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

Proceeding	91221336
Party	Plaintiff Throwdown Industries, Inc.
Correspondence Address	JAIME R QUEZON 805 W AZEELE STREET TAMPA, FL 33606 UNITED STATES rjquezon@jawlaw.net
Submission	Answer to Counterclaim
Filer's Name	Jaime R. Quezn
Filer's e-mail	rjquezon@jawlaw.net
Signature	/Jaime R. Quezon/
Date	06/17/2015
Attachments	TD V Titin Athletics Answer to Counterclaim 06172015.pdf(95843 bytes )

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

THROWDOWN INDUSTRIES, INC.,

Opposer,

Opposition No. 91221336

*In the matter of:*

v.

Application Serial No. 86408942  
Published March 3, 2015

TITIN ATHLETICS, LLC

Applicant.

Trademark:



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**ANSWER TO COUNTERCLAIM AND AFFIRMATIVE DEFENSES**

Opposer, Throwdown Industries, Inc., hereby responds to the counterclaims asserted by the Applicant as follows:

The following paragraph numbers correspond to the numbers used in the Opposer's Notice of Opposition and Applicant's Answer and Counterclaims.

Opposer reserves the right to supplement.

33. Without knowledge to admit or deny and therefore denied.

34. Denied.

35. Without knowledge to admit or deny in regards to Petitioner is the owner of a trademark application for a T Design Mark and therefore denied. Admitted that Throwdown Industries, Inc. has filed the instant opposition. All else is denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.
40. Admitted.
41. Denied.
42. Denied.
43. Denied.
44. Denied.
45. Denied.
46. Denied.
47. Denied.
48. Admitted.
49. Denied.
50. Denied.
51. Denied.
52. Denied.
53. Denied.
54. Denied.
55. Denied.
56. Admitted.
57. Denied.
58. Denied.
59. Denied.

### **AFFIRMATIVE DEFENSES**

60. Applicant's application assigned Serial Number 86408942 is not protected under the Morehouse doctrine based on a prior registration because the prior registration is for a different type of goods.

61. Applicant's trademark registration for a T Design Mark, US Registration No. 4092311 is for a type of goods that are not identical or substantially the same as the goods that Applicant is seeking to register under Applicant's application assigned Serial Number 86408942.

62. Applicant fails to state a claim upon which relief can be granted.

63. A likelihood confusion exists between Opposer's Marks and Applicant's logo in application assigned Serial Number 86408942.

64. Opposer has used its Trademarks cited in it the Notice of Opposition in relation to substantially the same goods as applied for in Applicant's application assigned Serial Number 86408942.

65. Opposer reserves the right to add additional affirmative defenses as they become known through discovery.

WHEREFORE, Opposer prays that the Board denies the registration of Applicant's application assigned Serial Number 86408942 and denies Applicant's Counterclaims and grants such other and further relief to the Opposer as the Board deems just and appropriate.

Dated this 17th day of June 2015.

Respectfully submitted,

/s/ Jaime R. Quezon  
JAIME R. QUEZON, ESQUIRE  
Florida Bar No.: 0017061  
Jaime R. Quezon, P.A.  
805 W. Azeele Street  
Tampa, FL 33606  
Telephone: (813) 387-3333  
Facsimile: (813) 387-3050  
[rjquezon@jawlaw.net](mailto:rjquezon@jawlaw.net)  
Attorney for Opposer

#### **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing was served on Applicant's counsel by depositing same in the United States mail, first class, postage pre-paid, on this 17<sup>th</sup> day of June 2015, addressed to

Peter J. Vranum, Esq.  
Gordon, Herlands, Randolph, & Cox, LLP  
355 Lexington Avenue  
New York, New York 10017

By: /Jaime R. Quezon/  
Jaime R. Quezon, Esq.