trademark Rules of Practice. These interrogatories are intended to be continuing in nature and any information which may be discovered subsequent to the service and filing of the answers should be brought to the attention of the Opposer through supplemental answers within a reasonable time following such discovery.

For the convenience of the Board and the parties, and consistent with the Board's desired practice, Opposer requests that each interrogatory be quoted in full immediately preceding the response.

(a) DEFINITIONS AND INSTRUCTIONS

The word "person" shall mean and include without limitation, individuals, firms, associations, partnerships, and corporations.

The term "Opposer" shall mean LeMans Corporation.

The term "Applicant," "you" or "your" shall mean Lemar Xavier Lewis and any predecessors-in-interest, licensees or affiliated or related companies having any involvement with the use of the term, mark or designation "THORO," either standing alone or in combination with any design.

In the following discovery requests, the term "document" or "documents" is used in its customary broad sense to mean all non-identical copies of all documents within the scope of Rule 34, Fed.R.Civ.P., including, without limitation: reports and/or summaries of interviews; reports and/or summaries of investigations; opinions or reports of consultants; opinions of counsel; communications of any nature including internal company communications; memoranda; notes; letters; e-mail; tweets; blogs; agreements; reports or summaries of negotiations; brochures; pamphlets; advertisements; circulars; trade letters; press releases; drafts of documents and revisions of drafts of documents and any written, printed, typed or other graphic matter of any kind or nature; drawings; photographs; charts; electronically stored data; and all mechanical and electronic sound recordings or transcripts thereof, in the possession and/or control of Applicant or its employees or agents, or known to Applicant to exist, and shall include all non-identical copies of documents by whatever means made and whether or not claimed to be privileged or otherwise excludable from discovery. By way of illustration only and not by way of limitation, any document bearing on any sheet or side thereof any marks, including, but not limited to, initials, stamped indicia, comments or notations of any character and not a part of the original text or any reproduction thereof, is to be considered a separate document.

In the following discovery requests, where the identification of a document is required, such identification should describe the document sufficiently so that it can be specifically requested under Rule 34 of the Federal Rules of Civil Procedure and should include without limitation the following information, namely:

the name and address of the author;

the date;

the general nature of the document, i.e., whether it is a letter, memorandum, pamphlet, report, advertising (including proofs), etc.;

the general subject matter of the documents;

the name and address of all recipients of copies of the documents;

the name and address of the person now having possession of the original and the location of the original;

the name and address of each person now having possession of a copy of and the location of each such copy;

for each document Applicant contends is privileged or otherwise excludable from discovery, the basis for such claim of privilege or other grounds for exclusion; and

whether Applicant is willing to produce such document voluntarily to Opposer for inspection and copying.

If the response to any discovery request is believed by Applicant to constitute confidential information or trade secrets, it should be so designated and access thereto will be handled consistent with the Board's Standard Protective Order applicable to this case unless further dissemination thereof is authorized by mutual agreement of the parties or by order of the Trademark Trial and Appeal Board.

Wherever the identification of documents is called for in these interrogatories, Applicant may, in lieu of such identification, produce such documents marked with the number of the interrogatory to which it is responsive, for inspection and copying by Opposer at the time Applicant serves its answers to these interrogatories.

Wherever the discovery requests call for an answer rather than the identification of documents, an answer is required, and the production of documents in lieu of an answer will not satisfy the requirement that an answer be provided.

In the following discovery requests, where identification of a person, as defined, is required, state:

the person's full name, state of incorporation, if any, present and/or last known home address (designating which), present and/or last known position or business affiliation (designating which) and/or present or last known (designating which) affiliation with Applicant, if any. In the case of a present or past employee, officer or director or agent of Applicant, also state the person's period of employment or affiliation with Applicant, and his or her present or last position during his affiliation with Applicant.

In the following discovery requests, where identification of an oral communication is required, state the date, the communicator, the recipient of the communication, and the nature of the communication.

In the following discovery requests, unless the context of the question dictates a broader time reference, the questions refer to the time beginning with the earliest date upon which Applicant may attempt to rely for priority purposes in this proceeding in regard to the mark THORO for each of the products covered in Application Serial No. 85/956,925.

All references in these discovery requests to “commerce” signify commerce that may lawfully be regulated by Congress.

All references in these discovery requests to the term, mark or designation “THORO” refer to the stand-alone, block letter term THORO as well as any variations thereof used by Applicant, such as plural forms, abbreviations or design presentations, or composites including THORO, or which Applicant intends to use, or on which Applicant may rely upon in any way in this proceeding, including, but not limited to, Applicant’s mark which is the subject of Application Serial No. 85/956,925.

All references in these discovery requests to Opposer’s “THOR” Marks” refer to the marks Opposer has relied upon in the Notice of Opposition, unless a specific THOR mark is referenced.

Whenever used herein, the term “&” shall be deemed to include the term “and”; the singular shall be deemed to include the plural, the plural shall be deemed to include the singular; the masculine shall be deemed to include the feminine and the feminine shall be deemed to include the masculine; the disjunctive (“or”) shall be deemed to include the conjunctive (“and”), and the conjunctive (“and”) shall be deemed to include the disjunctive (“or”); and each of the functional words “each,” “every,” “any,” and “all” shall be deemed to include each of the other functional words.

INTERROGATORIES

INTERROGATORY NO. 1

Identify with particularity each product and/or service promoted or sold, or proposed to be promoted or sold by Applicant (see definitions and instructions) under the designation "THORO" (see definitions and instructions) at any time in the United States.

INTERROGATORY NO. 2

Identify the person or persons in the employ of or associated in any manner with Applicant most knowledgeable with respect to the following:

Selection and adoption of the designation "THORO" for the products set forth in application Serial No. 85/956,925;

the current uses and any intended uses of the designation "THORO" (including any composite or design presentations); and

any sales and advertising, or intended sales and advertising of any of the products identified in application Serial No. 85/956,925 or any services offered or to be offered under the designation "THORO" (including any composite or design terms incorporating the designation "THORO").

INTERROGATORY NO. 3

Identify each publication and broadcast advertisement (e.g., radio, television, email, web site) authorized by or on behalf of Applicant in which any of the goods and/or services identified in application Serial No. 85/956,925 have been offered under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO") by identifying the following:

The title(s) and date(s) of each publication in which any advertisement appeared or is scheduled to appear; and

Each actual or scheduled broadcast by date(s), and station(s) or web site(s), and whether the broadcast was or will be on radio, television or computer.

INTERROGATORY NO. 4

Identify any instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between its use of "THORO" (including any composite or stylized terms incorporating the designation "THORO") for any goods and/or services and Opposer's use of THOR, by identifying for each such instance the following:

the date of such instance and the person or entity confused;

the nature of the confusion; and

the person in Applicant's organization to whom the instance was reported or to whose attention the instance was first brought.

INTERROGATORY NO. 5

Identify (see definitions and instructions) all third persons using, applying for or having registered any mark or designation incorporating the term "THORO", "THOR" or a phonetic equivalent to "THOR" that Applicant shall rely on in support of any claimed affirmative defenses in Applicant's Answer. On such uses, applications or registrations and state:

(a) the mark/designation being used and/or the mark applied for or registered;

the goods and/or services offered or proposed to be offered under the mark/designation;

and

when Applicant first became aware of such use, application or registration.

INTERROGATORY NO. 6

Identify the activity which provided the basis for the claim of bona fide use of the THORO mark in commerce on September 5, 2001 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

INTERROGATORY NO. 7

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on June 11, 2013 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

INTERROGATORY NO. 8

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on October 21, 2012 as reflected in Registration No. 3,206,498, specifically including the nature of the use and the point of sale for any alleged products.

INTERROGATORY NO. 9

Identify any and all periods of non-use of the THORO mark since the claim of bona fide use in commerce on September 5, 2001.

INTERROGATORY NO. 10

Identify the reason that a Section 15 Affidavit of Incontestability was not filed with the Section 8 Continued Use Affidavit on October 21, 2012 in connection with Registration No. 3,206,498.

INTERROGATORY NO. 11

Describe when and by what means Applicant first became aware of Opposer's THOR products and/or services. Further, identify the person or persons who first became aware of Opposer's THOR products and/or services.

INTERROGATORY NO. 12

Describe with particularity all of the channels of trade in or through which Applicant markets and sells, or intends to market and sell, under the designation "THORO" any of the products and/or services offered by Applicant.

INTERROGATORY NO. 13

Identify all bases that Applicant shall rely upon for the Applicant's assertions in Affirmative Defense No. 1 that:

- (a) Opposer's Registrations are directed to goods and/or services which are are "distinguishable" from the Applicant's goods;
- (b) Opposer's Registrations are directed to channels of trade which are are "distinguishable" from the Applicant's channels of trade; and
- (c) Opposer's Registrations are directed to consumers who are "distinguishable" from the Applicant's consumers;

INTERROGATORY NO. 14

Identify with particularity how, if at all, Applicant plans to market any of the products and/or services offered under the THORO name or mark to any consumer base or market.

INTERROGATORY NO. 15

Identify (a) all authorized licensees of the THORO marks; and (b) any assignments to which Applicant is a party that relate to the THORO marks.

INTERROGATORY NO. 16

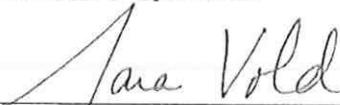
Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or the Opposer's First Request for Production of Documents.

Respectfully submitted,

LeMans Corporation

Date: April 24, 2014

By: _____


Tara M. Vold
J. Paul Williamson
VOLD & WILLIAMSON PLLC
8251 Greensboro Drive, Suite 340
McLean, VA 22012
571-395-4630

Attorneys for the Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served via first class mail and email on this 24th day of April, 2014 upon the following:

Allison Imber
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 South Orange Avenue
Suite 1401
Orlando, FL 32801
aimber@addmg.com


Alexandra Thiery-Gore

Exhibit 2

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

LeMans Corporation,)	
	)	Opposition No. 91214578
Opposer,)	
)	
V.	)	Mark: THORO
	)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

OPPOSER’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, LeMans Corporation, hereby requests that Applicant, Lemar Xavier Lewis, produce for inspection and copying the following documents at the offices of counsel for Opposer, Vold & Williamson PLLC, 8251 Greensboro Drive, Suite 340, McLean VA, 22102, within thirty (30) days following the date of service of these requests, or at such other time and place as the parties may mutually agree upon.

For purposes of Opposer’s First Request for Production of Documents, Opposer adopts the definitions and instructions set forth in Opposer’s First Set of Interrogatories Nos. 1-16 to Applicant.

If privilege is claimed as to any document, Applicant shall fully identify the document as to date, name and capacity of the author(s), the name and capacity of all addressees, and the subject and general nature of the document (as “letter” or “opinion”). The ground for the claim of privilege shall also be given (such as attorney-client privilege, work product privilege, etc.).

REQUESTS

Opposer requests production of the following:

(1) All documents and things which reflect, refer to, relate to, concern or support the claimed first use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 86/956,925 on September 5, 2001.

(2) All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 86/956,925 as of June 11, 2013.

(3) All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the THORO mark set forth in Registration No. 3,206,498 (“the THORO Design”) by, or on behalf of, Applicant for the products identified in in Registration No. 3,206,498 as of October 21, 2012.

(4) All documents and things which reflect, refer to, relate to, evidence or concern the consumer understanding of, the consumer acceptance of, consumer reaction to, or the trademark availability of the designation THORO for Applicant’s products identified in application Serial No. 86/956,925.

(5) All documents and things which reflect, refer to, relate to, evidence or concern any trademark use or use analogous to trademark use of THORO (including any composite terms or designs incorporating the designation “THORO”) occurring on or before June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

(6) Representative documents and things which reflect, refer to, relate to or concern any trademark use or use analogous to trademark use of THORO (including any composite terms

incorporating the designation "THORO"), occurring after June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

(7) All documents and things which reflect, refer to, relate to or evidence any searches conducted by or on behalf of Applicant concerning the designation THORO, and any opinions requested or received by Applicant regarding the right to use and/or to register the designation THORO in the United States in connection with the products and identified in Application Serial No. 86/956,925 or for any other products or services offered by Applicant.

(8) Representative documents and things which reflect, refer to, relate to or concern advertising and/or promotional and/or marketing activity carried on or planned by Applicant in connection with any of Applicant's products and services, including those products identified in application Serial No. 86/956,925, on which or in connection with which the designation "THORO" has been used or is intended to be used in any fashion by Applicant.

(9) Representative documents and things which reflect, refer to, relate to or concern any and all trade shows, professional shows, professional meetings, seminars and conventions where Applicant, or another on Applicant's behalf, has promoted or offered for sale products and/or services, or is scheduled to promote or offer for sale products and/or services, which products and/or services are offered by Applicant or which products are covered by application Serial No. 86/956,925 and where such products and/or services are identified by the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

(10) Representative documents sufficient to show the actual or projected annual dollar volume of Applicant's sales in the United States of each of the products identified in application Serial No. 86/956,925, if any, under the designation "THORO" (including any composite or

stylized terms incorporating the designation "THORO"), from the first sale of each such product to the present.

(11) Representative documents sufficient to show the actual or projected annual advertising and promotional expenditures in the United States by or on behalf of Applicant relating to the promotion of any products and/or services offered by Applicant, including those products identified in application Serial No. 86/956,925 if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

(12) Representative documents and things which reflect, refer to, relate to or evidence the date the designation "THORO" was first used by or on behalf of Applicant, for each product and/or service identified in response to Interrogatory No. 1.

(13) All documents and things which reflect, refer to, relate to or evidence any and all surveys or reports of consumer understanding, recognition or perception of any mark or designation consisting of or incorporating the designation "THORO" or Opposer's THOR mark that Applicant has ever conducted, prepared or had conducted or prepared.

(14) All documents and things which reflect, refer to, relate to or evidence any and all surveys, reports or opinions concerning consumer confusion or likelihood of confusion as between Applicant's use or proposed use of THORO for any goods and/or services and Opposer's THOR mark that Applicant has ever conducted, prepared or had conducted or prepared.

(15) All documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 4 which requests, among other

things, the identification of all instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between Applicant's use or proposed use of "THORO" and Opposer's use of THOR.

(16) To the extent not produced in response to Request No. 15, all documents and things which reflect, refer to, relate to or concern any mail (including electronic mail), telephone calls, checks, orders, inquiries, payments, complaints, deliveries or other communications or materials which were received by Applicant but which were addressed to or which appeared to have been intended for Opposer or which relate to Opposer's products and/or services offered under Opposer's THOR Marks.

(17) All documents and things which concern, reflect, refer to, relate to or mention Opposer's products and/or services offered under Opposer's THOR Marks.

(18) Representative documents and things which reflect, refer to, relate to or concern any state or federal trademark applications filed by Applicant which would cover any mark consisting of or including the designation "THORO" for any of the products and/or services.

(19) Representative documents and things which reflect, refer to, relate to or concern advertising agency or public relations firm activity, including correspondence, for any of the products and/or services of Applicant, including those products identified in application Serial No. 86/956,925, offered or to be offered under the designation "THORO."

(20) To the extent not provided in response to an earlier request, all documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 5.

(21) To the extent not provided in response to an earlier request, documents sufficient to show all channels of trade through which Applicant's products and/or services, offered or to be offered under the designation "THORO" move or will move and the marketing channels used or intended to be used by Applicant for such products and/or services.

(22) Documents sufficient to show or reflect the nature of the purchasers to whom Applicant markets, or to whom Applicant intends to market any of its "THORO" products and/or services, including those products identified in application Serial No. 86/956,925.

