

ESTTA Tracking number: **ESTTA133739**

Filing date: **04/04/2007**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Trek Bicycle Corporation		
Entity	Corporation	Citizenship	Wisconsin
Address	801 West Madison Waterloo, WI 53594 UNITED STATES		

Attorney information	Mary Catherine Merz Merz & Associates, P.C. 1140 Lake Street, Suite #304 Oak Park, IL 60301-1051 UNITED STATES docket@merz-law.com Phone:708-383-8801		
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Applicant Information

Application No	78793442	Publication date	03/13/2007
Opposition Filing Date	04/04/2007	Opposition Period Ends	04/12/2007
Applicant	Lu, Fa Hsing No. 1, Alley 16, Lane 40, Jinde Road Taichung, TAIWAN		

Goods/Services Affected by Opposition

Class 012. All goods and services in the class are opposed, namely: bicycles and tricycles

Attachments	22075.notopp.pdf (7 pages)(724164 bytes)
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Signature	/Ameen Imam/
Name	Ameen Imam
Date	04/04/2007

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

In the Matter of U.S. Application Serial No. 78/793,442
For: S-TRAC and Design
Filed: January 17, 2006
Date of Publication: March 13, 2007

TRAK BICYCLE CORPORATION)
)
 Opposer,)
)
 v.) Opposition No. _____
)
FA HSING LU)
)
)
 Applicant.)

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 78/793,442 ("Serial No. 78/793,442") for the mark "S-TRAC and Design" in International Class 12, filed in the name of Fa Hsing Lu ("applicant"), which was published for opposition in the Official Gazette of March 13, 2007. Trek Bicycle Corporation ("Trek"), a Wisconsin corporation with its principal place of business at 801 West Madison, Waterloo, Wisconsin 53594, believes it will be damaged by the registration of the mark in Serial No. 78/793,442 in International Class 12 and hereby opposes the same.

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in accordance with Section 13 of The Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Trek alleges as follows:

1. Upon information and belief, applicant is an individual who is a citizen of Taiwan with an address of No. 1, Alley 16, Lane 40, Jinde Road, Taichung, TAIWAN.

2. Applicant seeks to register "S-TRAC and Design" in connection with the following goods:

bicycles and tricycles;

in International Class 12, as evidenced by the publication of Serial No. 78/793,442 in the Official Gazette of March 13, 2007.

3. Upon information and belief, applicant filed its application on January 17, 2006 under Section 1(b) of the Trademark Act [15 U.S.C. §1051(b)], claiming an intent to use of the mark "S-TRAC and Design" in commerce for goods in Class 12.

4. Since at least 30 years prior to applicant's intent-to-use application date for the mark "S-TRAC and Design", Trek adopted and has continuously used the trade name "TREK" in connection with its business activities.

5. Trek has invested substantial amounts of time, effort and money in protecting and policing its "TREK" trade name

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throughout the United States and the rest of the world. As such, Trek has extensive, non-registered statutory and common law rights in its "TREK" trade name, which Trek uses in connection with its business activities.

6. Since at least 29 years prior to applicant's intent-to-use application date for the mark "S-TRAC and Design", Trek adopted and has continuously used its "TREK" mark in connection with bicycles, bicycle frames, bicycle parts and accessories; Trek also has expanded its trademark use of "TREK" to cover numerous additional products and services.

7. Trek has invested substantial amounts of time, effort and money in registering, promoting and policing its famous "TREK" trademark throughout the United States and the rest of the world. As such, in addition to the protection afforded Trek by its federal trademark registrations, Trek has extensive, non-registered statutory and common law rights in its "TREK" mark for its products and services.

