

ESTTA Tracking number: **ESTTA861258**

Filing date: **11/29/2017**

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

Proceeding	91237352
Party	Defendant Enlighten Inspire Empower U
Correspondence Address	DAWN HAYNES CHAMPION UNDER CONSTRUCTION PO BOX 14523 HOUSTON, TX 77221 Email: admin@championunderconstruction.com, haynes.dawn@gmail.com
Submission	Answer
Filer's Name	Bruno Tarabichi
Filer's email	bruno@tmwlawfirm.com
Signature	/bruno tarabichi/
Date	11/29/2017
Attachments	Applicant Answer - Building Tomorrows Champions Today.pdf(72943 bytes )

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

HBI Branded Apparel Enterprises, LLC,

Opposer,

v.

Enlighten Inspire Empower U,

Applicant.

Opposition No. 91237352

Application Serial No. 87/382,112

Mark: Building Tomorrow's Champions  
Today

**APPLICANT ENLIGHTEN INSPIRE EMPOWER U' S**

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Enlighten Inspire Empower U ("Applicant") hereby answers the Notice of Opposition filed by HBI Branded Apparel Enterprises, LLC ("Opposer") as follows:

In response to the grounds for opposition enumerated in Opposer's Electronic System for Trademark Trials and Appeals ("ESTTA") Notice of Opposition form, Applicant denies that there are any grounds to sustain the opposition and denies that Opposer owns any mark(s) sufficient to constitute a basis for the opposition.

In response to the unnumbered introductory paragraph, Applicant denies that Opposer will be damaged by the registration of Application Serial No. 87/382,112.

1. In response to paragraph 1, Applicant responds that it lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 1 and, therefore, denies each and every allegation in paragraph 1.

2. In response to paragraph 2, Applicant responds that it lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 2 and, therefore, denies each and every allegation in paragraph 2.

3. In response to paragraph 3, Applicant responds that it lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 3 and, therefore, denies each and every allegation in paragraph 3.

4. In response to paragraph 4, Applicant responds that paragraph 4 does not contain factual or legal allegations that require a response. To the extent a response is required, Applicant denies each and every allegation in paragraph 4.

5. In response to paragraph 5, Applicant responds that it lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 5 and, therefore, denies each and every allegation in paragraph 5.

6. In response to paragraph 6, Applicant responds that it lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 6 and, therefore, denies each and every allegation in paragraph 6.

7. In response to paragraph 7, Applicant responds that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 7 and, therefore, denies each and every allegation in paragraph 7.

8. In response to paragraph 8, Applicant denies each and every allegation in paragraph 8.

9. Applicant admits that it seeks to register the mark BUILDING TOMORROW'S CHAMPIONS TODAY for use in connection with "Baseball caps and hats; Beanies, Cloth bibs; Hooded sweatshirts; jackets; Jumpers; Polo shirts; Rugby shirts; Short-sleeved or Long-sleeved t-shirts; Shorts; Skorts; Sweat pants; Sweat suits; Sweatshirts; Tank tops" in International Class 25. Except where expressly admitted, 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, Applicant denies each and every allegation in paragraph 11.

12. In response to paragraph 12, Applicant denies each and every allegation in paragraph 12.

13. In response to paragraph 13, Applicant denies each and every allegation in paragraph 13.

14. In response to paragraph 14, Applicant denies each and every allegation in paragraph 14.

15. In response to paragraph 15, Applicant denies each and every allegation in paragraph 15.

16. In response to paragraph 16, Applicant denies each and every allegation in paragraph 16.

17. In response to paragraph 17, Applicant denies each and every allegation in paragraph 17.

18. In response to paragraph 18, Applicant responds that paragraph 18 does not contain factual or legal allegations that require a response. To the extent a response is required, Applicant denies each and every allegation in paragraph 18.

In response to Opposer's WHEREFORE and prayer for relief paragraph, Applicant denies that there is a basis to sustain the opposition and states that Application Serial No. 87/382,112 should be allowed to register.

## **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 or lend new meaning or clarification to Opposer's claims that are not apparent on the face of the Notice of Opposition.