(23) To the extent not produced in response to an earlier request, a representative example of each different advertisement or promotional item presently distributed by or for Applicant, or which is planned to be distributed by or for Applicant, that mentions, identifies or describes any products and/or services offered by Applicant, including those identified in application Serial No. 86/956,925, and which are offered or are to be offered by Applicant under the designation "THORO."

(24) Representative documents and things which reflect, refer to, relate to or concern any licenses taken or given by Applicant or contemplated by Applicant (or any predecessor of Applicant) relating to the designation "THORO."

(25) Representative documents and things which reflect, refer to, relate to or concern any assignments taken or given by Applicant (or any predecessor of Applicant) which relate to the designation "THORO."

(26) Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 9.

(27) Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 10.

To the extent not otherwise produced, all documents mentioned or identified in response to Opposers' First Set of Interrogatories No. 1-16 to Applicant.

Respectfully submitted,

LeMans Corporation

Date: April 24, 2014

By:



Tara M. Vold

J. Paul Williamson

WOLD & WILLIAMSON PLLC

8251 Greensboro Drive, Suite 340

McLean, VA 22012

571-395-4630

Attorneys for the Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S FIRST SET OF DOCUMENT REQUESTS was served via first class mail and email on this 24th day of April, 2014 upon the following:

Allison Imber
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 South Orange Avenue
Suite 1401
Orlando, FL 32801
aimber@addmg.com

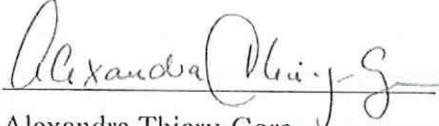

Alexandra Thiery-Gore

Exhibit 3

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

LeMans Corporation,	:	
Opposer,	:	
v.	:	Opposition No. 91214578
	:	
LaMar Xavier Lewis,	:	
Applicant.	:	

**APPLICANT’S RESPONSE TO
OPPOSER’S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 26 and 33 of the Federal Rules of Civil Procedure, Applicant LeMar Xavier Lewis, hereby responds to Opposer’s First Set of Interrogatories subject to the General Objections set forth below.

GENERAL OBJECTIONS

1. Applicant objects to these interrogatories to the extent they seek information which is protected from disclosure under the attorney-client privilege or work product immunity, or any other privilege, protection, or immunity applicable under governing law.
2. Applicant objects to the Opposer’s “Definitions” and “Instructions” to the extent they purport to impose discovery obligations that differ from or exceed the discovery obligations imposed by the Trademark Rules of Practice and the Federal Rules of Civil Procedure.
3. Applicant objects to these interrogatories to the extent they seek the production of “all” and “any” documents or the like to the extent that such requests are unduly broad and burdensome. Unless otherwise indicated, Applicant will produce relevant documents after a comprehensive search of Applicant’s business records.
4. Applicant objects to these interrogatories to the extent they seek information which is neither relevant to the issues raised in this opposition nor reasonably calculated to lead to the discovery of admissible evidence.
5. Applicant objects to these interrogatories to the extent they seek information in the custody of third-parties over whom Applicant does not exercise control.

6. Applicant objects to these interrogatories to the extent Opposer's requests seek information which Applicant considers to be confidential or proprietary, including trade secrets or other confidential research, development or commercial terms, responses will be provided as warranted under terms of the Protective Order in this action.

7. Applicant objects to the identification of documents that Applicant will be producing pursuant to Opposer's First Set of Requests for the Production of Documents and Things on the grounds that such identification would be unduly burdensome and duplicative.

8. Applicant objects to these interrogatories to the extent they seek to require Applicant to produce entire documents when portions are not responsive or are otherwise not subject to production. Applicant will produce entire documents where entire documents are responsive, and reserves the right to exercise or redact documents where only portions are responsive.

9. Applicant responds to each of these of these interrogatories based upon information available as of the date hereof and reserve the right to supplement and amend their responses.

RESPONSES TO INTERROGATORIES

Subject to the foregoing general objections, Applicant responds as follows:

INTERROGATORY NO. 1:

Identify with particularity each product and/or service promoted or sold, or proposed to be promoted or sold by Applicant (see definitions and instructions) under the designation "THORO" (see definitions and instructions) at any time in the United States.

RESPONSE:

Sportswear, bags, headwear, shirts, shorts, eyewear, sports equipment, body care preparations, jewelry, and fragrances.

INTERROGATORY NO. 2:

Identify the person or persons in the employ of or associated in any manner with Applicant most knowledgeable with respect to the following:

Selection and adoption of the designation "THORO" for the products set forth in application Serial No. 85/956,925;

The current uses and intended uses of the designation "THORO" (including any composite or design presentations); and

Any sales and advertising, or intended sales and advertising of any of the products identified in application Serial No. 85/956,925 or any services offered or to be offered under the designation "THORO" (including any composite or design terms incorporating the designation "THORO").

RESPONSE:

Diondre Lewis and Jason Alphonso.

INTERROGATORY NO. 3:

Identify each publication and broadcast advertisement (e.g., radio, television, email, web site) authorized by or on behalf of Applicant in which any of the goods and/or services identified in application Serial No. 85/965,925 have been offered under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO") by identifying the following:

The title(s) and date(s) of each publication in which any advertisement appeared or is scheduled to appear; and

Each actual or scheduled broadcast by date(s), and station(s) or web site(s), and whether the broadcast was or will be on radio, television or computer.

RESPONSE:

Applicant objects to this interrogatory on the grounds that it is vague, overbroad, unduly burdensome, oppressive and ambiguous, and not calculated to lead to the discovery of admissible evidence.

Without waiving the objections and to the extent this interrogatory is answerable, Applicant identifies the following: television advertisement on ESPN, thorsportswear.com, and thorowear.com.

INTERROGATORY NO. 4:

Identify any instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between its use of “THORO” (including any composite or stylized terms incorporating the designation “THORO”) for any goods and/or services and Opposer’s use of THOR, by identifying for each such instance the following:

The date of such instance and the person or entity confused;

The nature of the confusion; and

The person in Applicant’s organization to whom the instance was reported or to whose attention the instance was first brought.

RESPONSE:

None.

INTERROGATORY NO. 5:

Identify (see definitions and instructions) all third persons using, applying for or having registered any mark or designation incorporating the term “THORO,” “THOR” or a phonetic equivalent to “THOR” that Applicant shall rely on in support of any claimed affirmative defenses in Applicant’s Answer. On such uses, applications or registrations and state:

(a) the mark/designation being used and/or the mark applied for or registered;

(b) the goods and/or services offered or proposed to be offered under the mark/designation; and

(c) when Applicant first became aware of such use, application or registration.

RESPONSE:

(a) The following U.S. Federal Trademark Registrations: 3785155, 4016485, 4248215, 4296195, 4378330, 4478700, 4511398, 4577395, 4467955, 4534182, and 4534181.

(b) Applicant refers to the record provided by the USPTO.

(c) After Opposer filed this present opposition proceeding.

INTERROGATORY NO. 6:

Identify the activity which provided the basis for the claim of bona fide use of the THORO mark in commerce on September 5, 2001 for the products identified in Application Serial No. 85/956,925, specifically including the nature of the use and the point of sale for any alleged products.

RESPONSE:

Applicant offered products for sale to the general public via sales events and retailers.

INTERROGATORY NO. 7:

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on June 11, 2013 for the products identified in Application Serial No. 85/956,925, specifically including the nature of the use and the point of sale for any alleged products.

RESPONSE:

Applicant offered products for sale to the general public via sales events and retailers.

INTERROGATORY NO. 8:

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on October 21, 2012 as reflected in Registration No. 3,206,498, specifically including the nature of the use and the point of sale for any alleged products.

RESPONSE:

Applicant offered products for sale to the general public via sales events and retailers.

INTERROGATORY NO. 9:

Identify any and all periods of non-use of the THORO mark since the claim of bona fide use in commerce on September 5, 2001.

RESPONSE:

None.

INTERROGATORY NO. 10:

Identify the reason that a Section 15 Affidavit of Incontestability was not filed with the Section 8 Continued Use Affidavit on October 21, 2012 in connection with Registration No. 3,206,498.

RESPONSE:

Applicant chose not to complete the Section 15 filing.

INTERROGATORY NO. 11:

Describe when and by what means Applicant first became aware of Opposer's THOR products and/or services. Further, identify the person or persons who first became aware of Opposer's THOR products and/or services.

RESPONSE:

When Opposer filed this present Notice of Opposition.

INTERROGATORY NO. 12:

Describe with particularity all of the channels of trade in or through which Applicant markets and sells, or intends to market and sell, under the designation "THORO" any of the products and/or services offered by Applicant.

RESPONSE:

Applicant objects to this interrogatory on the grounds that it is vague, overbroad, unduly burdensome, oppressive and ambiguous, and not calculated to lead to the discovery of admissible evidence.

Without waiving the objections and to the extent this interrogatory is answerable, Applicant identifies the following: website, sales events, retailers, and other channels that will offer the products for sale.

INTERROGATORY NO. 13:

Identify all bases that Applicant shall rely upon for the Applicant's assertions in Affirmative Defenses No. 1 that:

- (a) Opposer's Registrations are directed to goods and/or services which are "distinguishable" from the Applicant's goods;
- (b) Opposer's Registrations are directed to channels of trade which are "distinguishable" from the Applicant's channels of trade; and
- (c) Opposer's Registrations are directed to consumers who are "distinguishable" from the Applicant's consumers.

RESPONSE:

Applicant objects to this interrogatory on the grounds that it is vague, overbroad, unduly burdensome, oppressive and ambiguous, and not calculated to lead to the discovery of admissible evidence.

Without waiving the objections and to the extent this interrogatory is answerable, Applicant answers the following:

- (a) Opposer offers clothing related to the motor sports industry. Applicant does not.
- (b) Opposer offers clothing related to the motor sports industry. Applicant does not
- (c) Opposer offers clothing related to the motor sports industry. Applicant does not

INTERROGATORY NO. 14:

Identify with particularity how, if at all, Applicant plans to market any of the products and/or services offered under the THORO name or mark to any consumer base or market.

RESPONSE:

Applicant objects to this interrogatory on the grounds that it is vague, overbroad, unduly burdensome, oppressive and ambiguous, and not calculated to lead to the discovery of admissible evidence.

Without waiving the objections and to the extent this interrogatory is answerable, Applicant identifies the following: website, social media, flyers, brochures, word of mouth, print advertisement, radio advertisement, television advertisement, and celebrity endorsements.

INTERROGATORY NO. 15:

Identify (a) all authorized licensees of the THORO marks; and (b) any assignments to which Applicant is a party that relate to the THORO marks.

RESPONSE:

Applicant objects to this interrogatory on the grounds that it is vague, overbroad, unduly burdensome, oppressive and ambiguous, and not calculated to lead to the discovery of admissible evidence.

Without waiving the objections and to the extent this interrogatory is answerable, Applicant identifies none.

INTERROGATORY NO. 16:

Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or the Opposer's First Request for Production of Documents.

RESPONSE:

None.

Dated: December 18, 2014

As to objections,



Keesonga Gore
Minott Gore, P.A.
201 S. Biscayne Blvd.
Suite 2800
Miami, FL 33131
Tel: 305.913.1333
Fax: 305.675.0222
kjg@minottgore.com

Attorneys for Applicant

As to Answers:

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 18, 2014.



LeMar Xavier Lewis, Applicant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent, via email, to Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102, on this 19th day of December, 2014.

/Keesonga Gore/
Keesonga Gore

Exhibit 4

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

LeMans Corporation,	:	
Opposer,	:	
v.	:	Opposition No. 91214578
	:	
LaMar Xavier Lewis,	:	
Applicant.	:	

**APPLICANT’S RESPONSE TO
OPPOSER’S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 26 and 34 of the Federal Rules of Civil Procedure, Applicant LeMar Xavier Lewis, hereby responds to Opposer’s First Set of Requests for Production of Documents subject to the General Objections set forth below.

Applicant’s responses are made without waiving or intending to waive any objections as to relevancy, privilege, or admissibility of any information provided in responses to Opposer’s requests, in any subsequent proceeding or at the trial of this or any other action, on any ground. A partial answer to any request which has been objected to, in whole or in part, is not intended to be a waiver of the objection.

Production and inspection will take place at the offices of attorney Keesonga Gore, 201 S. Biscayne Blvd., Ste. 2800, Miami, FL 33131 or such other place as may be required as soon as reasonably possible, at a time and under conditions as agreed to between counsel.

GENERAL OBJECTIONS

Each of Applicant’s responses are subject to the following objections and conditions as if such objections and conditions were fully set forth in said response. The responses do not repeat each such objection or condition.

1. Applicant objects to the production of documents to the extent they seek information which is protected from disclosure under the attorney-client privilege or

work product immunity, or any other privilege, protection, or immunity applicable under governing law.

2. Applicant objects to the Opposer's "Definitions" and "Instructions" to the extent they purport to impose discovery obligations that differ from or exceed the discovery obligations imposed by the Trademark Rules of Practice and the Federal Rules of Civil Procedure.

3. Applicant objects to the production of "all" documents or the like to the extent that such requests are unreasonably broad, unduly burdensome, oppressive, vague, or ambiguous and to the extent they are unlimited as to time or seek information which is neither relevant to the subject matter of the pending action, nor reasonably calculated to lead to the discovery of relevant or admissible evidence. Unless otherwise indicated, Applicant will produce relevant documents after a comprehensive search of Applicant's business records.

4. Applicant objects to the production of documents to the extent that they seek information which is neither relevant to the issues raised in this opposition nor reasonably calculated to lead to the discovery of admissible evidence.

5. Applicant objects to the production of documents to the extent that they seek information in the custody of third parties over which Applicant does not exercise control.

6. Applicant objects to the production of documents to the extent Opposer's requests seek information which Applicant considers to be confidential or proprietary, including trade secrets or other confidential research, development or commercial terms, responses will be provided as warranted under terms of the Protective Order in this action.

7. To the extent that Applicant responds to a request for production of documents, this should not be construed as a representation or admission that the responses are admissible at trial.

8. Applicant responds to each of these requests for production of documents based upon information available as of the date hereof and reserve the right to supplement and amend their responses.

RESPONSES TO REQUEST FOR PRODUCTION

Subject to the foregoing general objections, Applicant responds as follows:

REQUEST NO. 1:

All documents and things which reflect, refer to, relate to, concern or support the claimed first use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 85/956,925 on September 5, 2001.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 2:

All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 85/956,925 as of June 11, 2013.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 3:

All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the THORO mark set forth in Registration No. 3, 206,498 ("the THORO Design") by, or on behalf of, Applicant for the products identified in Registration No. 3,206,498 as of October 21, 2012.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 4:

All documents and things which reflect, refer to, relate to evidence or concern the consumer understanding of, the consumer acceptance of, consumer reaction to, or the trademark availability of the designation THORO for Applicant's products identified in Serial No. 85/956,925.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 5:

All documents and things which reflect, refer to, relate to, evidence or concern any trademark use or use analogous to trademark use of THORO (including any composite terms or designs incorporating the designation "THORO") occurring on or before June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 6:

Representative documents and things which reflect, refer to, relate to or concern any trademark use or use analogous to trademark use of THORO (including any composite terms incorporating the designation "THORO"), occurring after June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 7:

All documents and things which reflect, refer to, relate to or evidence any searches conducted by or on behalf of Applicant concerning the designation THORO, and any opinions requested or received by Applicant regarding the right to use and/or to register the designation THORO in the United States in connection with the products and identified in Application Serial No. 85/956,925 or for any other products or services offered by Applicant.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 8:

Representative documents and things which reflect, refer to, relate to or concern advertising and/or promotional and/or marketing activity carried on or planned by Applicant in connection with any of Applicant's products and services, including those

products identified in application Serial No. 85/956,925, on which or in connection with which the designation "THORO" has been used or is intended to be used in any fashion by Applicant.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 9:

Representative documents and things which reflect, refer to, relate to or concern any and all trade shows, professional shows, professional meetings, seminars and conventions where Applicant, or another on Applicant's behalf, has promoted or offered for sale products and/or services, or is scheduled to promote or offer for sale products and/or services, which products and/or services are offered by Applicant or which products are covered by application Serial No. 85/956,925 and where such products and/or services are identified by the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 10:

Representative documents sufficient to show the actual or projected annual dollar volume of Applicant's sales in the United States of each of the products identified in application Serial No. 85/956,925, if any, under the designation "THORO" (including

any composite or stylized terms incorporating the designation “THORO”), from the first sale of each such product to the present.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant’s possession will be made available for inspection and copying.

