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

Proceeding	91214986
Party	Defendant TRUAXE HOLDINGS INC.
Correspondence Address	JAMES R MULDOON HARRIS BEACH PLLC 333 W WASHINGTON ST , STE 200 SYRACUSE, NY 13202-6103 UNITED STATES
Submission	Answer
Filer's Name	James R. Muldoon
Filer's e-mail	jmuldoon@harrisbeach.com, harrisbeachip@harrisbeach.com
Signature	/James R. Muldoon/
Date	03/28/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

FACTON LTD. and G-STAR RAW C.V.,

Opposer,

Serial No. 85/597,217

v.

Opposition No. 91214986

TRUAXE HOLDINGS INC.,

Applicant.

ANSWER TO NOTICE OF OPPOSITION

Applicant Truaxe Holdings Inc., by and through its undersigned attorneys, hereby answers the Notice of Opposition as follows:

1. Applicant DENIES KNOWLEDGE OR INFORMATION sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition and therefore Applicant denies those allegations.

2. Applicant DENIES KNOWLEDGE OR INFORMATION sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition and therefore Applicant denies those allegations.

3. Applicant DENIES KNOWLEDGE OR INFORMATION sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition and therefore Applicant denies those allegations.

4. Applicant DENIES the allegations contained in paragraph 4 of the Notice of Opposition.

5. The trademark registrations referenced in paragraph 5 of the Notice of Opposition speak for themselves. Paragraph 5 of the Notice of Opposition contains legal conclusions to

which no response is required. Applicant DENIES all remaining allegations contained in paragraph 5 of the Notice of Opposition.

6. Applicant ADMITS the allegations contained in paragraph 6 of the Notice of Opposition.

7. Applicant ADMITS that, on or about April 13, 2012, Applicant filed Application Serial No. 85/597,217 to register the mark RAW ENGINE on an intent-to-use basis under Section 1(b) of the Lanham Act, refers the Board to the subject application for the description of goods and classifications therein, and DENIES the remaining allegations contained in paragraph 7 of the Notice of Opposition.

8. Applicant ADMITS the allegations contained in paragraph 8 of the Notice of Opposition.

9. Applicant ADMITS the allegation in paragraph 9 of the Notice of Opposition that Applicant has not used the mark RAW ENGINE in commerce within the United States. Applicant DENIES all remaining allegations contained in paragraph 9 of the Notice of Opposition.

10. Applicant DENIES the allegations contained in paragraph 10 of the Notice of Opposition.

11. Applicant DENIES the allegations contained in paragraph 11 of the Notice of Opposition.

12. Applicant DENIES the allegations contained in paragraph 12 of the Notice of Opposition.

13. Applicant DENIES the allegations contained in paragraph 10 of the Notice of Opposition.

Opposer's request for relief requires no response. To the extent any response is required, Applicant denies that Opposer is entitled to the relief sought and denies any remaining allegations in Opposer's prayer for relief. Applicant denies all allegations in the Notice of Opposition not specifically addressed in Paragraphs 1–13 of the Answer to the Notice of Opposition.

WHEREFORE, Applicant requests that the Opposition be denied and dismissed with prejudice.

AFFIRMATIVE PLEADINGS

1. Truaxe Holdings Inc.'s ("Applicant") U.S. Trademark Application Serial No. 85/597,217 (the "Application") was published for opposition on October 22, 2013.

2. The prosecution history of the Application indicates that the Trademark Examining Attorney found that there were no conflicting marks that would bar registration under Trademark Act Section 2(d).

3. Applicant's mark consists of the words RAW ENGINE ("Applicant's Mark").

4. Facton Ltd. and G-Star RAW C.V. (collectively, "Opposers") cite two registered marks against Applicant's Mark.

5. The two registered marks cited by Opposers against Applicant's Mark are U.S. Reg. Nos. 3,810,912 (the "'912 Mark") and 3,835,205 (the "'205 Mark").

6. The '912 Mark is composed of the word RAW in standard characters.

7. The '205 Mark is composed of the word RAW plus a design that resembles the letter G combined with the number 1.

8. The description of goods associated with the '912 Mark does not explicitly include leather goods or any goods in Class 008.

9. The '912 Mark does not contain the word ENGINE.
10. The '205 Mark does not contain the word ENGINE.
11. The dominant portion of Applicant's Mark is ENGINE.
12. Applicant's Mark is a standard character mark and contains no design.
13. Many other registered marks in International Classes 018 and 025 other than those owned by Opposer incorporate the word RAW.
14. Opposers are not entitled to the exclusive right to use marks that include the term RAW with regard to goods in International Classes 018 and 025.
15. No likelihood of confusion exists between Applicant's RAW ENGINE mark and Opposer's RAW marks because, *inter alia*, RAW and RAW ENGINE are dissimilar in appearance, sound, and meaning.

Dated: March 28, 2014

Respectfully submitted,

HARRIS BEACH PLLC

By: /s/ James R. Muldoon
James R. Muldoon, Esq.
Brendan M. Palfreyman
333 West Washington St., Suite 200
Syracuse, New York 13202
(315) 423-7100

Attorney for Applicant Truaxe Holdings Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition was served by mailing said copy on March 28, 2014, via First Class Mail, postage prepaid to and via electronic filing with the U.S. Patent and Trademark Office:

Laura Popp-Rosenberg
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
New York, NY 10017

/s/ James R. Muldoon
James R. Muldoon