

ESTTA Tracking number: **ESTTA771672**

Filing date: **09/20/2016**

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

Proceeding	91229486
Party	Defendant Atlantic Innovations, LLC
Correspondence Address	BRENDAN M. SHORTELL LAMBERT & ASSOCIATES 92 STATE STREET SUITE 200 BOSTON, MA 02109  shortell@lambertpatentlaw.com
Submission	Answer
Filer's Name	Brendan M. Shortell
Filer's e-mail	shortell@lambertpatentlaw.com
Signature	/Brendan M. Shortell/
Date	09/20/2016
Attachments	Answer to Opposition.pdf(17083 bytes )

CYBERNET ENTERTAINMENT, LLC,	)	Opposition No. 91229486
	)	Serial No. 86908580
Opposer,	)	Mark: MASTER KINK
	)	
v.	)	
	)	
ATLANTIC INNOVATIONS, LLC,	)	
	)	
Applicant.	)	
	)	

## APPLICANT'S ANSWER TO OPPOSITION

## II. FACTS IN SUPPORT OF OPPOSITION

1. Atlantic Innovations lacks sufficient information or knowledge to form a belief about the truth of the allegations.
2. Atlantic Innovations lacks sufficient information or knowledge to form a belief about the truth of the allegations.
3. Atlantic Innovations admits that “KINK.COM” is a registered on the supplemental registry with the United States Patent and Trademark Office ("USPTO") and with the Reg. No. 3379745 but Atlantic Innovations lacks sufficient information or knowledge to form a belief about the truth of the remaining allegations set forth in paragraph three.
4. Atlantic Innovations lacks sufficient information or knowledge to form a belief about the truth of the allegations.

5. Atlantic Innovations admits that “KINK.COM” is a registered on the principle registry with the United States Patent and Trademark Office ("USPTO") and with the Reg. No.

4758649 but Atlantic Innovations lacks sufficient information or knowledge to form a belief about the truth of the remaining allegations set forth in paragraph five.

6. Admitted.

7. Atlantic Innovations lacks sufficient information or knowledge to form a belief about the truth of the allegations.

8. Admitted.

9. Atlantic Innovations admits that Opposer alleges these dates, but denies the remaining allegations set forth in paragraph nine.

10. Denied.

#### **Applicant's Mark and Application**

11. Admitted.

12. Admitted.

13. Denied.

14. Denied.

### **III. GROUNDS FOR OPPOSITION**

#### **A. Likelihood of Confusion**

15. The allegations in this paragraph are legal conclusions to which no response is required.

16. The allegations in this paragraph are legal conclusions to which no response is required.

17. The allegations in this paragraph are legal conclusions to which no response is required.

18. The allegations in this paragraph are legal conclusions to which no response is required.

19. The allegations in this paragraph are legal conclusions to which no response is required.

**Similarity of the Marks:**

20. The allegations in this paragraph are legal conclusions to which no response is required.

21. The allegations in this paragraph are legal conclusions to which no response is required.

22. The allegations in this paragraph are legal conclusions to which no response is required, and to the point that any statement can be considered a factual allegation and not a legal conclusion Atlantic Innovations denies the conclusions and allegations set forth.

**Similarity of the Goods:**

23. The allegations in this paragraph are legal conclusions to which no response is required, and to the point that any statement can be considered a factual allegation and not a legal conclusion Atlantic Innovations denies the conclusions and allegations set forth.

**Similarity of Trade Channels:**

24. The allegations in this paragraph are legal conclusions to which no response is required.

25. The allegations in this paragraph are legal conclusions to which no response is required, and to the point that any statement can be considered a factual allegation and not a legal conclusion Atlantic Innovations denies the conclusions and allegations set forth.

**Fame of Opposer and its Registered Mark:**

26. The allegations in this paragraph are legal conclusions to which no response is

required, and to the point that any statement can be considered a factual allegation and not a legal conclusion Atlantic Innovations denies the conclusions and allegations set forth.

27. The allegations in this paragraph are legal conclusions to which no response is required, and to the point that any statement can be considered a factual allegation and not a legal conclusion Atlantic Innovations denies the conclusions and allegations set forth.

28. The allegations in this paragraph are legal conclusions to which no response is required, and to the point that any statement can be considered a factual allegation and not a legal conclusion Atlantic Innovations denies the conclusions and allegations set forth.

#### **IV. RELIEF SOUGHT**

29. Denied.

#### **AFFIRMATIVE DEFENSES**

Applicant alleges the following affirmative defenses:

1. Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's services, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

2. Applicant's mark, when used in connection with Applicant's goods is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer or as to the origin sponsorship, or approval of Applicant's services by Opposer.

3. Applicant's mark in its entirety is sufficiently distinctively different from Opposer's mark to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's services.

4. Unclean hands.

5. Laches.

6. Estoppel.
7. Acquiescence.
8. Opposer has failed to state a claim on which relief can be granted.
9. Atlantic innovations reserved the right to add additional affirmative defenses which it may discover after the filing of this Answer.

Dated: September 20, 2016

Respectfully submitted,  
ATLANTIC INNOVATIONS, LLC  
By its Attorneys,  
Lambert & Associates

/s/Brendan M. Shortell  
Brendan M. Shortell, Esq. (BBO # 675851)  
Gary E. Lambert, Esq. (BBO # 548303)  
LAMBERT & ASSOCIATES  
92 State Street, Suite 200  
Boston, MA 02109  
Tel. No.: (617) 720-0091  
Fax. No.: (617) 720-6307

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. §2.195(a) on September 20, 2016.

/s/Brendan M. Shortell

Brendan M. Shortell

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Applicant's ANSWER TO OPPOSITION was served September 20, 2016 by first-class mail, postage prepaid, on the following counsel for Opposer:

JULIEN SWANSON  
AUSTIN LAW GROUP  
779 Castro Street  
San Francisco CA 94114

/s/Brendan M. Shortell

Brendan M. Shortell