REQUEST NO. 11:

Representative documents sufficient to show the actual or projected annual advertising and promotional expenditures in the United States by or on behalf of Applicant relating to the promotion of any products and/or services offered by Applicant, including those products identified in application Serial No. 85/956,925 if any, under the designation “THORO” (including any composite or stylized terms incorporating the designation “THORO”).

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant’s possession will be made available for inspection and copying.

REQUEST NO. 12:

Representative documents and things which reflect, refer to, relate to or evidence the date the designation “THORO” was first used by or on behalf of Applicant, for each product and/or service identified in response to Interrogatory No. 1.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 13:

All documents and things which reflect, refer to, relate to or evidence any and all surveys or reports of consumer understanding, recognition or perception of any mark or designation consisting of or incorporating the designation "THORO" or Opposer's THORO mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 14:

All documents and things which reflect, refer to, relate to or evidence any and all surveys, reports or opinions concerning consumer confusion or likelihood of confusion as between Applicant's use or proposed use of THORO for any goods and/or services and Opposer's THOR mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 15:

All documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 4 which requests, among

other things, the identification of all instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between Applicant's use or proposed use of "THORO" and Opposer's use of THOR.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 16:

To the extent no produced in response to Request No. 15, all documents and things which reflect, refer to or concern any mail (including electronic mail), telephone calls, checks, orders, inquiries, payments, complaints, deliveries or other communications or materials which were received by Applicant but which were address to or which appeared to have been intended for Opposer or which relate to Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 17:

All documents and things which concern, reflect, refer to, relate to or mention Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 18:

Representative documents and things which reflect, refer to, relate to or concern any state or federal trademark applications filed by Applicant which would cover any marks consisting of or including the designation "THORO" for any of the products and/or services.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 19:

Representative documents and things which reflect, refer to, relate to or concern advertising agency or public relations firm activity, including correspondence, for any of the products and/or services of Applicant, including those products identified in application Serial No. 85/956,925, offered or to be offered under the designation "THORO."

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 20:

To the extent not provided in response to an earlier request, all documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 5.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 21:

To the extent not provided in response to an earlier request, documents sufficient to show all channels of trade through which Applicant's products and/services, offered or to be offered under the designation "THORO" move or will move and the marketing channels used or intended to be used by Applicant for such products and/or services.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 22:

Documents sufficient to show or reflect the nature of the purchasers to whom Applicant markets, or to whom Applicant intends to market any of its "THORO" products and/or services, including those products identified in application Serial No. 85/956,925.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 23:

To the extent not produced in response to an earlier request, a representative example of each different advertisement or promotional item presently distributed by or for Applicant, or which is planned to be distributed by or for Applicant, that mentions, identifies or describes any products and/or services offered by Applicant, including those identified in application Serial No. 85/956,925, and which are offered or are to be offered by Applicant under the designation "THORO."

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 24:

Representative documents and things which reflect, refer to, relate to or concern any licenses taken or given by Applicant or contemplated by Applicant (or any predecessor of Applicant) relating to the designation "THORO."

RESPONSE;

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 25:

Representative documents and thing which reflect, refer to, relate to or concern any assignments taken or given by Applicant (or any predecessor of Applicant) which relate to the designation "THORO."

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 26:

Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 9.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

REQUEST NO. 27:

Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 10.

RESPONSE:

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence.

Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent, via email, to Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102, on this 19th day of December, 2014.

/Keesonga Gore/
Keesonga Gore

Exhibit 5

WITNESS STATEMENT

Name: CHARLIE S. LEWIS JR

I, CHARLIE, swear or affirm:

That I personally know Lemar Lewis and he was actively marketing, selling and producing his Thoro mark on clothing, apparel and marketing materials in Fall 2001.

I SWEAR OR AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

10/30/2014
Date

Charlie S. Lewis Jr.
Name

WITNESS STATEMENT

Name: Rasheed Wiggins

I, Rasheed Wiggins, swear or affirm:

That I personally know Lemar Lewis and he was actively marketing, selling and producing his Thoro mark on clothing, apparel and marketing materials in Fall 2001.

I also purchased clothing in Fall 2001 from Lemar Lewis that contained the Thoro mark on the clothing.

I SWEAR OR AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

10/30/14
Date

Rasheed Wiggins
Name



TRADEMARK

Trademarks | Reports | Administration
Trademark Registrations

X Sign Out

Trademark Registration#: 7948 Search

Mark Type: Trademark Service Mark Livestock Word Mark

Applicant Name: LeMar & Lewis

Address Line 1: 3355 Lake Tiny Circle

Address Line 2:

City: Orlando

State: FL

Zip: 29687

Country:

[Waiting Address](#)

Trademark Information

State Organized:

Trademark Name: Thoro

Mark Description: The word "Thoro" written with the "T" passing through the middle of the top portion of the letter "h" followed by the letters "o-r-o" all connected through cursive style script.

Goods or Services:

Trademark Classes:

Date of 1st Use:

Date of 1st Use in SC:

Registered Date: 12/31/2002

Expiration Date: 12/31/2007

Last Renewal Date:

Last Assignment Date:

Notes: ** Migrated Classes:--Trademark # 25

Payment Information

Method	Amount	Check #
Cash <input checked="" type="checkbox"/>	0.00	

Total Charge: \$ 0.00
Total Paid: \$ 0.00
Balance: \$ 0.00

12/31/2002

Trademark Logo

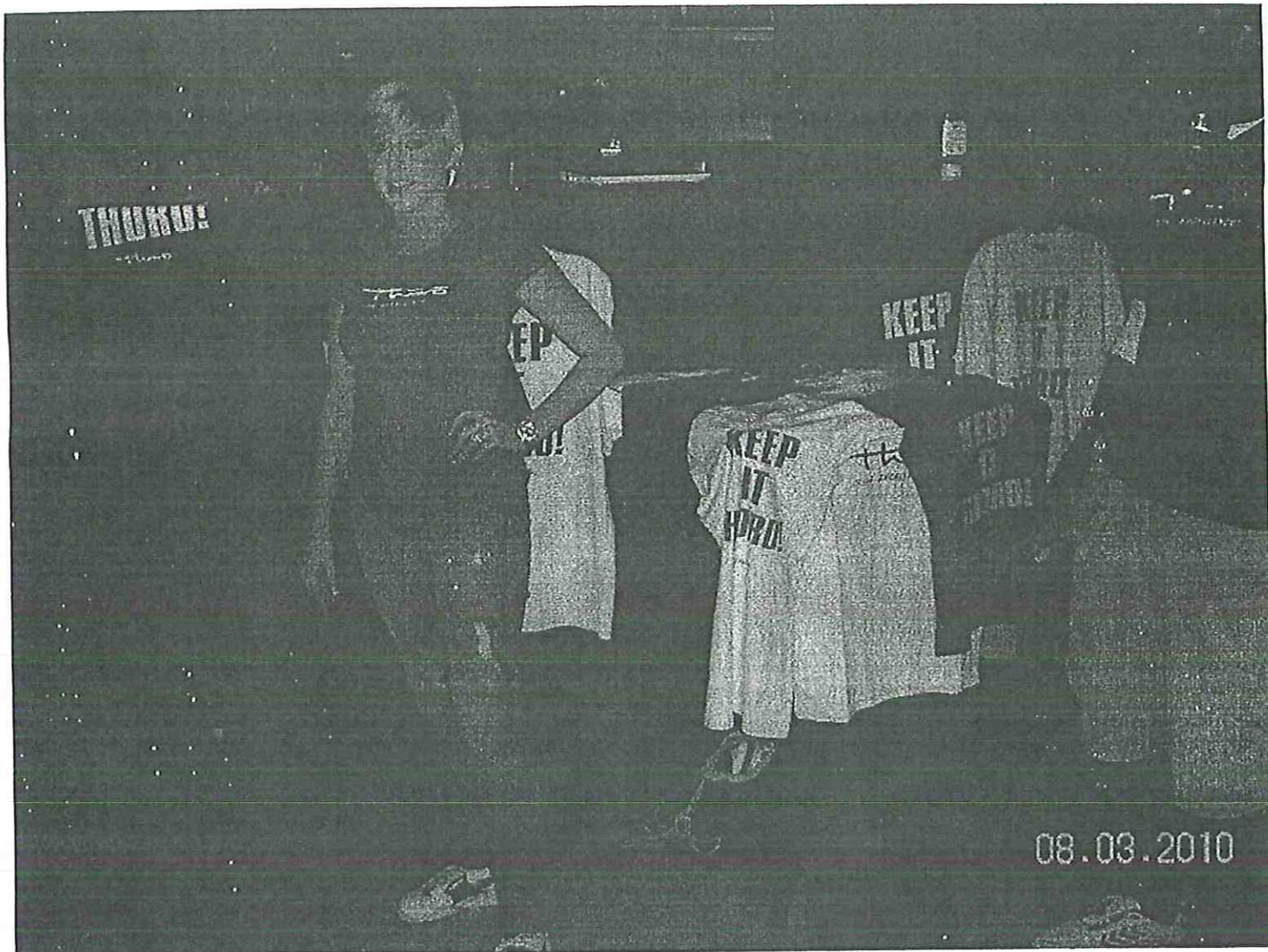
Browse...

