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Filing date: **05/25/2015**

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

Proceeding	91221511
Party	Defendant Capital E Finance Co, LLC
Correspondence Address	CAPITAL E FINANCE CO, LLC 53 APPLETON ST BOSTON, MA 02116-6213 capitalefinance@gmail.com
Submission	Answer
Filer's Name	Matthew Heller
Filer's e-mail	CapitalEFinance@gmail.com
Signature	/Matthew Heller/
Date	05/25/2015
Attachments	Just Did It Response.pdf(102693 bytes) JDI Certification.pdf(98225 bytes) 86330661 (1) JDI Trademark App Status.pdf(25714 bytes)

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

In the Matter of Trademark Applicants
Capital E Finance Co, LLC
And Opposer
Nike, INC.,

Mark: JUST DID IT
No.: 86330661
Filed: July 8, 2014
Published in the Official Gazette dated December 16, 2014

Nike Inc.,
Opposer
Vs.

Capital E Finance Co, LLC.
Applicant

Following are Capital E Finance Co, LLC's answers to Opposer's claims
NOTICE OF OPPOSITION

1. Applicant concurs/agrees
2. Applicant concurs/agrees
3. Unknown-Applicant will take Opposer at their word and grant this as fact.
4. Unknown-Applicant will take Opposer at their word and grant this as fact.
5. Unknown-Applicant will take Opposer at their word and grant this as fact.
6. Unknown-Applicant will take Opposer at their word and grant this as fact.
7. Applicant concurs/agrees
8. Applicant concurs/agrees
9. Applicant concurs/agrees
10. Applicant concurs/agrees
11. Applicant concurs/agrees
12. Strongly disagree that it would cause ANY damage or injure the Opposer in any way. Thousands of Just Did It shirts and apparel have and are being sold. Many even have the Nike swoosh. Nike has thrived not in spite of this but is assisted by this grass roots and widespread use of the variation. Simply use google, yahoo, or any other search engine with "Just Did It" and thousands of examples will come up for sale. Opposer has thrived, not in spite of, but with the help of thousands of people who are aware of the difference.

COUNT I

LIKELIHOOD OF CONFUSION

13. Applicant repeats and reasserts paragraphs 1-12 responses as paragraph 13 of this Count I.
14. Applicant concurs/agrees
15. Applicant was aware of the JUST DO IT Mark
16. Applicant strongly disagrees. The marks are not confusing at all. Everyone is well aware of Nike's use of Just Do It. "Just Do It" is a call to action while "Just Did It" is the opposite, a call to celebrate success or completion, as in "Just Did It—I graduated!!"
17. Applicant strongly disagrees. Not confusing at all (use 12 above). The described act are two distinct and different activities. Just Do It is a call to action, to get up and exercise, participate,,as with Just Jesu it. Just Did It is recognition of an accomplishment as in graduation, or a honey-do list.
18. Applicant strongly disagrees. Not confusing at all as the abundance of Just Did It apparel is plentiful and Nike has profited phenomenally.

COUNT II

DILUTION

19. Applicant repeats and reasserts paragraphs 1-18 responses as paragraph 19 of this Count II.
20. Applicant concurs/agrees.
21. Applicant concurs/agrees.
22. Strongly disagree that it would cause ANY damage or injure the Opposer in any way. Thousands of Just Did It shirts and apparel have and are being sold.

Here are links to google and yahoo's search of "Just Did It":

https://www.google.com/search?q=just+did+it&biw=1680&bih=881&tbm=isch&imgil=60MbqljKIEDtSM%253A%253BWjhAq1ziJQRidM%253Bhttp%25253A%25252F%25252Fwww.lovetispic.com%25252Fimage%25252F46469%25252Fjust-did-it&source=iu&pf=m&fir=60MbqljKIEDtSM%253A%252CWjhAq1ziJQRidM%252C_&usg=__7G23lzoJsmOnosW7mFobSxAxRPo%3D&ved=0CCkQyjc&ei=EsNjVffjFczusAX6i4C4BA#imgrc=60MbqljKIEDtSM%253A%3BWjhAq1ziJQRidM%3Bhttp%253A%252F%252Fwww.lovetispic.com%252Fuploaded_images%252F46469-Just-Did-

[It.jpg%Bhttp%253A%252F%252Fwww.lovethepic.com%252Fimage%252F46469%252Fjust-did-it%3B483%3B480](http://www.lovethepic.com/image/46469/just-did-it-483-480)

https://images.search.yahoo.com/search/images;_ylt=AwrBT8ZPw2NVJvUAmJXNyoA;_ylu=X3oDMTEybzN0Z3VIBGNvbG8DYmYxBHBvcwMxBHZ0aWQDQiAxNDVfMQRzZWMDc2M-?p=Just+Did+It&fr=yfp-t-901

To say that Nike is in ANY way harmed by these is ludicrous and disingenuous.

