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

Proceeding	91227018
Party	Defendant Rituwall Inc.
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Attachments	Rituwall_TTAB_Answer_to_Opposition.pdf(81441 bytes )

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

In re: Application Serial No 86/541,715  Bergsma Visuals, LLC <i>dba</i> Gravit Digital  <p style="text-align:center">OPPOSER,</p> v.  Rituwall Inc.,  <p style="text-align:center">APPLICANT.</p>	APPLICANT’S ANSWER TO NOTICE OF OPPOSITION Design Mark Literal Elements: GG Opposition No. 91227018
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**APPLICANT’S ANSWER TO NOTICE OF OPPOSITION**

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Applicant Rituwall, Inc. (“Applicant”) through its undersigned attorney, submits its Answer to the Notice of Opposition (“Opposition”) filed by Bergsma Visuals, LLC *dba* Gravit Digital (“Opposer”) dated March 25, 2016 as follows:

1. In response to Paragraph 1, Applicant denies Opposer’s allegation that it will be damaged by the registration of Applicant Serial No. 86/541,715.
2. In response to Paragraph 2, Applicant lacks sufficient information to admit or deny the allegations contained in Paragraph 2 of the Opposition, and on that basis, denies each and every allegation in Paragraph 2.
3. In response to Paragraph 3, Applicant lacks sufficient information to admit or deny the allegations contained in Paragraph 3 of the Opposition, and on that basis, denies each and every allegation in Paragraph 3.

4. In response to Paragraph 4, Applicant lacks sufficient information to admit or deny the allegations contained in Paragraph 4 of the Opposition, and on that basis, denies each and every allegation in Paragraph 4.
5. In response to Paragraph 5, Applicant denies each and every allegation in Paragraph 5.
6. In response to Paragraph 6, Paragraph 6 of the Opposition states legal conclusions of the Opposer, to which no answer is required. To the extent that further response is necessary, Applicant denies each and every allegation in Paragraph 6 of the Notice of Opposition.
7. In response to Paragraph 7, Applicant denies each and every allegation in Paragraph 7.
8. In response to Paragraph 8, Applicant denies each and every allegation in Paragraph 8.
9. In response to Paragraph 9, Applicant denies each and every allegation in Paragraph 9.
10. In response to Paragraph 10, Applicant denies each and every allegation in Paragraph 10.
11. In response to Paragraph 11, Paragraph 11 of the Opposition states legal conclusions of the Opposer, to which no answer is required. To the extent that further response is necessary, Applicant denies each and every allegation in Paragraph 11 of the Notice of Opposition.

## **AFFIRMATIVE DEFENSES**

By way of further answer, Applicant alleges and asserts the following defenses in response to the allegations contained in the Notice of Opposition. In this regard, Applicant undertakes the burden of proof only as to those defenses that are deemed affirmative defenses by law, regardless of how such defenses are denominated in the instant Answer. Applicant reserves the right to assert other affirmative defenses as this opposition proceeds based on further discovery, legal research, or analysis that may supply additional facts of lend new meaning or clarification to Opposer's claims that are not apparent on the face of the Notice of Opposition.

### **FIRST AFFIRMATIVE DEFENSE**

#### **FAILURE TO STATE A CLAIM**

12. Opposer's claims are barred because the Notice of Opposition fails to state a claim upon which relief can be granted.

### **SECOND AFFIRMATIVE DEFENSE**

#### **NO INJURY OR DAMAGE**

13. Opposer's claims are barred, in whole or in part, because Opposer has not and will not suffer any injury or damage from the registration of Applicant's U.S. Application Serial No. 86/541,715 for the GG trademark.

**THIRD AFFIRMATIVE DEFENSE**

**LACK OF LIKELIHOOD OF CONFUSION**

14. Applicant's mark differs in terms of sight, sound, and meaning from Opposer's claimed mark(s) and has a distinct commercial impression from Opposer's claimed mark(s).
15. Applicant's registrations of Applicant's mark does not create a likelihood of confusion among consumers that Applicant's goods are offered, are sponsored by, or are otherwise endorsed by Opposer. Nor does Applicant's use or registration of Applicant's marks create a likelihood that consumers falsely will believe that Applicant and Opposer are affiliated in any way.

**FOURTH AFFIRMATIVE DEFENSE**

**LACK OF STANDING**

16. Opposer's claims are barred, in whole or in part, because Opposer does not have standing in that Opposer does not have rights, superior or otherwise, sufficient to support the Notice of Opposition.

**FIFTH AFFIRMATIVE DEFENSE**

**LACHES**

17. Opposer's claims are barred, in whole or in part, by the doctrine of laches.

**SIXTH AFFIRMATIVE DEFENSE**

**ACQUIESCENCE**

18. Opposer's claims are barred, in whole or in part, by the doctrine of waiver.

**SEVENTH AFFIRMATIVE DEFENSE**

**INSUFFICIENT PRIOR EXCLUSIVE RIGHTS**

19. Opposer's claims are barred, in whole or in part, because Opposer cannot establish exclusive rights in the United States sufficient to bar Applicant's registration of U.S. Application Serial No. 86/541,715 for the GG trademark.

**PRAYER FOR RELIEF**

WHEREFORE, Rituwall prays that:

1. The Notice of Opposition be dismissed with prejudice;
2. That U.S. Application Serial No. 86/541,715 be allowed to register; and
3. That Applicant be granted further reasonable and appropriate relief.

Dated: April 28, 2016

Respectfully submitted,

/Alexander Chen/

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