Save

Scanning

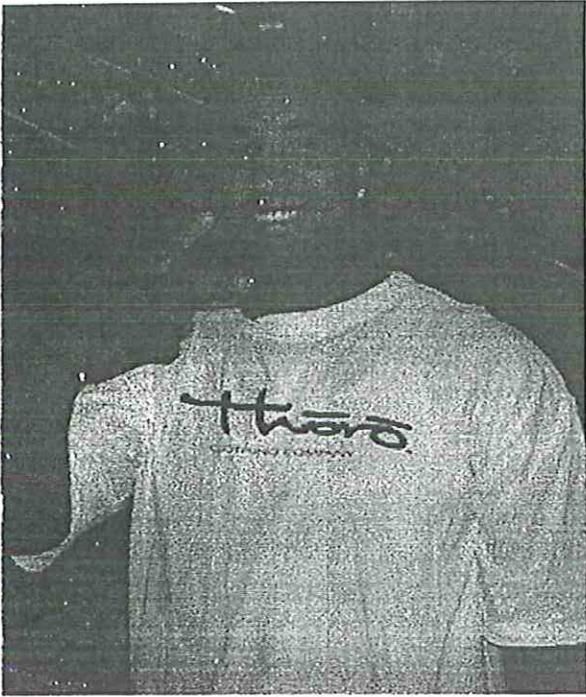
Certificate

THO 00003

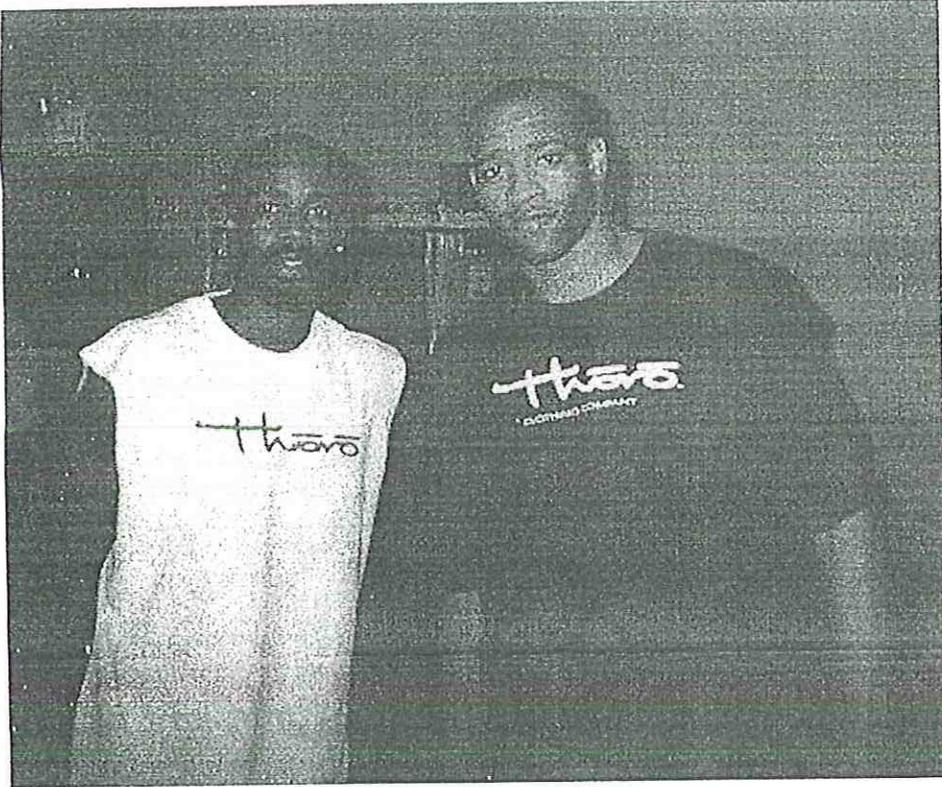


THO 00004





THO 00006



Fitted Hat

Retail Price
\$21.99
Wholesale
\$9.00



100% Acrylic Flat & Billed
Sizes: 7, 7 1/4, 7 1/2, 8

Tank Top

Retail Price
\$24.99
Wholesale
\$9.00



100% Pima Cotton, Embroidered Logo
Sizes: L, XL, 2XL
Colors - Black, White

THORO CLOTHING COMPANY

WWW.ThoroWear.com | PH: 407.920.5806 | Lemar@ThoroHats.com

Mail To:
333 W. TRADE ST.
SUITE 210
CHARLOTTE, NC. 28202

Stuntin

**STUNTIN
IS A
HABIT...**

Retail Price
\$24.99
Wholesale
\$9.00

Skull Head Shirt



Retail Price
\$49.99
Wholesale
\$20.00

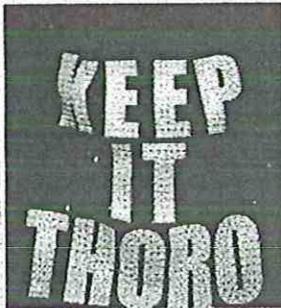
Signature Shirt



Retail Price
\$24.99
Wholesale
\$9.00

100% Cotton Printed Logo
Sizes L, XL, 2XL, 3XL

Keep It Thoro Rhinestone T-Shirt



Retail Price
\$99.99
Wholesale
\$40.00

100% Cotton
Swarovski Crystals
Sizes L, XL, 2XL, 3XL

100% Cotton
Sizes L, 2XL, 3XL,

Face Fear



Retail Price
\$49.99
Wholesale
\$20.00

100% Cotton
Sizes L, XL, 2XL, 3XL

100% Double Stitched Cotton
Sizes L, 2XL, 3XL, 4XL

Keep It Thoro T-Shirt

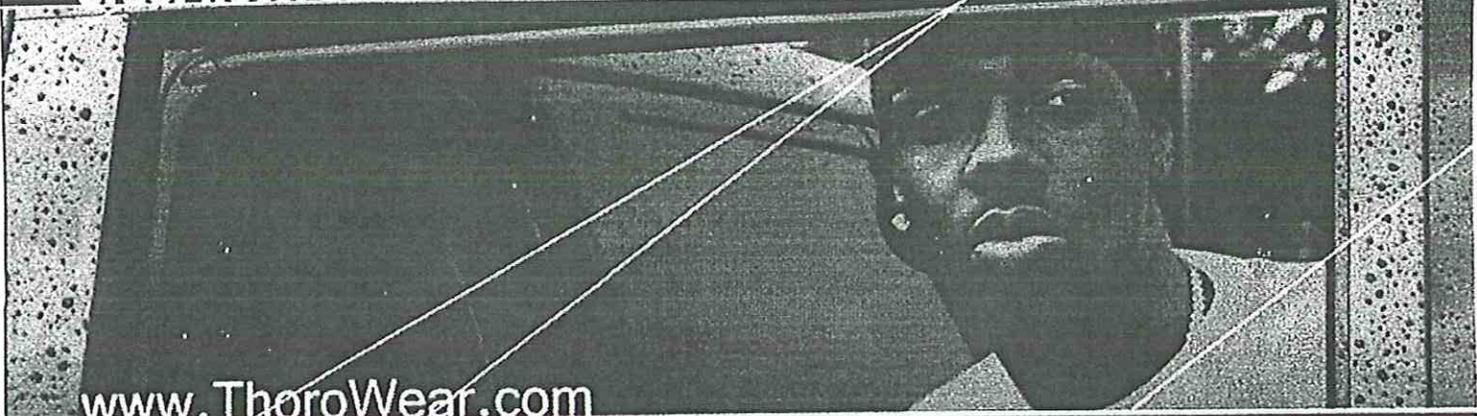


Retail Price
\$24.99
Wholesale
\$9.00

100% Cotton, Printed Logo
Sizes L, XL, 2X, 3X

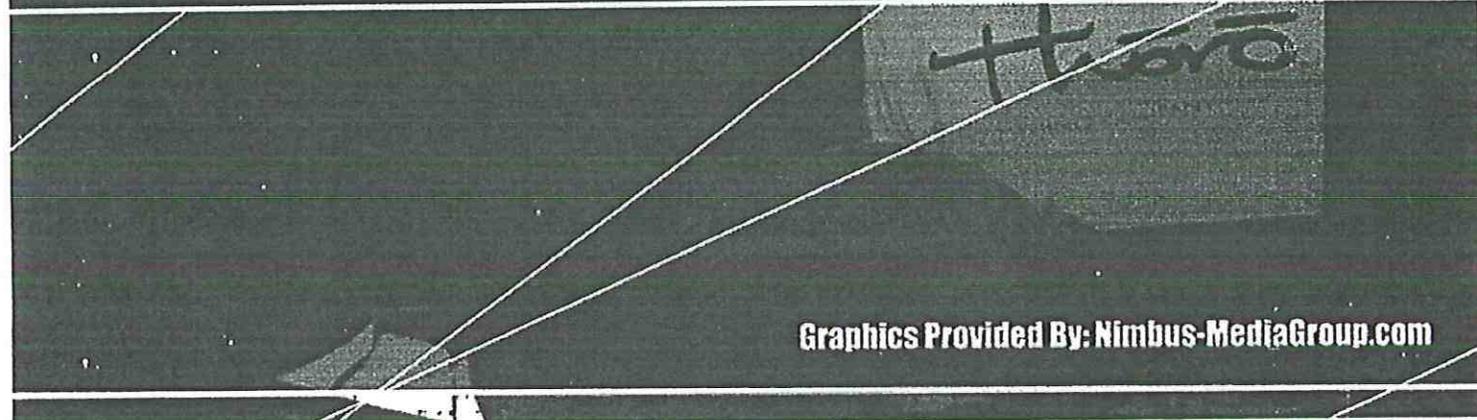
Order NOW! Call 407-920-5806

info@thorowear.com

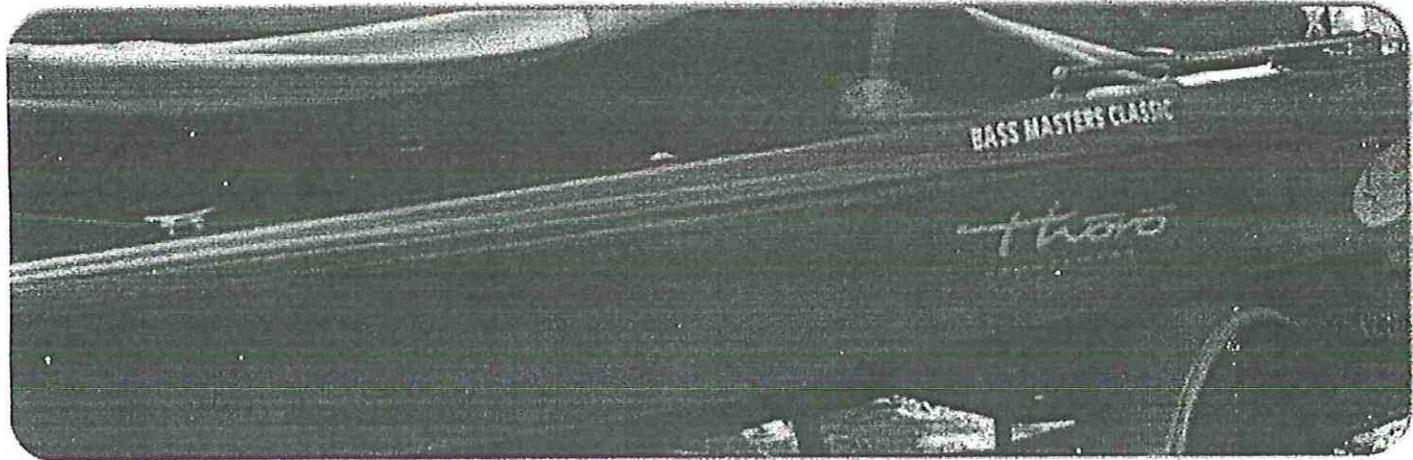
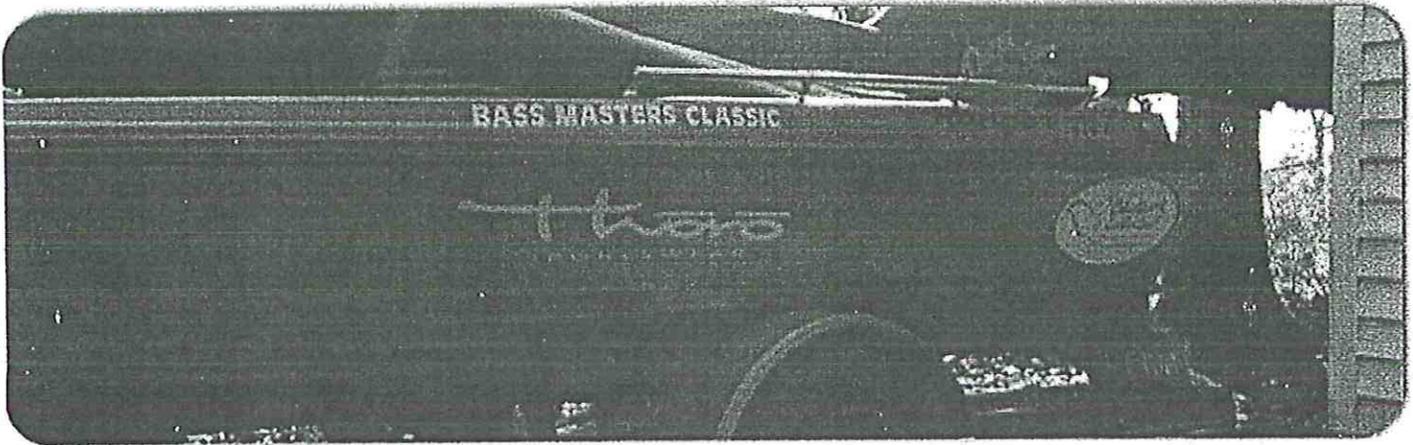


www.ThoroWear.com

thoro Clothing Company



Graphics Provided By: Nimbus-MediaGroup.com



THORO CLOTHING LTD. | CATALOG

Facebook Like 0 | D | Tweet 0 | g+ | e | Share

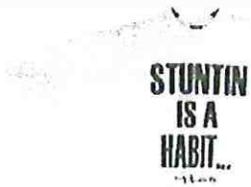
Catalogs created for sales and distribution of new thoro clothing line.



RECENT WORK < >



Stuntin



Retail Price \$24.99
Wholesale \$9.00

Skull Head Shirt



Retail Price \$49.99
Wholesale \$20.00

Signature



CALENDAR

DECEMBER 2014

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20

thoro®

SPORTSWEAR

www.thorosportswear.com



[/thorosportswear](https://www.facebook.com/thorosportswear)



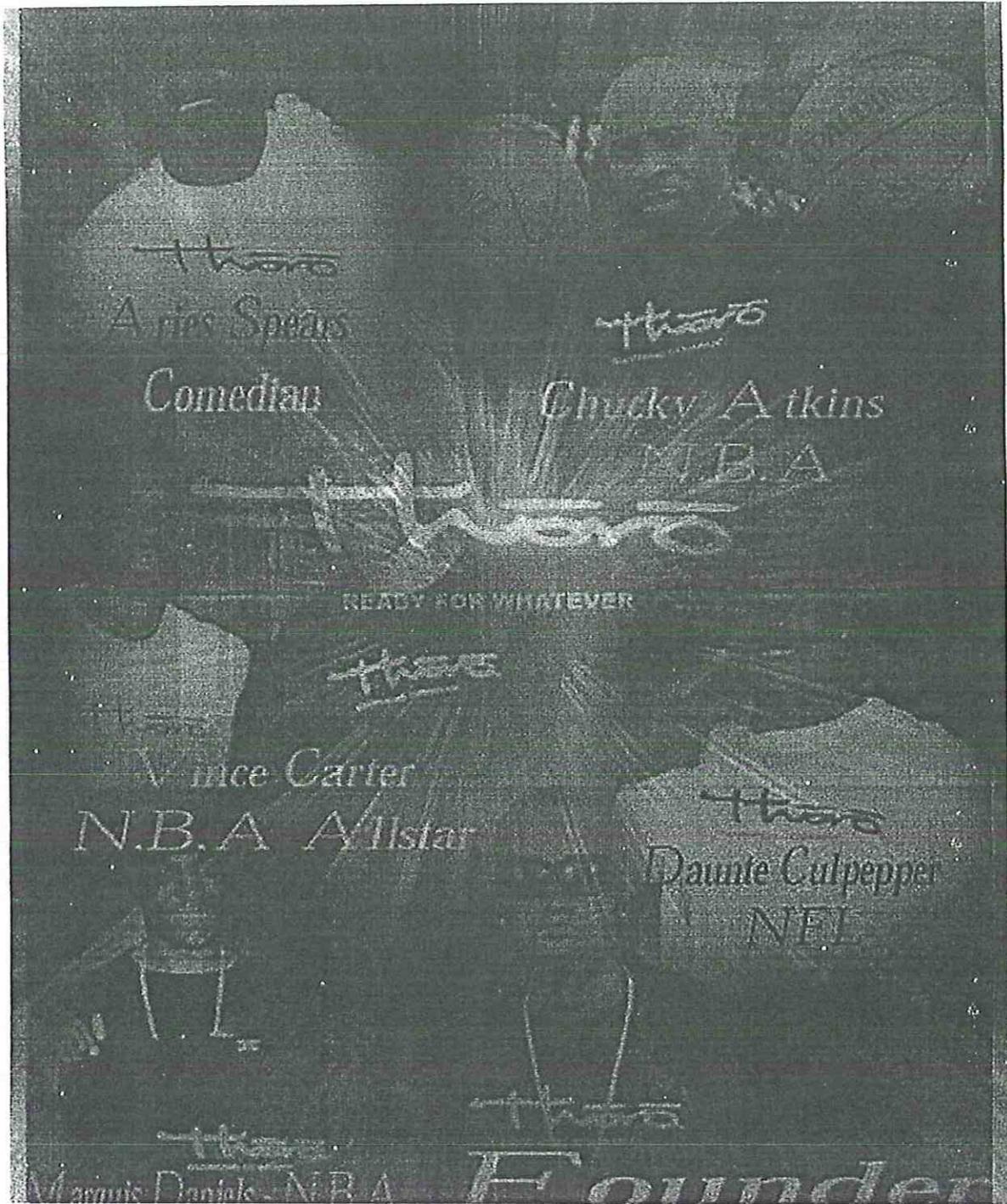
[@thorosportswear](https://twitter.com/thorosportswear)