Some even have the Nike swoosh. Nike has thrived not in spite of this but is assisted by this grass roots recognition of their everyday slogan.

23. Strongly disagree that it would cause ANY damage or injure the Opposer in any way. Thousands of Just Did It shirts and apparel have and are being sold. Some even have the Nike swoosh. Nike has thrived not in spite of this but is assisted by this grass roots use of common every-day expressions.

CLAIM FOR RELIEF/DAMAGE

24. Applicants' registration of the mark will have no effect whatsoever on the Opposer. It will neither cause injury nor damage to Opposer's existing "Just Do It" mark as evidenced by the thousands of Just Did It apparel which is and has been available for years.

Wherefore Applicant respectfully requests that the opposition be rejected and the Mark "Just Did It" be registered as requested.

Respectfully submitted,

Capital E Finance Co, LLC.
By: /Matthew Heller/

Matthew Heller, Manager Capital E Finance Co. LLC.
53 Appleton St.
Boston, MA 02116
617-365-0990

I hereby certify that a true and complete copy of the foregoing Answer in Response to the Notice of Opposition has been served on Opposer's attorneys Banner & Witcoff, Ltd attn. Helen Hill Minsker, esq by mailing said copy on May 26, 2015 via First Class Mail, postage prepaid to:

Banner & Witcoff, Ltd

Attorneys for Opposer

10 South Wacker Drive, Suite 3000

Chicago, Illinois 60606

312-463-5000

Signature: /Matthew Heller/

Date: May 25, 2015

Trademark/Service Mark Application, Principal Register

Serial Number: 86330661

Filing Date: 07/08/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86330661
MARK INFORMATION	
*MARK	Just Did It
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Just Did It
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Capital E Finance Co, LLC
*STREET	53 Appleton Street
*CITY	Boston
*STATE (Required for U.S. applicants)	Massachusetts
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	02116
PHONE	617 365 0990
EMAIL ADDRESS	capitalefinance@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY	

ORGANIZED	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	025
*IDENTIFICATION	Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic shirts; Button down shirts; Button-front aloha shirts; Clothing for athletic use, namely, padded shirts; Collared shirts; Golf shirts; Graphic T-shirts; Hooded sweat shirts; Knit shirts; Long-sleeved shirts; Maternity clothing, namely, shirts ; Night shirts; Open-necked shirts; Polo shirts; Rugby shirts; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleeves worn separate and apart from blouses, shirts and other tops; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sun protective clothing, namely, shirts ; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Turtle neck shirts; Wearable garments and clothing, namely, shirts; Yoga shirts
FILING BASIS	SECTION 1(b)
CORRESPONDENCE INFORMATION	
NAME	Capital E Finance Co, LLC
FIRM NAME	Capital E Finance Co, LLC
STREET	53 Appleton Street
CITY	Boston
STATE	Massachusetts
COUNTRY	United States
ZIP/POSTAL CODE	02116
PHONE	617 365 0990
EMAIL ADDRESS	capitalefinance@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	NOT PROVIDED
SIGNATORY'S NAME	NOT PROVIDED
SIGNATORY'S POSITION	NOT PROVIDED
DATE SIGNED	NOT PROVIDED

Trademark/Service Mark Application, Principal Register

Serial Number: 86330661

Filing Date: 07/08/2014

To the Commissioner for Trademarks:

MARK: Just Did It (Standard Characters, see [mark](#))

The literal element of the mark consists of Just Did It.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Capital E Finance Co, LLC, a limited liability company legally organized under the laws of Delaware, having an address of

53 Appleton Street
Boston, Massachusetts 02116
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic shirts; Button down shirts; Button-front aloha shirts; Clothing for athletic use, namely, padded shirts; Collared shirts; Golf shirts; Graphic T-shirts; Hooded sweat shirts; Knit shirts; Long-sleeved shirts; Maternity clothing, namely, shirts; Night shirts; Open-necked shirts; Polo shirts; Rugby shirts; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleeves worn separate and apart from blouses, shirts and other tops; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sun protective clothing, namely, shirts; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Turtle neck shirts; Wearable garments and clothing, namely, shirts; Yoga shirts
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

Capital E Finance Co, LLC
Capital E Finance Co, LLC
53 Appleton Street
Boston, Massachusetts 02116
617 365 0990(phone)
capitalefinance@gmail.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: Not Provided Date: Not Provided

Signatory's Name: Not Provided

Signatory's Position: Not Provided

RAM Sale Number: 86330661

RAM Accounting Date: 07/08/2014

Serial Number: 86330661

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-CC-10087-20140708104420611194

Just Did It