### **FIRST AFFIRMATIVE DEFENSE** **NO INJURY OR DAMAGE**

19. 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. 87/382,112 for the Building Tomorrow's Champions Today mark.

### **SECOND AFFIRMATIVE DEFENSE** **LACK OF LIKELIHOOD OF CONFUSION**

20. Applicant's mark differs in terms of sight, sound, and meaning from Opposer's claimed marks and has a different and distinct commercial impression from Opposer's claimed marks.

21. Applicant's registration of the Building Tomorrow's Champions Today mark will not create a likelihood of confusion among consumers that Applicant's goods and services are offered by, sponsored by, or otherwise endorsed by Opposer or that Applicant and Opposer are affiliated in any way.

THIRD AFFIRMATIVE DEFENSE  
LACK OF ACTUAL CONFUSION

22. Applicant has used its mark in the United States and has not experienced any confusion with Opposer, Opposer's claimed mark(s) or Opposer's goods. On information and belief, Opposer has not experienced any actual confusion either.

FOURTH AFFIRMATIVE DEFENSE  
OPPOSER'S MARK IS WEAK AND DILUTED

23. Opposer's claims are barred, in whole or in part, because Opposer's claimed mark(s) are weak and diluted, as evidenced by the fact that the U.S. Patent and Trademark Office shows nearly 2,000 federally registered marks and numerous other pending applications consisting of or including the terms CHAMPION and CHAMPIONS for disparate goods and services.

FIFTH AFFIRMATIVE DEFENSE  
NARROW RIGHTS / CROWDED FIELD

24. The adoption and use of the terms CHAMPION and CHAMPIONS is part of more than 2,000 federally registered and numerous other common law third party marks. Of the nearly above referenced 2,000 federally registered marks, nearly 160 are in International Class 25 and/or for related goods that are not owned by Opposer, including by way of example: CHAMPION CSX (U.S. Registration No. 4687381) for compression socks, stockings and wraps; CHAMPION (U. S. Registration No. 3724951) for footwear; CHAMPION DESTROYER (U. S. Registration No. 4684919) for apparel; CHAMPIONS DO MORE (U.S. Registration No. 4922535) for apparel; CHAMPIONS IN MOTION (U.S. Registration No. 5142612) for skirts, tops; MINDSET OF CHAMPIONS (U.S. Registration No. 4698854) for apparel. The existence of such registered third party marks requires that Opposer's claimed mark(s) be narrowly construed, such that Opposer's claimed mark(s) cannot—as a matter of law—form the

basis of a likelihood of confusion claim against Applicant's mark. The public has come to distinguish among CHAMPION/CHAMPIONS inclusive marks.

WHEREFORE, Applicant requests judgment as follows:

1. That the Notice of Opposition be dismissed with prejudice;
2. That Application Serial No. 87,382,112 be allowed to register; and
3. That Applicant be granted further reasonable and appropriate relief.

Dated: November 29, 2017

Respectfully submitted,



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Bruno W. Tarabichi  
TMW LAW  
4750 Almaden Expy 124-359  
San Jose, California 95118  
Tel. (408) 634-0324  
Fax (408) 715-6707  
[bruno@tmwlawfirm.com](mailto:bruno@tmwlawfirm.com)  
Attorneys for Applicant  
Enlighten Inspire Empower U

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the following document:

APPLICANT ENLIGHTEN INSPIRE EMPOWER U'S ANSWER TO NOTICE OF  
OPPOSITION

has been served on

Laura C. Miller

[lamiller@ktslaw.com](mailto:lamiller@ktslaw.com), [jburns@ktslaw.com](mailto:jburns@ktslaw.com), [tmadmin@ktslaw.com](mailto:tmadmin@ktslaw.com)

Kilpatrick Townsend & Stockton LLP


1001 West Fourth Street

Winston-Salem, North Carolina 27101

by email on November 29, 2017.

I declare under penalty of perjury under the laws of the State of California and the  
United States of America that the foregoing is true and correct.

Dated: November 29, 2017

  
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Bruno W. Tarabichi