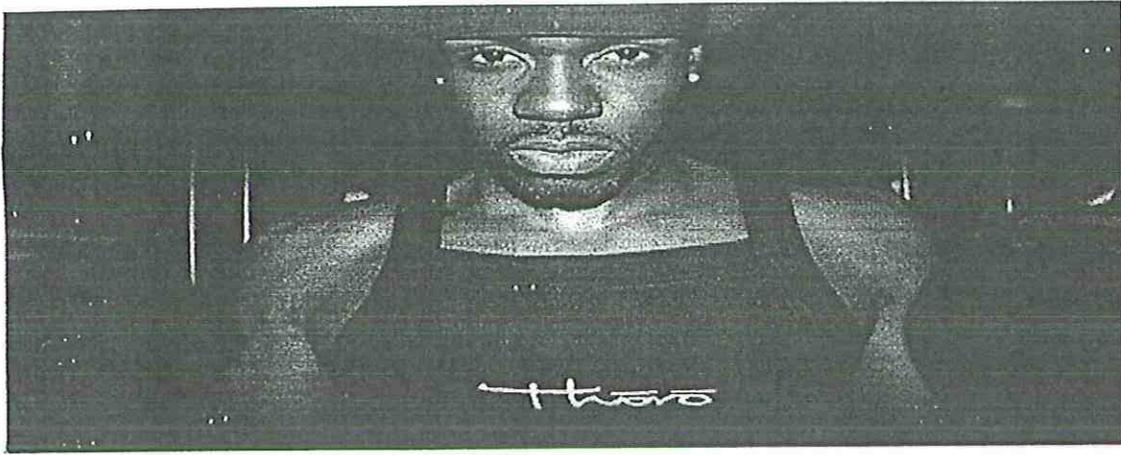


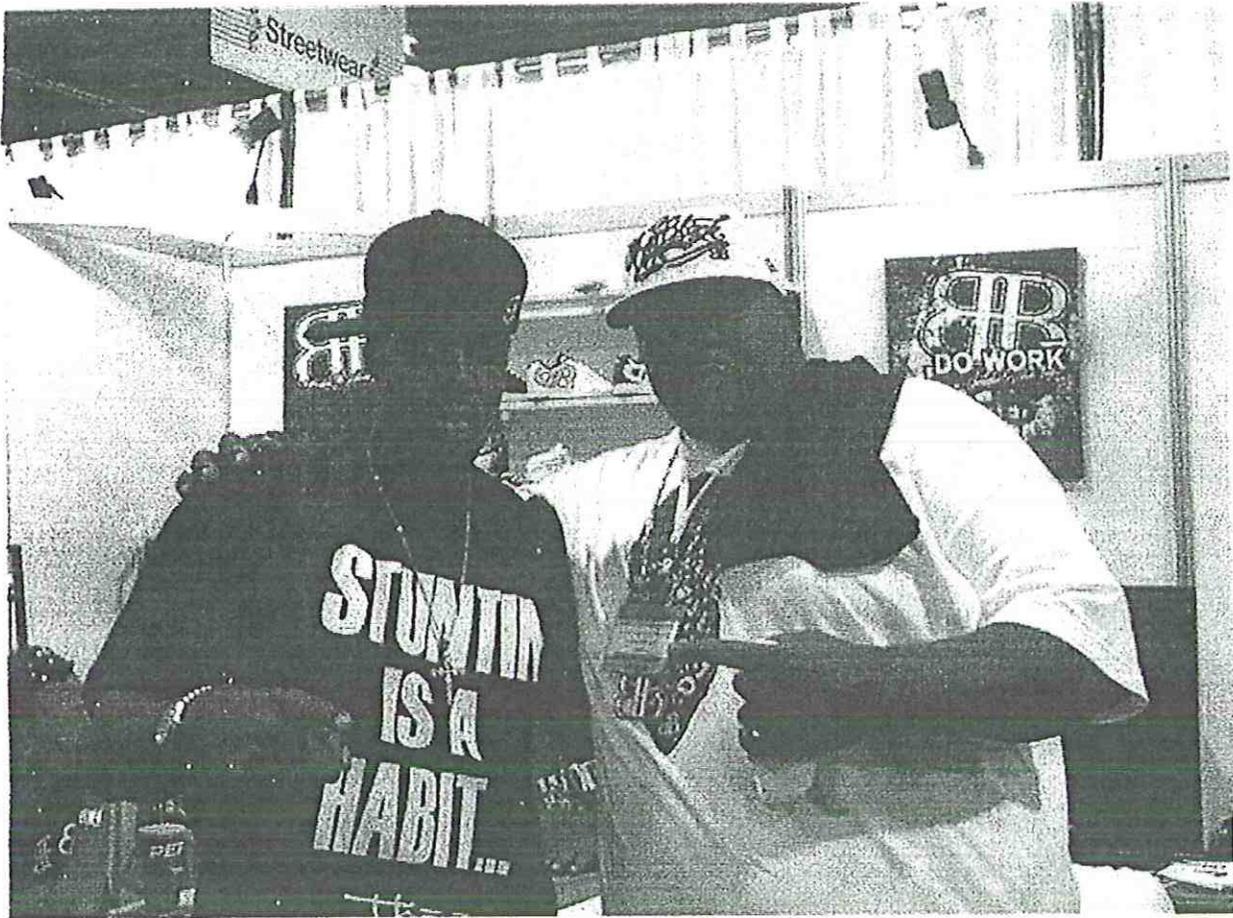
[@thorosportswear](https://www.instagram.com/thorosportswear)

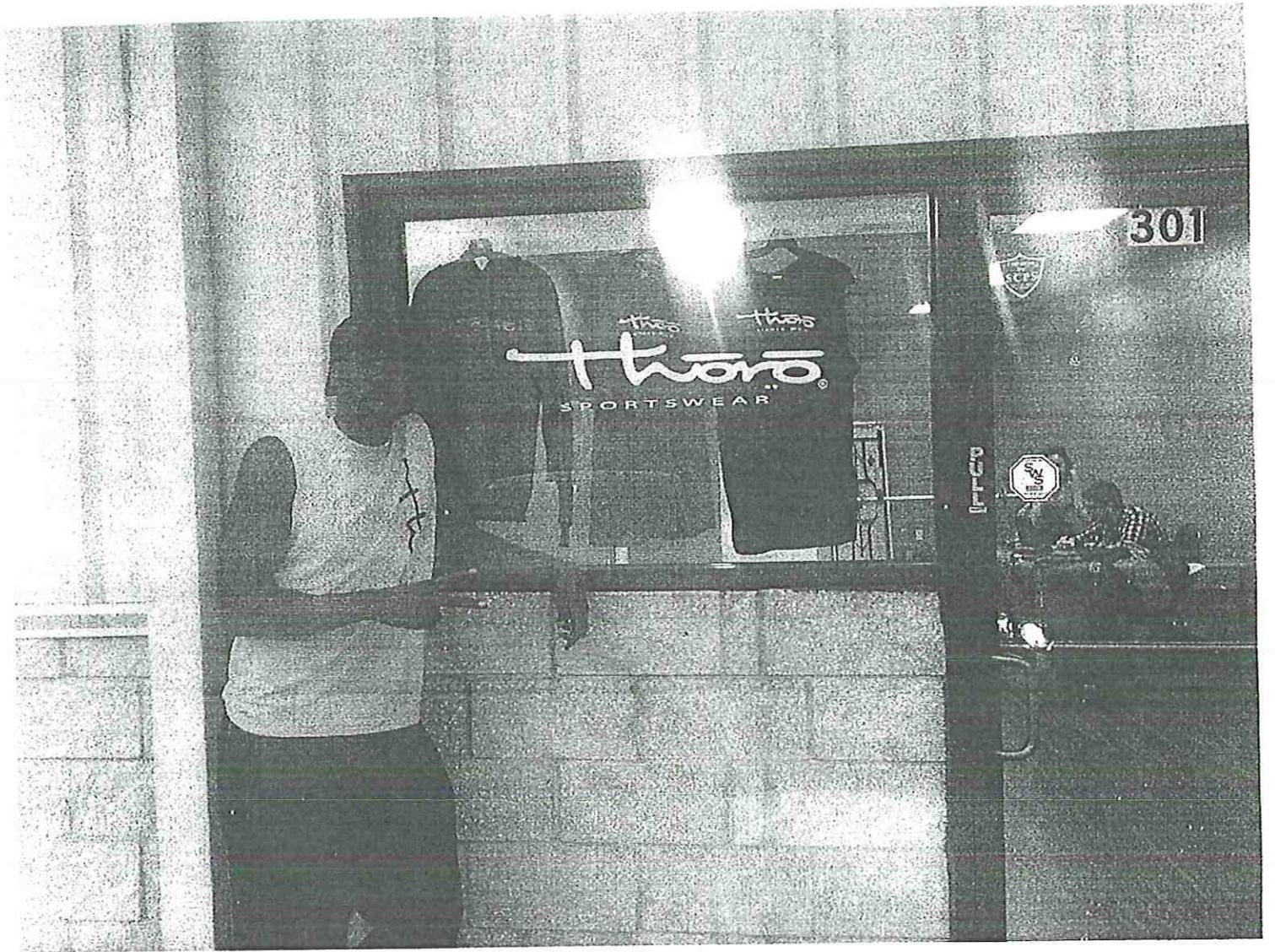


thorosportswear@gmail.com









THO 00017

Exhibit 6

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

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

LeMans Corporation, : Opposer, :

v.

: Opposition No. 91214578

: LeMar Xavier Lewis, : Applicant. :

Applicants Response To Opposers Interrogatories 1-16

INTERROGATORY NO. 1

Identify with each product and/or service promoted or sold, or proposed to be promoted or sold by Applicant (see definitions and instructions) under the designation "THORO" (see definitions and instructions) at any time in the United States,

Sportswear, Gym Bags, Headware, eyewear, sports/athletic/gym equipment, body care products, jewelry, fragrances

INTERROGATORY NO. 2

Identify the person or persons in the employ of or associated in any manner with Applicant most knowledgeable with respect to the following.

Selection and adoption of the designation "THORO" for the products set forth in application Serial No. 85/956,925;

the current uses and any intended uses of the designation "THORO" (including any composite or design presentations); and

any sales and advertising, or intended sales and advertising of any of the products

identified in application Serial No. 85/956,925 or any services offered or to be offered under the designation "THORO" (including any composite or design terms incorporating the designation

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

'THORO").

Diondre Lewis

Jason Alphonso

INTERROGATORY NO. 3

Identify each publication and broadcast advertisement (e.g., radio, television, email, web site) authorized by or on behalf of Applicant in which any of the goods and/or services identified in application Serial No. 85/956,925 have been offered under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO") by identifying the following:

The title(s) and date(s) of each publication in which any advertisement appeared or is scheduled to appear; and

Each actual or scheduled broadcast by date(s), and station(s) or web site(s), and whether the broadcast was or will be on radio, television or computer.

Response

Thoro "Willis Mcgahee" television advertising 2007

Daunte Culpepper Television add 'ESPN" 2007

Thorowear.com company website

INTERROGATORY NO. 4

Identify any instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between its use of "THORO" (including any composite or stylized terms incorporating the designation "THORO") for any goods and/or services and Opposer's use of THOR, by identifying for each such instance the following:

the date of such instance and the person or entity confused;

the nature of the confusion; and

the person in Applicant's organization to whom the instance was reported or to whose

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

attention the instance was first brought.

Response

None to my knowledge

INTERROGATORY NO. 5

Identify (see definitions and instructions) all third persons using, applying for or having registered any mark or designation incorporating the term "THORO", "THOR" or a phonetic equivalent to "THOR" that Applicant shall rely on in support of any claimed affirmative defenses in Applicant's Answer. On such uses, applications or registrations and state:

(a) the mark/designation being used and/or the mark applied for or registered the goods and/or services offered or proposed to be offered under the mark/designation, and when Applicant first became aware of such use, application or registration.

Response

None applicable.

INTERROGATORY NO. 6

Identify the activity which provided the basis for the claim of bona fide use of the THORO mark in commerce on September 5, 2001 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

Response:

The production of clothing and apparel with a label "Thoro" on tags namely labels on the apparel. Products where sold face to face to family, friends , close associates and at times the general public.

INTERROGATORY NO. 7

Identify the activity which provided the basis for the claim of bona fide continuing use of

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

the THORO mark in commerce on June 11, 2013 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

Response:

*Sales events, tradeshow, promoting at various venues, celebrity promotions, signs and banner product.

INTERROGATORY NO. 8

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on October 21, 2012 as reflected in Registration No. 3,206,498, specifically including the nature of the use and the point of sale for any alleged products.

Response:

⌚ Website, various sales events

INTERROGATORY NO. 9

Identify any and all periods of non-use of the THORO mark since the claim of bona fide use in commerce on September 5, 2001. 3,206,498

Response:

*None

INTERROGATORY NO. 10

Identify the reason that a Section 15 Affidavit of Incontestability was not filed with the Section 8 Continued Use Affidavit on October 21, 2012 in connection with Registration No.

Response:

None applicable

INTERROGATORY NO. 11

Describe when and by what means Applicant first became aware of Opposer's THOR products and/or services. Further, identify the person or persons who first became aware of

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

Opposer's THOR products and/or services.

Response

Not Applicable

INTERROGATORY NO. 12

Describe with particularity all of the channels of trade in or through which Applicant markets and sells, or intends to market and sell, under the designation "THORO" any of the products and/or services offered by Applicant,

Response

Website, various sales events , sportswear retailers..

INTERROGATORY NO. 13

Identify all bases that Applicant shall rely upon for the Applicant's assertions in Affirmative Defense No. 1 that:

- (a) Opposer's Registrations are directed to goods and/or services which are are "distinguishable" from the Applicant's goods;
- (b) Opposer's Registrations are directed to channels of trade which are are "distinguishable" from the Applicant's channels of trade; and
- (c) Opposer's Registrations are directed to consumers who are "distinguishable" from the Applicant's consumers; INTERROGATORY NO. 14

Identify with particularity how, if at all, Applicant plans to market any of the products and/or services offered under the THORO name or mark to any consumer base or market.

Response:

Website, Social Media, Flyers, Brochures, Print Ads, Radio ads, Television Ads, Celebrity endorsements

INTERROGATORY NO. 15

Identify (a) all authorized licensees of the THORO marks; and (b) any assignments to

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

which Applicant is a party that relate to the THORO marks.

Response

None

INTERROGATORY NO. 16

Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or the Opposer's First Request for Production of Documents.

Response

N.A

Date: May 5 , 2015

Submitted by,

/LeMar Lewis/

LeMar Lewis

LeMar Lewis

33 W. Tradestreet

Charlotte N.C 28202

Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served via electric mail on this 5th day Of May, 2015 upon the following:

Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102

Exhibit 7

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

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

LeMans Corporation, : Opposer, :

v.

: Opposition No. 91214578

: LeMar Xavier Lewis, : Applicant. :

APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS

RESPONSES TO REQUEST FOR PRODUCTION

Applicant responds as follows:

REQUEST NO. 1: All documents and things which reflect, refer to, relate to, concern or support the claimed first use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 85/956,925 on September 5, 2001.

RESPONSE: See signed witness statements of first hand knowledge of proof of claimed first in use date. Due to the extent of time that has elapsed since the the time of first use , additional forms of documentation that could support claim of use could be obtained.

WitnessesnRasheed Wiggins/ Charlie Lewis

REQUEST NO. 2:

All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 85/956,925 as of June 11, 2013.

RESPONSE: Please attached document

REQUEST NO. 3: All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the THORO mark set forth in Registration No. 3, 206,498 ("the

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

THORO Design") by, or on behalf of, Applicant for the products identified in Registration No. 3,206,498 as of October 21, 2012.

RESPONSE: Please see attached document

REQUEST NO. 4: All documents and things which reflect, refer to, relate to evidence or concern the consumer understanding of, the consumer acceptance of, consumer reaction to, or the trademark availability of the designation THORO for Applicant's products identified in Serial No. 85/956,925.

RESPONSE: Please see attached document

REQUEST NO. 5: All documents and things which reflect, refer to, relate to, evidence or concern any trademark use or use analogous to trademark use of THORO (including any composite terms or designs incorporating the designation "THORO") occurring on or before June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

RESPONSE: Please see attachment

REQUEST NO. 6: Representative documents and things which reflect, refer to, relate to or concern any trademark use or use analogous to trademark use of THORO (including any composite terms incorporating the designation "THORO"), occurring after June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

RESPONSE: Please see attachment

REQUEST NO. 7: All documents and things which reflect, refer to, relate to or evidence any searches conducted by or on behalf of Applicant concerning the designation THORO, and any opinions requested or received by Applicant regarding the right to use and/or to register the designation THORO in the United States in connection with the products and identified in Application Serial No. 85/956,925 or for any other products or services offered by Applicant.

RESPONSE: The requested documentation is not currently available at this time.

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

REQUEST NO. 8: Representative documents and things which reflect, refer to, relate to or concern advertising and/or promotional and/or marketing activity carried on or planned by Applicant in connection with any of Applicant's products and services, including those products identified in application Serial No. 85/956,925, on which or in connection with which the designation "THORO" has been used or is intended to be used in any fashion by Applicant.

RESPONSE: The requested documentation is not currently available at this time.

REQUEST NO. 9: Representative documents and things which reflect, refer to, relate to or concern any and all trade shows, professional shows, professional meetings, seminars and conventions where Applicant, or another on Applicant's behalf, has promoted or offered for sale products and/or services, or is scheduled to promote or offer for sale products and/or services, which products and/or services are offered by Applicant or which products are covered by application Serial No. 85/956,925 and where such products and/or services are identified by the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

RESPONSE: Please see attached document.

REQUEST NO. 10: Representative documents sufficient to show the actual or projected annual dollar volume of Applicant's sales in the United States of each of the products identified in application Serial No. 85/956,925, if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO"), from the first sale of each such product to the present.

RESPONSE: Requested documents are not currently available at this time.

REQUEST NO. 11: Representative documents sufficient to show the actual or projected annual advertising and promotional expenditures in the United States by or on behalf of Applicant relating to the promotion of any products and/or services offered by Applicant, including those products identified in application Serial No. 85/956,925 if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

RESPONSE: These documents are currently not available at this time.

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

REQUEST NO. 12: Representative documents and things which reflect, refer to, relate to or evidence the date the designation "THORO" was first used by or on behalf of Applicant, for each product and/or service identified in response to Interrogatory No. 1.

RESPONSE: The requested documents are currently not available at this time.

