

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

In the Matter of:

Trademark Application No. 86/144482
Published September 16, 2014

Opposition No. 91220084

AMERICAN COUNCIL ON EXERCISE,
Plaintiff-Opposer,

v.

ACE EDUCATION AND TRAINING
CENTER,
Defendant-Applicant.

ANSWER TO NOTICE OF OPPOSITION

For its Answer to the Notice of Opposition that was filed in this matter by Plaintiff-Opposer Fusion Brands International SRL on or about January 8, 2015, Defendant-Applicant ACE Education and Training Center ("AETC") hereby admits, denies, objects, and alleges, as follows:

With regard to the first unnumbered paragraph of the Notice of Opposition, AETC denies that Opposer will be damaged by AETC's ACE EDUCATION AND TRAINING CENTER mark or by the registration of that mark.

1. AETC admits the averments contained in Paragraph 1 of the Notice of Opposition.
2. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 2 of the Notice of Opposition.



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3. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 3 of the Notice of Opposition.

4. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 4 of the Notice of Opposition.

5. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 5 of the Notice of Opposition.

6. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 6 of the Notice of Opposition.

7. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 7 of the Notice of Opposition.

8. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 8 of the Notice of Opposition.

9. AETC admits the averments contained in the second sentence of Paragraph 9 of the Notice of Opposition, but is without knowledge or information sufficient to form a belief as to the truth of the other averments in Paragraph 9.

10. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 10 of the Notice of Opposition.

11. AETC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 11 of the Notice of Opposition.

12. AETC denies the averments contained in Paragraph 12 of the Notice of Opposition.

13. AETC denies the averments contained in Paragraph 13 of the Notice of Opposition.

14. AETC denies the averments contained in Paragraph 14 of the Notice of Opposition.

15. AETC denies the averments contained in Paragraph 15 of the Notice of Opposition.

16. AETC admits the averments contained in Paragraph 16 of the Notice of Opposition, but denies that it requires any license, consent or permission from Opposer to use or register AETC's ACE EDUCATION AND TRAINING CENTER mark.

17. AETC denies all other averments contained in the Notice of Opposition which is not expressly admitted herein.

18. For its affirmative defenses to the Notice of Opposition, AETC alleges the following, upon information and belief:

(a) The term ACE is common and widely incorporated (alone or in combination with other words) in Class 41 marks. Because of its widespread third-party use in the relevant class, the term ACE cannot be distinctive to the Opposer on an exclusive basis, and is instead entitled to only a narrow scope of protection that will not be infringed by the registration sought by AETC.

(b) The services described in AETC's pending Application to register the ACE EDUCATION AND TRAINING CENTER mark are not related to the goods and services described in the registrations cited by Opposer.

(c) The Notice of Opposition is barred by the doctrines of waiver, estoppel, acquiescence, unclean hands, and/or laches.

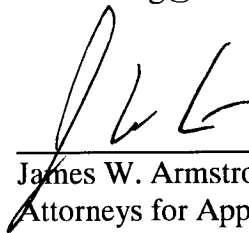
(d) Any other affirmative defense or matter of avoidance which may be revealed during discovery or other, further proceedings in this matter.

WHEREFORE, AETC requests that the Notice of Opposition be denied in all respects; that this Opposition proceeding be dismissed in its entirety, with prejudice; that AETC be granted registration of its ACE EDUCATION AND TRAINING CENTER trademark; and that AETC be awarded such other, further and different relief as the Board deems just and proper under the circumstances.

DATED this 13th day of February, 2015.

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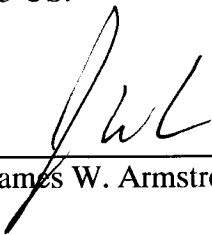
James W. Armstrong
Attorneys for Applicant

CERTIFICATE OF EXPRESS MAILING

I hereby certify that the foregoing "Answer to Notice of Opposition" is being deposited this 13th day of February, 2015, with the United States Postal Service as "Express Mail Post Office to Addressee," postage prepaid, in an envelope addressed to

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

The Express Mail Receipt No. is EI 786166825 US.

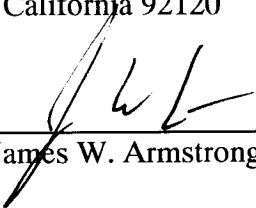


James W. Armstrong

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Answer to Notice of Opposition" was served this 13th day of February, 2015, by First Class Mail, postage prepaid, upon counsel for the Plaintiff-Opposer, at the following address:

Stephen L. Marshal, Esq.
American Council on Exercise
4851 Paramount Drive
San Diego, California 92120



James W. Armstrong

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