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

Proceeding	91235889
Party	Defendant Marz Imperial LLC
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Submission	Answer
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Date	04/11/2018
Attachments	2018-04-11 Answer.pdf(103857 bytes )

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

Opposition No. 91235889  
Serial No. 87/239,606  
Mark: F FLEXICA & Design

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GRUPO FLEXI DE LEON, S.A. DE C.V.,	)
	)
<i>Opposer</i>	)
	)
v.	)
	)
MARZ IMPERIAL, LLC,	)
	)
<i>Applicant.</i>	)

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**ANSWER AND DEFENSES**

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**I. ANSWER**

Pursuant to Rule 8(b)(1)(B), Applicant Marz Imperial, LLC answers the allegations of the Notice of Opposition filed by Opposer Grupo Flexi de Leon, S.A. de C.V. as follows:

1. Applicant lacks knowledge or information sufficient to form a belief about the truth of paragraph 1.
2. Applicant lacks knowledge or information sufficient to form a belief about the truth of paragraph 2.
3. Applicant lacks knowledge or information sufficient to form a belief about the truth of paragraph 3.

4. Applicant lacks knowledge or information sufficient to form a belief about the truth of paragraph 4.<sup>1</sup>
5. Applicant lacks knowledge or information sufficient to form a belief about the truth of paragraph 5.
6. Admitted.
7. Denied.
8. Applicant restates its responses to paragraphs 1 through 7.
9. Applicant denies that Opposer has priority of use *vis-à-vis* Applicant's mark. Otherwise, Applicant lacks knowledge or information sufficient to form a belief about the truth of paragraph 9.
10. Denied.
11. Applicant admits that the '606 Application covers in Class 25 the goods listed in paragraph 11, in addition to other goods in Classes 10 and 28, subject to Applicant's pending motion to divide. Otherwise, Applicant denies the allegations of paragraph 11.
12. Denied.

## **II. DEFENSES, AVOIDANCES, AND AFFIRMATIVE DEFENSES**

Pursuant to Rule 8(b)(1)(A) and Rule 8(c), Applicant states its defenses, avoidances, and affirmative defenses to the claim set forth in the Notice of Opposition as follows:

### **A. Failure to State a Claim Upon Which Relief May Be Granted**

1. Applicant fails to state a claim upon which relief may be granted.

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<sup>1</sup> The Board's February 6, 2018 order dismissed any claim based on an alleged "FLEXI family of marks." [Doc. 9, p.6, n.3]. Therefore, Applicant has interpreted the phrase "FLEXI family of marks" as a collective reference to the individual registrations and answered accordingly.

**B. No Likelihood of Confusion, Mistake, or Deception**

2. Applicant states that there is no likelihood of confusion, mistake, or deception *vis-à-vis* the '606 Application and the Registrations claimed by Opposer as defined by 15 U.S.C. § 1052(d).

**C. No Potential for Harm**

3. Applicant states that there is no likelihood of damage to Opposer from the Board permitting the '606 Application to proceed to registration.

WHEREFORE, Applicant prays that the Board dismiss the opposition, grant U.S. Application No. 87/239,606 for the F FLEXICA & Design mark, and record the mark on the Principal Register.

Date: April 11, 2018

/ Charles M. Landrum III /

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**Certificate of Service**

I hereby certify that a true and complete copy of the foregoing *Answer and Defenses* has been served on the following counsel of record by forwarding said copy on April 11, 2018, via email to:

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/ Charles M. Landrum III /  
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