REQUEST NO. 13: All documents and things which reflect, refer to, relate to or evidence any and all surveys or reports of consumer understanding, recognition or perception of any mark or designation consisting of or incorporating the designation "THORO" or Opposer's THORO mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE: Not available

REQUEST NO. 14: All documents and things which reflect, refer to, relate to or evidence any and all surveys, reports or opinions concerning consumer confusion or likelihood of confusion as between Applicant's use or proposed use of THORO for any goods and/or services and Opposer's THOR mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE: None

REQUEST NO. 15: All documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 4 which requests, among other things, the identification of all instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between Applicant's use or proposed use of "THORO" and Opposer's use of THOR.

RESPONSE: None

REQUEST NO. 16: To the extent no produced in response to Request No. 15, all documents and things which reflect, refer to or concern any mail (including electronic mail), telephone calls, checks, orders, inquiries, payments, complaints, deliveries or other communications or materials which were received by Applicant but which were address to or which appeared to have been intended for Opposer or which relate to Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE: none available at this time

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

REQUEST NO. 17: All documents and things which concern, reflect, refer to, relate to or mention Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE: none available at this time

REQUEST NO. 18: Representative documents and things which reflect, refer to, relate to or concern any state or federal trademark applications filed by Applicant which would cover any marks consisting of or including the designation "THORO" for any of the products and/or services.

RESPONSE: Please see attached document.

REQUEST NO. 19: Representative documents and things which reflect, refer to, relate to or concern advertising agency or public relations firm activity, including correspondence, for any of the products and/or services of Applicant, including those products identified in application Serial No. 85/956,925, offered or to be offered under the designation

Without waiving any objections, all non- Applicant's possession will be made available for inspection and copying.

"THORO."

RESPONSE: Please see attached document

REQUEST NO. 20: To the extent not provided in response to an earlier request, all documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 5.

RESPONSE: Please see attached document

REQUEST NO. 21: To the extent not provided in response to an earlier request, documents sufficient to show all channels of trade through which Applicant's products and/services, offered or to be offered under the designation "THORO" move or will move and the marketing channels used or intended to be used by Applicant for such products and/or services.

RESPONSE: Please see attached document.

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

REQUEST NO. 22: Documents sufficient to show or reflect the nature of the purchasers to whom Applicant markets, or to whom Applicant intends to market any of its "THORO" products and/or services, including those products identified in application Serial No. 85/956,925.

RESPONSE: Athletes and fitness enthusiasts. Please see attached document.

REQUEST NO. 23: To the extent not produced in response to an earlier request, a representative example of each different advertisement or promotional item presently distributed by or for Applicant, or which is planned to be distributed by or for Applicant, that mentions, identifies or describes any products and/or services offered by Applicant, including those identified in application Serial No. 85/956,925, and which are offered or are to be offered by Applicant under the designation "THORO."

RESPONSE: The requested documentation is not currently available at this time.

REQUEST NO. 24: Representative documents and things which reflect, refer to, relate to or concern any licenses taken or given by Applicant or contemplated by Applicant (or any predecessor of Applicant) relating to the designation "THORO."

RESPONSE; RESPONSE: The requested documentation is not currently available at this time.

REQUEST NO. 25: Representative documents and thing which reflect, refer to, relate to or concern any assignments taken or given by Applicant (or any predecessor of Applicant) which relate to the designation "THORO."

RESPONSE: The requested documentation is not currently available at this time.

REQUEST NO. 26: Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 9.

RESPONSE:

All non- Applicant's possession will be made available for inspection and copying.

Applicant objects to this request on the grounds that it is vague, overbroad, unduly burdensome and oppressive, and not calculated to lead to the discovery of admissible evidence. Without waiving any objections, all non-privileged responsive documents in Applicant's possession will be made available for inspection and copying.

THOROSPORTSWEAR INVESTOR PROSPECTUS INPUTS

REQUEST NO. 27: Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 10.

RESPONSE: Please see attachment

To the extent not otherwise produced, all documents mentioned or identified in response to Opposer's First Set of Interrogatories No. 1-16 to Applicant.

RESPONSE: Please see attached document

Respectfully submitted,

LeMar Lewis

LeMar Lewis

33 West Trade Street unit 100

Charlotte N.C 27708

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent, via email, to Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102, on this 5th day of May, 2015.

/LeMar Lewis /

Exhibit 8

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

LeMans Corporation,)	
	)	Opposition No. 91214578
Opposer,)	
)	
V.	)	Mark: THORO
	)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

OPPOSER’S SECOND SET OF INTERROGATORIES NOS. 17- 22 TO APPLICANT

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, and Rule 2.120 of the Trademark Rules of Practice, Opposer, LeMans Corporation, requests that Applicant, Lemar Xavier Lewis, serve upon Opposer (by email as agreed to between the parties) sworn answers to the interrogatories set forth below within thirty (30) days after service, in accordance with the Trademark Rules of Practice. These interrogatories are intended to be continuing in nature and any information which may be discovered subsequent to the service and filing of the answers should be brought to the attention of the Opposer through supplemental answers within a reasonable time following such discovery. Opposer adopts the definitions and instructions set forth in Opposer’s First Set of Interrogatories Nos. 1-16 to Applicant.

INTERROGATORIES

INTERROGATORY NO. 17

Identify by name, date and location each and every “sales event,” “tradeshaw” and/or “promotional event” identified in Applicant’s Response to Interrogatory No. 7.

RESPONSE:

INTERROGATORY NO. 18

Identify by name, date and location each and every “sales event” identified in Applicant’s response to Interrogatory No. 8.

RESPONSE:

INTERROGATORY NO. 19

Identify by url address each and every “web site” referenced in Applicant’s response to Interrogatory No. 8 and the dates such web site(s) have been active.

RESPONSE:

INTERROGATORY NO. 20

Identify by name, location and address each of the “sportswear retailers” identified in Applicant’s Response to Interrogatory No. 12.

RESPONSE:

INTERROGATORY NO. 21

Identify by name, location and address each and every supplier of textile and/or finished clothing items, or labels or tags for any product sold under the designation THORO by Applicant.

RESPONSE:

INTERROGATORY NO. 22

Identify each and every company name and/or individual name used by Applicant in connection with the sale of any product under the designation THORO

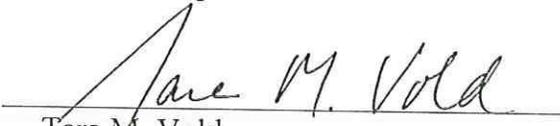
RESPONSE:

Respectfully submitted,

LeMans Corporation

Date: June 10, 2015

By:

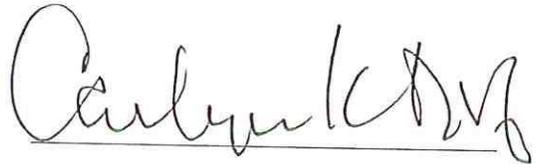

Tara M. Vold
J. Paul Williamson
VOLD & WILLIAMSON PLLC
8251 Greensboro Drive, Suite 340
McLean, VA 22012
571-395-4630

Attorneys for the Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S SECOND SET OF INTERROGATORIES was served via first class mail and email on this 10th day of June, 2015 upon the following:

Lemar X. Lewis
33 West Trade Street
Suite 2100
Charlotte, NC 28202
lemarlewis@hotmail.com



Carolyn K. Tourbaf

Exhibit 9

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

LeMans Corporation,)	
	)	Opposition No. 91214578
Opposer,)	
)	
V.	)	Mark: THORO
	)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

OPPOSER'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, LeMans Corporation, hereby requests that Applicant, Lemar Xavier Lewis, produce for inspection and copying at the offices of counsel for Opposer, Vold & Williamson PLLC, 8251 Greensboro Drive, Suite 340, McLean VA, 22102, within thirty (30) days following the date of service of these requests, or at such other time, place or method as the parties may mutually agree upon.

For purposes of Opposer's First Request for Production of Documents, Opposer adopts the definitions and instructions set forth in Opposer's First Set of Interrogatories Nos. 1-16 to Applicant.

If privilege is claimed as to any document, Applicant shall fully identify the document as to date, name and capacity of the author(s), the name and capacity of all addressees, and the subject and general nature of the document (as "letter" or "opinion"). The ground for the claim of privilege shall also be given (such as attorney-client privilege, work product privilege, etc.).

REQUESTS

Opposer requests production of the following:

(17) Sales records for each of the years 2001-2015 for any product alleged to have been sold under the designation THORO by Applicant.

(18) Records of advertising expenditures for for each of the years 2001-2015 for any product offered under the designation THORO by Applicant.

(19) Records of marketing expenditures for each of the years 2001-2015 for any product offered under the designation THORO by Applicant.

(20) Any and all Agreements for each of the years 2001-2015 with suppliers to Applicant of the textiles and/or finished clothing items used in connection with any product sold under the designation THORO by Applicant.

(21) Any and all Agreements for each of the years 2001-2015 with suppliers to Applicant of any labels for any product sold under the designation THORO by Applicant.

(22) Any documents relating to Applicant's purchase of labels bearing the mark THORO.

(23) Any documents, including invoices, relating to Applicant's purchase of clothing items on which the THORO mark has been applied.

(24) Any documents relating to who applied, and how they applied, the THORO mark to any clothing items offered or sold by Applicant.

(25) Applicant's tax records for each of the years 2001-2015 which reflect any expenses incurred and/or income received for any product sold under the designation THORO by Applicant.

(26) The tax records for any company for which Applicant is a principal for each of the years 2001-2015 which reflect any expenses incurred and/or income received for any product sold under the designation THORO by Applicant.

(27) The Applicant's records for complying with any state sales tax obligations for sale of any products offered under the designation THORO, including but not limited to North Carolina and South Carolina from 2001-2015.

(28) Any and all documents things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 19.

(29) Any and all documents related to any catalog requested from, or prepared by, Nimbus Media Group LLC for Applicant or for THORO Clothing Limited.

(30) Any and all records relating to Applicant's registration with any State Department of Revenue (or comparable agency) in connection with Applicant's retail sales of tangible personal property.

(31) Any and all licenses permits, or requests from licenses or permits by Applicant for purposes of making retail sales of any product offered under the designation THORO by Applicant.

(32) Any and all documents relating to or consisting of the “Thorosprotsweat Investor Prospectus Inputs.”

(33) To the extent not otherwise produced, all documents mentioned or identified in response to Opposers’ Second Set of Interrogatories No. 17-22 to Applicant.

Respectfully submitted,

LeMans Corporation

Date: June 10, 2015

By:



Tara M. Vold

J. Paul Williamson

VOLD & WILLIAMSON PLLC

8251 Greensboro Drive, Suite 340

McLean, VA 22012

571-395-4630

Attorneys for the Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S SECOND SET OF DOCUMENT REQUESTS was served via first class mail and email on this 10th day of June, 2015 upon the following:

Lemar X. Lewis
33 West Trade Street
Suite 2100
Charlotte, NC 28202
lemarlewis@hotmail.com

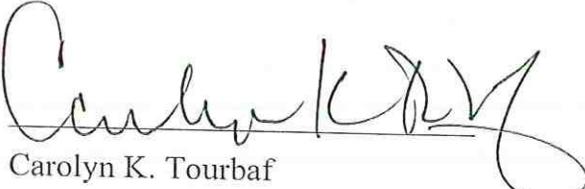

Carolyn K. Tourbaf

Exhibit 10

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

LeMans Corporation,)	
	)	Opposition No. 91214578
Opposer,)	
)	
V.	)	Mark: THORO
	)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

OPPOSER’S LEMANS CORPORATION’S FIRST SET OF REQUESTS TO ADMIT

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120(h) of the Trademark Rules of Practice, Opposer, LeMans Corporation, hereby requests that Applicant, Lemar Xavier Lewis, admit or deny the following requests for admission (“Requests”) by serving written responses thereto on Opposer’s counsel (by email as agreed to by the parties) within thirty (30) days after service, in accordance with the Trademark Rules of Practice. Opposer adopts the definitions and instructions set forth in Opposer’s First Set of Interrogatories Nos. 1-16 to Applicant.

IF APPLICANT FAILS TO SPECIFICALLY ADMIT OR DENY ANY OF THE REQUESTS, OR SET FORTH WITH PARTICULARITY THE REASONS WHY REGISTRANT CANNOT ADMIT OR DENY THE REQUESTS, THE REQUEST WILL BE DEEMED ADMITTED.

REQUESTS TO ADMIT

1. Admit that Charles Lewis is a relative of Applicant.

2. Admit that Charles Lewis is a not an employee of Applicant.
3. Admit that Rasheed Wiggins is a relative of Applicant.
4. Admit that Rasheed Wiggins is a not an employee of Applicant.
5. Admit that none of the photographs produced by Applicant (THO 00004-00007) were taken after August 3, 2010.
6. Admit that the web site materials produced by Applicant (THO 00008-00010) were not accessible through the url www.thorowear.com after September 2011.
7. Admit that the phone number listed on the web site materials produced at THO 00008 does not lead to a number for the Thoro Clothing Company
8. Admit that the phone number listed on the web site materials produced at THO 00008 does not lead to a number for any business owned or operated by Applicant which sells any product under the designation THORO.
9. Admit that Applicant is the owner/operator of the thorowear.com domain name.
10. Admit that the website www.thorowear.com has not been active since September 2011.
11. Admit that Applicant is the owner/operator of the thorosportswear.com domain name.
12. Admit that the website www.thorosportswear.com does not currently display information relating to any product sold under the designation THORO by Applicant.
13. Admit that the website www.thorosportswear.com has never displayed information relating to any product sold under the designation THORO by Applicant.
14. Admit that Applicant is the owner/operator of the thorohats.com domain name.
15. Admit that the website www.thorohats.com has never displayed information relating to any product sold under the designation THORO by Applicant.

16. Admit that the documents produced by Applicant to date (THO00001-00017) contain no records of any sales of products sold by Applicant under the THORO mark.
17. Admit that Applicant has no sales records, including invoices, or receipts for products sold by Applicant under the THORO mark.
18. Admit that Applicant has no sales records, including invoices, or receipts for products sold by Applicant under the THORO mark in interstate commerce.
19. Admit that the documents produced by Applicant to date (THO 00001-00017) contain no records of advertising expenditures relating to products sold by Applicant under the THORO mark.
20. Admit Applicant has no documents reflecting any advertising expenditures relating to products sold by Applicant under the THORO mark.
21. Admit that the documents produced by Applicant to date (THO 00001-00017) contain no records to evidence the first date the designation THORO was used by, or on behalf of, Applicant.
22. Admit Applicant has no documents identifying the alleged date of first use in commerce in the opposed Application Ser. No. 85/956,925 relating to products sold by Applicant under the THORO mark.
23. Admit that no other documents exist in response to Document Request No. 2 beyond the documents previously produced by Applicant THO 00001-00017
24. Admit that no other documents exist in response to Document Request No. 3 beyond the documents previously produced by Applicant THO 00001-00017.
25. Admit that no other documents exist in response to Document Request No. 5 beyond the documents previously produced by Applicant THO 00001-00017.

26. Admit that no other documents exist in response to Document Request No. 6 beyond the documents previously produced by Applicant THO 00001-00017.
27. Admit that no other documents exist in response to Document Request No. 8 beyond the documents previously produced by Applicant THO 00001-00017.
28. Admit that the specimen of use for Application Ser. No.85/956,925 filed for the mark THORO on June 11, 2013 consisted of a picture of a standalone label not attached to a product actually sold under the designation THORO by Applicant.
29. Admit that the specimen of use for App. No. 86/367,828 filed on August 15, 2014 for THORŌ consisted of a picture of a standalone label not attached to a product actually sold under the designation THORŌ by Applicant.
30. Admit that the specimen supporting the Section 8 Affidavit for Reg. No. 3,206,498 for ~~thoro~~ filed October 21, 2013 consisted of a picture of a standalone label not attached to a product actually sold under the designation ~~thoro~~ by Applicant.
31. Admit that Applicant has not provided to the United States Patent and Trademark Office any photographs of any product sold under the designation THORO, THORŌ or ~~thoro~~ by Applicant since the submission of Applicant's Statement of Use for Reg. No. 3,206,498 on October 4, 2006.
32. Admit that the photographs of the products provided to support the Statement of Use for Reg. No. 3,206,498 submitted on October 4, 2006 reflect that the THORŌ label was sewn over the existing label or manufacturer's tag.
33. Admit that Applicant has never collected sales tax in connection with any product actually sold under the designation THORO by Applicant.