8. Trek is the owner of U.S. Trademark Registration No. 1,168,276 for "TREK" for "bicycles and bicycle frames"; U.S. Trademark Registration No. 1,969,281 for "TREKKING" for "bicycles"; U.S. Trademark Registration No. 1,994,479 for "TREK 100" for "providing ride support vehicles in competitive and

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recreational events; namely, bicycle tours, bicycle races, and triathlons"; U.S. Trademark Registration No. 2,060,274 for "TREK" for cycling computers, water bottles, water bottle cages, exercise equipment, and head protective helmets (among other things); U.S. Trademark Registration No. 2,188,991 for "TREK BMX" for "bicycles, bicycle frames, and bicycle structural parts"; U.S. Trademark Registration No. 2,580,991 for "TREKBIKES.COM" for "bicycles, bicycle frames and parts"; U.S. Trademark Registration No. 2,596,471 for "TREKKING" for "educational services, namely, providing seminars and clinics relating to the use of exercise equipment"; U.S. Trademark Registration No. 2,687,612 for "BTREK" for "on-line retail and wholesale store services, featuring a wide range of consumer products, except footwear, all provided via the Internet"; U.S. Trademark Registration No. 2,708,232 for "TREK" for non-alcoholic beverages and non-carbonated drinking waters; U.S. Trademark Registration No. 2,742,116 for "TREK Stylized" for "bicycles and bicycle frames;" U.S. Trademark Registration No. 2,745,442 for "TREK" for clothing and padded gloves; U.S. Trademark Registration No. 2,876,977 for "TREKLITE" for "orienteering equipment and clothing for outdoor sporting activities, namely protective outer wear"; U.S. Trademark Registration No. 3,031,210 for "TREK TRAVEL" for "arranging

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travel tours featuring hiking, river rafting, whale watching, kayaking, and bicycling; cultural tours, namely, conducting sightseeing tours for others; sporting and cultural activities related to bicycling, namely wine tastings and cultural tours, namely, guided tours of wineries, and services for providing food and drinks and temporary lodging for those participating in bicycling activities and cultural activities related to bicycling, namely, hiking, river rafting, cultural tours, wine tastings, whale watching and kayaking"; and U.S. Trademark Registration No. 3,042,834 for "TREK UNIVERSITY" for "instructional and training services in the field of retailing bicycles, bicycle clothing, and bicycle accessories; and in the fields of bicycle safety, bicycle recreation, bicycle service and bicycle repair"; U.S. Trademark Registration No. 3,053,977 for "TREK" for "backpacks, fanny packs, textile tote bags, hip packs, messenger bags, rack trunks, saddle bags, bicycle seat packs, and all purpose sports bags"; and U.S. Trademark Registration No. 3,066,516 for "TREKER" for "off-road all-terrain utility vehicles." These registrations are valid, subsisting, uncanceled and are conclusive evidence of Trek's exclusive right to use the "TREK" mark in commerce on the goods and in connection with the services specified in the registrations.

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9. Since at least as early as the respective dates of first use stated in its registrations, Trek has used its marks in connection with the sale of its goods and services covered by those registrations. Such use has been valid and continuous, and has not been abandoned. The public has come to associate Trek with the "TREK" trademark and trade name.

10. Prior to the applicant's intent-to-use application date for the mark "S-TRAC and Design", Trek's "TREK" mark had become famous for Trek's goods and services.

11. Applicant has no license, consent or permission from Trek to use or register "S-TRAC and Design".

12. Applicant's mark "S-TRAC and Design" so resembles Trek's "TREK" mark and trade name that is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of The Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods in Serial No. 78/793,442 originate with Trek or otherwise are authorized, licensed or sponsored by Trek.

13. By reason of all the foregoing, Trek will be gravely damaged by the registration of applicant's "S-TRAC and Design"

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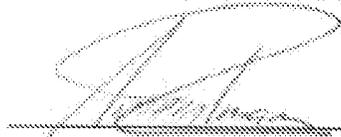
mark for the goods in Class 12, because registration of that mark would be in violation of Trek's trademark and trade name rights.

WHEREFORE, Trek prays that this Notice of Opposition be sustained in favor of Trek and that Serial No. 78/793,442 be denied registration. Trek submits herewith a payment to cover its filing fee of \$300.00, as required by 37 C.F.R. §2.5(a)(17).

Respectfully submitted,

TREK BICYCLE CORPORATION

Date: April 4, 2007

By: 

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