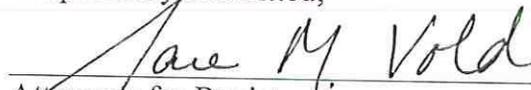
34. Admit that Applicant has never paid sales tax to any state agency in connection with any product actually sold under the designation THORO by Applicant.
35. Admit that Applicant has never registered with any state revenue or tax agency as a retailer of tangible personal property.
36. Admit that Applicant has never reported sales income or revenue in connection with any product actually sold under the designation THORO by Applicant.
37. Admit that Applicant has never obtained a license or permit from any state, municipality or other governmental department in connection with any product actually sold under the designation THORO by Applicant.
38. Admit that Applicant has never reported sales income or revenue in connection with any product actually sold under the designation THORO by Applicant.
39. Admit Applicant had not sold in commerce any t-shirts with the THORO mark as of January 27, 2003.
40. Admit Applicant had not sold in commerce any tank tops with the THORO mark as of January 27, 2003.
41. Admit Applicant had not sold in commerce any polo shirts with the THORO mark as of January 27, 2003.
42. Admit Applicant had not sold in commerce any hats with the THORO mark as of January 27, 2003.
43. Admit Applicant had not sold in commerce any undershirts with the THORO mark as of January 27, 2003.
44. Admit Applicant had not sold in commerce any jerseys with the THORO mark as of January 27, 2003.

45. Admit that applicant has no receipts or invoices for sales in commerce of any t-shirts with the THORO mark prior to January 27, 2003.
46. Admit that applicant has no receipts or invoices for sales in commerce of any tank tops with the THORO mark prior to January 27, 2003.
47. Admit that applicant has no receipts or invoices for sales in commerce of any polo shirts with the THORO mark prior to January 27, 2003.
48. Admit that applicant has no receipts or invoices for sales in commerce of any hats with the THORO mark prior to January 27, 2003.
49. Admit that applicant has no receipts or invoices for sales in commerce of any undershirts with the mark prior to January 27, 2003.
50. Admit that applicant has no receipts or invoices for sales in commerce of any jerseys with the mark prior to January 27, 2003.
51. Admit Applicant had not sold in commerce any athletic shorts with the THORO mark as of June 11, 2013.
52. Admit Applicant had not sold in commerce any baseball caps with the THORO mark as of June 11, 2013.
53. Admit Applicant had not sold in commerce any hats with the THORO mark as of June 11, 2013.
54. Admit Applicant had not sold in commerce any t-shirts with the THORO mark as of June 11, 2013.
55. Admit that applicant has no receipts or invoices for sales in commerce of any athletic shorts with the THORO mark prior to June 11, 2013.

56. Admit that applicant has no receipts or invoices for sales in commerce of any baseball caps with the THORO mark prior to June 11, 2013.
57. Admit that applicant has no receipts or invoices for sales in commerce of any hats with the THORO mark prior to June 11, 2013.
58. Admit that applicant has no receipts or invoices for sales in commerce of any t-shirts with the THORO mark prior to June 11, 2013.
59. Admit Applicant had not sold in commerce any hooded sweatshirts with the THORO mark as of August 15, 2014.
60. Admit that Applicant has no receipts or invoices for sales in commerce of any hooded sweatshirts with the THORO mark prior to August 15, 2014.

Date: June 10, 2015

Respectfully submitted,

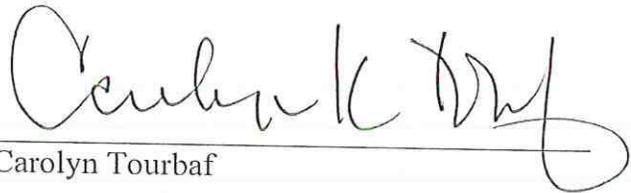


Attorneys for Registrant
Tara M. Vold, Esq.
J. Paul Williamson, Esq.
Vold & Williamson PLLC
8251 Greensboro Drive
Suite 340
McLean VA 22102

CERTIFICATE OF SERVICE

I hereby certify that OPPOSER'S FIRST SET OF REQUESTS TO ADMIT was served
was served via first class mail and email on this 10th day of June, 2015 upon the following:

Lemar X. Lewis
33 West Trade Street
Suite 2100
Charlotte, NC 28202
lemarlewis@hotmail.com

A handwritten signature in black ink, appearing to read "Carolyn Tourbaf", written over a horizontal line.

Carolyn Tourbaf

Exhibit 11

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

LeMans Corporation, : Opposer, :

v.

: Opposition No. 91214578

: LeMar Xavier Lewis, : Applicant. :

Applicant (Updated) Responses

To Opposer's First Set of Interrogatories & Document Request No.'s

2,3,7,8,,10,11,12,13,16,17,19,23,24,25,26,

INTERROGATORY NO. 2:

Identify the person or persons in the employ of or associated in any manner with Applicant most knowledgeable with respect to the following: Selection and adoption of the designation "THORO" for the products set forth in application Serial NO. 85/956,925; The current uses and intended uses of the designation "THORO" (including any composite or design presentations); and Any sales and advertising, or intended sales and advertising of any of the products identified in application Serial No. 85/956,925 or any services offered or to be offered under the designation "THORO" (including any composite or design terms incorporating the designation "THORO").

RESPONSE:

Diondre Lewis 33 west trade street suite 100 Charlotte N.C 27708 Investor/

Jason Alphonso. / Consultant / 407-466-7846

INTERROGATORY NO. 3

All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the THORO mark set forth in Registration No. 3, 206,498 ("the THORO Design") by, or on behalf of, Applicant for the products identified in Registration No. 3,206,498 as of October 21, 2012.

Response: See attached document

INTERROGATORY NO. 13:

Identify all bases that Applicant shall rely upon for the Applicant's assertions in Affirmative Defenses No. 1 that:

- (a) Opposer's Registrations are directed to goods and/or services which are "distinguishable" from the Applicant's goods;
- (b) Opposer's Registrations are directed to channels of trade which are "distinguishable" from the Applicant's channels of trade; and
- (c) Opposer's Registrations are directed to consumers who are "distinguishable" from the Applicant's consumers.

Response

- (a) Opposer offers clothing related to the motorsports industry applicant does not
- (b) Opposer offers clothing related to the motorsports industry applicant does not
- (c) Opposer offers clothing related to the motorsports industry applicant does not

REQUEST NO. 7:

All documents and things which reflect, refer to, relate to or evidence any searches conducted by or on behalf of Applicant concerning the designation THORO, and any opinions requested or received by Applicant regarding the right to use and/or to register the designation THORO in the United States in connection with the products and identified in Application Serial No. 85/956,925 or for any other products or services offered by Applicant.

RESPONSE: No such document exist

INTERROGATORY NO. 8

Representative documents and things which reflect, refer to, relate to or concern advertising and/or promotional and/or marketing activity carried on or planned by Applicant in connection with any of Applicant's products and services, including those products identified in application Serial No. 85/956,925, on which or in connection with which the designation "THORO" has been used or is intended to be used in any fashion by Applicant.

RESPONSE: No such document exist

REQUEST NO. 10:

Representative documents sufficient to show the actual or projected annual dollar volume of Applicant's sales in the United States of each of the products identified in application Serial No. 85/956,925, if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO"), from the first sale of each such product to the present.

RESPONSE: No such document exist

REQUEST NO. 11:

Representative documents sufficient to show the actual or projected annual advertising and promotional expenditures in the United States by or on behalf of Applicant relating to the promotion of any products and/or services offered by Applicant, including those products identified in application Serial No. 85/956,925 if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

RESPONSE: No such document exist

INTERROGATORY NO. 12

Representative documents and things which reflect, refer to, relate to or evidence the date the designation "THORO" was first used by or on behalf of Applicant, for each product and/or service identified in response to Interrogatory No. 1

RESPONSE: No such document exist

INTERROGATORY NO. 13

All documents and things which reflect, refer to, relate to or evidence any and all surveys or reports of consumer understanding, recognition or perception of any mark or designation consisting of or incorporating the designation "THORO" or Opposer's THORO mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE: No such document exist

INTERROGATORY NO. 16

To the extent no produced in response to Request No. 15, all documents and things which reflect, refer to or concern any mail (including electronic mail), telephone calls, checks, orders, inquiries, payments, complaints, deliveries or other communications or materials which were received by Applicant but which were address to or which appeared to have been intended for Opposer or which relate to Opposer's products and/or services offered under Opposer's THOR Marks

RESPONSE. No such documents exist

REQUEST NO. 17:

All documents and things which concern, reflect, refer to, relate to or mention Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE. No such documents exist

REQUEST NO. 19:

Representative documents and things which reflect, refer to, relate to or concern advertising agency or public relations firm activity, including correspondence, for any of the products and/or services of Applicant, including those products identified in application Serial No. 85/956,925, offered or to be offered under the designation

RESPONSE: No such documents exist

REQUEST NO. 23:

To the extent not produced in response to an earlier request, a representative example of each different advertisement or promotional item presently distributed by or for Applicant, or which is

planned to be distributed by or for Applicant, that mentions, identifies or describes any products and/or services offered by Applicant, including those identified in application Serial No. 85/956,925, and which are offered or are to be offered by Applicant under the designation "THORO."

RESPONSE : No such document exist

REQUEST NO. 24:

Representative documents and things which reflect, refer to, relate to or concern any licenses taken or given by Applicant or contemplated by Applicant (or any predecessor of Applicant) relating to the designation "THORO."

RESPONSE: No such document exist

REQUEST NO. 25: Representative documents and thing which reflect, refer to, relate to or concern any assignments taken or given by Applicant (or any predecessor of Applicant) which relate to the designation "THORO."

RESPONSE: No such document exist

REQUEST NO. 26:

Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 9.

RESPONSE: No such documents exist

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent, via email, to Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102, on this 20th day of July, 2015.

LeMar Lewis

33 West Trade Street unit 100

Charlotte N.C 27708

Lemar Lewis 7-20-2015

Lemar Lewis

Exhibit 12

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

LeMans Corporation,

: Opposer, :

v.

: Opposition No. 91214578

LeMar Xavier Lewis, :

Applicant. :

Applicants Response To Opposer's Interrogatories 1-16

INTERROGATORY NO. 1

Identify with each product and/or service promoted or sold, or proposed to be promoted or sold by Applicant (see definitions and instructions) under the designation

"THORO" (see definitions and instructions) at any time in the United States,

Response:

Sportswear, Gym Bags, Headware, eyewear, sports/athletic/gym equipment, body care products, jewelry, fragrances

INTERROGATORY NO. 2

Identify the person or persons in the employ of or associated in any manner with Applicant most knowledgeable with respect to the following.

Selection and adoption of the designation "THORO" for the products set forth in application Serial No. 85/956,925; the current uses and any intended uses of the designation "THORO" (including any composite or design presentations); and any sales and advertising, or intended sales and advertising of any of the products identified in application Serial No. 85/956,925 or any services offered or to be offered under the designation "THORO" (including any composite or design terms incorporating the designation "THORO").

Response:

Diondre Lewis

Jason Alphonso

Rasheed Wiggins

Charlie Lewis

INTERROGATORY NO. 3

Identify each publication and broadcast advertisement (e.g., radio, television, email, web site) authorized by or on behalf of Applicant in which any of the goods and/or services identified in application Serial No. 85/956,925 have been offered under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO") by identifying the following:

The title(s) and date(s) of each publication in which any advertisement appeared or is scheduled to appear; and

Each actual or scheduled broadcast by date(s), and station(s) or web site(s), and whether the broadcast was or will be on radio, television or computer.

Response:

Thoro "Willis Mcgahee" television advertising 2007

Daunte Culpepper Television add 'ESPN" 2007

Thorowear.com company website

Storenv.com/thorosportswear

INTERROGATORY NO. 4

Identify any instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between its use of "THORO" (including any composite or stylized terms incorporating the designation 'THORO") for any goods and/or services and Opposer's use of THOR, by identifying for each such instance the following:

the date of such instance and the person or entity confused; the nature of the confusion; and the person in Applicant's organization to whom the instance was reported or to whose attention the instance was first brought.

Response

None to my knowledge

INTERROGATORY NO. 5

Identify (see definitions and instructions) all third persons using, applying for or having registered any mark or designation incorporating the term "THORO", "THOR" or a phonetic equivalent to 'THOR" that Applicant shall rely on in support of any claimed affirmative defenses in Applicant's Answer. On such uses, applications or registrations and state: (a) the mark/designation being used and/or the mark applied for or registered the goods and/or services offered or proposed to be offered under the mark/designation, and when Applicant first became aware of such use, application or registration.

Response

None to my knowledge

INTERROGATORY NO. 6

Identify the activity which provided the basis for the claim of bona fide use of the THORO mark in commerce on September 5, 2001 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

Response:

The production of clothing and apparel with a label "Thoro" on tags namely labels on the apparel. Products were sold face to face to family, friends, close associates and at times the general public.

INTERROGATORY NO. 7

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on June 11, 2013 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

Response:

*Sales events, tradeshow, promoting at various venues, celebrity promotions, signs and banner product.

INTERROGATORY NO. 8

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on October 21, 2012 as reflected in Registration No. 3,206,498, specifically including the nature of the use and the point of sale for any alleged products.

Response:

· Website, various sales events

INTERROGATORY NO. 9

Identify any and all periods of non-use of the THORO mark since the claim of bona fide use in commerce on September 5, 2001. 3,206,498

Response:

*None

INTERROGATORY NO. 10

Identify the reason that a Section 15 Affidavit of Incontestability was not filed with the Section 8 Continued Use Affidavit on October 21, 2012 in connection with Registration No. 3,206,698

Response:

Applicant chose not to complete the section 15 filing.

INTERROGATORY NO. 11

Describe when and by what means Applicant first became aware of Opposer's THOR products and/or services. Further, identify the person or persons who first became aware of Opposer's THOR products and/or services.

Response

2009 -2010

INTERROGATORY NO. 12

Describe with particularity all of the channels of trade in or through which Applicant markets and sells, or intends to market and sell, under the designation "THORO" any of the products and/or services offered by Applicant,

Response

Website, various sales events , sportswear retailers..

INTERROGATORY NO. 13

Identify all bases that Applicant shall rely upon for the Applicant's assertions in Affirmative Defense No. 1 that:

1. Opposer's Registrations are directed to goods and/or services which are are "distinguishable" from the Applicant's goods;
2. Opposer's Registrations are directed to channels of trade which are are "distinguishable" from the Applicant's channels of trade; and
3. Opposer's Registrations are directed to consumers who are "distinguishable" from the Applicant's consumers;

Response

(a) Opposers offers clothing that are related to the motorsports industry:
Applicant does not

(b) Opposers offers clothing that are related to the motorsports industry:
Applicant does not

(c) Opposers offers clothing that are related to the motorsports industry:
Applicant does not

INTERROGATORY NO. 14

Identify with particularity how, if at all, Applicant plans to market any of the products and/or services offered under the THORO name or mark to any consumer base or market.

Response:

Website, Social Media, Flyers, Brochures, Print Ads, Radio ads, Television Ads, Celebrity endorsements

INTERROGATORY NO. 15

Identify (a) all authorized licensees of the THORO marks; and (b) any assignments to which Applicant is a party that relate to the THORO marks.

Response

None

INTERROGATORY NO. 16

Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or the Opposer's First Request for production of documents.

Response: None

Respectfully,

LeMar Lewis

33 W. Tradestreet Suite 2100

Charlotte N.C 27708

lemarlewis@hotmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served via electric mail on this 28th day Of October, 2015 upon the following:

Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102

Signed *Tara M. Vold*

Date 10-28-2015

Exhibit 13

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

LeMans Corporation, : Opposer, :

v.

: Opposition No. 91214578

: LeMar Xavier Lewis, : Applicant. :

APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Applicant responds as follows:

REQUEST NO. 1: All documents and things which reflect, refer to, relate to, concern or support the claimed first use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 85/956,925 on September 5, 2001.

RESPONSE: See signed witness statements of first hand knowledge of proof of claimed first in use date. Due to the extent of time that has elapsed since the the time of first use , additional forms of documentation that could support claim of use could be obtained.

Witnesses Rasheed Wiggins/ Charlie Lewis

REQUEST NO. 2:

All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the mark THORO by, or on behalf of, Applicant with regard to the products identified in Application Serial No. 85/956,925 as of June 11, 2013.

RESPONSE: Requested "visual" documentation is not available." The standard mark Serial No. 85/956,925THORO" was affixed to the inside of the neck collar and inside labeling of apparel .

REQUEST NO. 3: All documents and things which reflect, refer to, relate to, concern or support the claimed continued use of the THORO mark set forth in Registration No. 3, 206,498 ("the THORO Design") by, or on behalf of, Applicant for the products identified in Registration No. 3,206,498 as of October 21, 2012.

RESPONSE: The standard mark Serial No. 85/956,925THORO" was affixed to the inside of the neck collar and inside labeling of apparel

REQUEST NO. 4: All documents and things which reflect, refer to, relate to evidence or concern the consumer understanding of, the consumer acceptance of, consumer reaction to, or the trademark availability of the designation THORO for Applicant's products identified in Serial No. 85/956,925.

RESPONSE: The standard mark Serial No. 85/956,925THORO" was affixed to the inside of the neck collar and inside labeling of apparel.

REQUEST NO. 5: All documents and things which reflect, refer to, relate to, evidence or concern any trademark use or use analogous to trademark use of THORO (including any composite terms or designs incorporating the designation "THORO") occurring on or before June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

RESPONSE: The standard mark Serial No. 85/956,925THORO" was affixed to the inside of the neck collar and inside labeling of apparel.

REQUEST NO. 6: Representative documents and things which reflect, refer to, relate to or concern any trademark use or use analogous to trademark use of THORO (including any composite terms incorporating the designation "THORO"), occurring after June 11, 2013 by or on behalf of Applicant, for any products and/or services offered by Applicant.

RESPONSE: The standard mark Serial No. 85/956,925THORO" was affixed to the inside of the neck collar and inside labeling of apparel

REQUEST NO. 7: All documents and things which reflect, refer to, relate to or evidence any searches conducted by or on behalf of Applicant concerning the designation THORO, and any opinions requested or received by Applicant regarding the right to use and/or to register the designation THORO in the United States in connection with the products and identified in Application Serial No. 85/956,925 or for any other products or services offered by Applicant.

RESPONSE: These documents do not exist for standard THORO mark Serial No. 85/956,925

REQUEST NO. 8: Representative documents and things which reflect, refer to, relate to or concern advertising and/or promotional and/or marketing activity carried on or planned by Applicant in connection with any of Applicant's products and services, including those products identified in application Serial No. 85/956,925, on which or in connection with which the designation "THORO" has been used or is intended to be used in any fashion by Applicant.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 9: Representative documents and things which reflect, refer to, relate to or concern any and all trade shows, professional shows, professional meetings, seminars and conventions where Applicant, or another on Applicant's behalf, has promoted or offered for sale products and/or services, or is scheduled to promote or offer for sale products and/or services, which products and/or services are offered by Applicant or which products are covered by application Serial No. 85/956,925 and where such products and/or services are identified by the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

RESPONSE: These documents do not exist for standard THORO mark Serial No. 85/956,925

REQUEST NO. 10: Representative documents sufficient to show the actual or projected annual dollar volume of Applicant's sales in the United States of each of the products identified in application Serial No. 85/956,925, if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO"), from the first sale of each such product to the present.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 11: Representative documents sufficient to show the actual or projected annual advertising and promotional expenditures in the United States by or on behalf of Applicant relating to the promotion of any products and/or services offered by Applicant, including those products identified in application Serial No. 85/956,925 if any, under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO").

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 12: Representative documents and things which reflect, refer to, relate to or evidence the date the designation "THORO" was first used by or on behalf of Applicant, for each product and/or service identified in response to Interrogatory No. 1.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 13: All documents and things which reflect, refer to, relate to or evidence any and all surveys or reports of consumer understanding, recognition or perception of any mark or designation consisting of or incorporating the designation "THORO" or Opposer's THORO mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 14: All documents and things which reflect, refer to, relate to or evidence any and all surveys, reports or opinions concerning consumer confusion or likelihood of confusion as between Applicant's use or proposed use of THORO for any goods and/or services and Opposer's THOR mark that Applicant has ever conducted, prepared or had conducted or prepared.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 15: All documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 4 which requests, among other things, the identification of all instances of actual confusion, mistake or deception known to

Applicant as to the source or origin, a sponsorship or an association as between Applicant's use or proposed use of "THORO" and Opposer's use of THOR.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 16: To the extent no produced in response to Request No. 15, all documents and things which reflect, refer to or concern any mail (including electronic mail), telephone calls, checks, orders, inquiries, payments, complaints, deliveries or other communications or materials which were received by Applicant but which were address to or which appeared to have been intended for Opposer or which relate to Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 17: All documents and things which concern, reflect, refer to, relate to or mention Opposer's products and/or services offered under Opposer's THOR Marks.

RESPONSE: These documents do not exist.

REQUEST NO. 18: Representative documents and things which reflect, refer to, relate to or concern any state or federal trademark applications filed by Applicant which would cover any marks consisting of or including the designation "THORO" for any of the products and/or services.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 19: Representative documents and things which reflect, refer to, relate to or concern advertising agency or public relations firm activity, including correspondence, for any of the products and/or services of Applicant, including those products identified in application Serial No. 85/956,925, offered or to be offered under the designation without waiving any objections, all non- Applicant's possession will be made available for inspection and copying.

"THORO."

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 20: To the extent not provided in response to an earlier request, all documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 5.

RESPONSE: These documents do not exist.

REQUEST NO. 21: To the extent not provided in response to an earlier request, documents sufficient to show all channels of trade through which Applicant's products and/services, offered or to be offered under the designation "THORO" move or will move and the marketing channels used or intended to be used by Applicant for such products and/or services.

RESPONSE: These documents do not exist for THORO Serial No. 85/956,925

REQUEST NO. 22: Documents sufficient to show or reflect the nature of the purchasers to whom Applicant markets, or to whom Applicant intends to market any of its "THORO" products and/or services, including those products identified in application Serial No. 85/956,925.

RESPONSE: Athletes and fitness enthusiasts. .

REQUEST NO. 23: To the extent not produced in response to an earlier request, a representative example of each different advertisement or promotional item presently distributed by or for Applicant, or which is planned to be distributed by or for Applicant, that mentions, identifies or describes any products and/or services offered by Applicant, including those identified in application Serial No. 85/956,925, and which are offered or are to be offered by Applicant under the designation "THORO."

RESPONSE: These documents do not exist for THORO mark No. 85/956,925

REQUEST NO. 24: Representative documents and things which reflect, refer to, relate to or concern any licenses taken or given by Applicant or contemplated by Applicant (or any predecessor of Applicant) relating to the designation "THORO."

RESPONSE; These documents do not exist for THORO mark Serial No. 85/956,925

REQUEST NO. 25: Representative documents and thing which reflect, refer to, relate to or concern any assignments taken or given by Applicant (or any predecessor of Appllicant) which relate to the designation "THORO."

RESPONSE: The requested documentation is not currently available at this time.

REQUEST NO. 26: Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 9.

RESPONSE: These documents do not exist.

REQUEST NO. 27: Any documents and things which reflect, refer to, relate to or concern any information given in response to Opposer's Interrogatory No. 10.

RESPONSE: These documents do not exist for THORO mark Serial No. 85/956,925

To the extent not otherwise produced, all documents mentioned or identified in response to Opposer's First Set of Interrogatories No. 1-16 to Applicant.

RESPONSE: None

Respectfully submitted,

LeMar Lewis

33 West Trade Street unit 2100

Charlotte N.C 27708

lemarlewis@hotmail.com



Date

10-28-2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent, via email, to Tara M. Vold, at trademark@vwiplaw.com, Vold & Williamson PLLC, 8521 Greensboro Drive, Suite 340, Mclean, VA 22102, on this 28th day of October, 2015.

Tara M. Vold

Date 10-28-2015

Exhibit 14

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

LeMans Corporation,

: Opposer, :

v.

: Opposition No. 91214578

LeMar Xavier Lewis, :

Applicant. :

Applicants Response To Opposer's Interrogatories 1-16

INTERROGATORY NO. 1

Identify with each product and/or service promoted or sold, or proposed to be promoted or sold by Applicant (see definitions and instructions) under the designation

"THORO" (see definitions and instructions) at any time in the United States,

Response:

Sportswear, Gym Bags, Headware, eyewear, sports/athletic/gym equipment, body care products, jewelry, fragrances

INTERROGATORY NO. 2

Identify the person or persons in the employ of or associated in any manner with Applicant most knowledgeable with respect to the following.

Selection and adoption of the designation "THORO" for the products set forth in application Serial No. 85/956,925; the current uses and any intended uses of the designation "THORO" (including any composite or design presentations); and any sales and advertising, or intended sales and advertising of any of the products identified in application Serial No. 85/956,925 or any services offered or to be offered under the designation "THORO" (including any composite or design terms incorporating the designation "THORO").

Response:

Diondre Lewis Business Associate 333 W. Trade St. Unit 100 Charlotte NC 28202
Jason Alphonso Past Business Associate (no longer in contact with)
Rasheed Wiggins Deceased)
Charlie Lewis - Father / Business Associate 321-377-9439

INTERROGATORY NO. 3

Identify each publication and broadcast advertisement (e.g., radio, television, email, web site) authorized by or on behalf of Applicant in which any of the goods and/or services identified in application Serial No. 85/956,925 have been offered under the designation "THORO" (including any composite or stylized terms incorporating the designation "THORO") by identifying the following:

The title(s) and date(s) of each publication in which any advertisement appeared or is scheduled to appear; and

Each actual or scheduled broadcast by date(s), and station(s) or web site(s), and whether the broadcast was or will be on radio, television or computer.

Response:

Thoro "Willis Mcgahee" television advertising 2007

Daunte Culpepper Television add "ESPN" 2007

Thorowear.com company website

Storenv.com/thorosportswear

INTERROGATORY NO. 4

Identify any instances of actual confusion, mistake or deception known to Applicant as to the source or origin, a sponsorship or an association as between its use of "THORO" (including any composite or stylized terms incorporating the designation "THORO") for any goods and/or services and Opposer's use of THOR, by identifying for each such instance the following:

the date of such instance and the person or entity confused; the nature of the confusion; and the person in Applicant's organization to whom the instance was reported or to whose attention the instance was first brought.

Response

None to my knowledge

INTERROGATORY NO. 5

Identify (see definitions and instructions) all third persons using, applying for or having registered any mark or designation incorporating the term "THORO", "THOR" or a phonetic equivalent to "THOR" that Applicant shall rely on in support of any claimed affirmative defenses in Applicant's Answer. On such uses, applications or registrations and state: (a) the mark/designation being used and/or the mark applied for or registered the goods and/or services offered or proposed to be offered under the mark/designation, and when Applicant first became aware of such use, application or registration.

Response

None to my knowledge

INTERROGATORY NO. 6

Identify the activity which provided the basis for the claim of bona fide use of the THORO mark in commerce on September 5, 2001 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

Response:

The production of clothing and apparel with a label "Thoro" on tags namely labels on the apparel. Products where sold face to face to family, friends , close associates and at times the general public.

INTERROGATORY NO. 7

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on June 11, 2013 for the products identified in Application Serial No. 86/956,925, specifically including the nature of the use and the point of sale for any alleged products.

Response:

*Sales events, tradeshow, promoting at various venues, celebrity promotions, signs and banner product.

INTERROGATORY NO. 8

Identify the activity which provided the basis for the claim of bona fide continuing use of the THORO mark in commerce on October 21, 2012 as reflected in Registration No. 3,206,498, specifically including the nature of the use and the point of sale for any alleged products.

Response:

• Website, various sales events

INTERROGATORY NO. 9

Identify any and all periods of non-use of the THORO mark since the claim of bona fide use in commerce on September 5, 2001. 3,206,498

Response:

*None

INTERROGATORY NO. 10

Identify the reason that a Section 15 Affidavit of Incontestability was not filed with the Section 8 Continued Use Affidavit on October 21, 2012 in connection with Registration No. 3,206,698

Response:

Applicant chose not to complete the section 15 filing.

INTERROGATORY NO. 11

Describe when and by what means Applicant first became aware of Opposer's THOR products and/or services. Further, identify the person or persons who first became aware of Opposer's THOR products and/or services.

Response

2009 -2010

INTERROGATORY NO. 12

Describe with particularity all of the channels of trade in or through which Applicant markets and sells, or intends to market and sell, under the designation "THORO" any of the products and/or services offered by Applicant,

Response

Website, various sales events , sportswear retailers..

INTERROGATORY NO. 13

Identify all bases that Applicant shall rely upon for the Applicant's assertions in Affirmative Defense No. 1 that:

1. Opposer's Registrations are directed to goods and/or services which are are "distinguishable" from the Applicant's goods;
2. Opposer's Registrations are directed to channels of trade which are are "distinguishable" from the Applicant's channels of trade; and
3. Opposer's Registrations are directed to consumers who are "distinguishable" from the Applicant's consumers;

Response

- (a) Opposers offers clothing that are related to the motorsports industry:
Applicant does not
- (b) Opposers offers clothing that are related to the motorsports industry:
Applicant does not
- (c) Opposers offers clothing that are related to the motorsports industry:
Applicant does not

INTERROGATORY NO. 14

Identify with particularity how, if at all, Applicant plans to market any of the products and/or services offered under the THORO name or mark to any consumer base or market.

Response:

Website, Social Media, Flyers, Brochures, Print Ads, Radio ads, Television Ads, Celebrity endorsements

INTERROGATORY NO. 15

Identify (a) all authorized licensees of the THORO marks; and (b) any assignments to which Applicant is a party that relate to the THORO marks.

Response

None

INTERROGATORY NO. 16

Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or the Opposer's First Request for production of documents.

Response: None

Respectfully submitted

LeMar Lewis

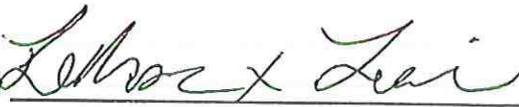
878 Summit Green Blvd,

Clermont, FL 34711

Certificate Of Service

I hereby certify that a true and correct copy of the foregoing opposers first set of interrogatories was served via electronic mail on this 22nd day of April 2016 upon the following

Tara M. Vold, at trademark@vwiplaw.com/ Vold & Williamson PLLC, 8521 Greensboro Drive,
Suite 340, Mclean, V.A 22102

Signed  Date 4-22-2016