

ESTTA Tracking number: **ESTTA587898**

Filing date: **02/18/2014**

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	Cobra Golf Incorporated		
Entity	Corporation	Citizenship	Delaware
Address	1818 Aston Avenue Carlsbad, CA 92008 UNITED STATES		

Attorney information	Anne E. Naffziger LEYDIG, VOIT & MAYER, LTD. Two Prudential Plaza, Suite 4900 Chicago, IL 60601 UNITED STATES anaffziger@leydig.com Phone:312-616-5600		
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### Applicant Information

Application No	86072020	Publication date	02/11/2014
Opposition Filing Date	02/18/2014	Opposition Period Ends	03/13/2014
Applicant	Myers, Jonathan 5820 Hersholt Ave Lakewood, CA 90712 USX		

### Goods/Services Affected by Opposition

Class 025. First Use: 2009/10/01 First Use In Commerce: 2011/06/06  
All goods and services in the class are opposed, namely: Hats; Jackets; T-shirts

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1851522	Application Date	11/01/1991
Registration Date	08/30/1994	Foreign Priority Date	NONE
Word Mark	COBRA		

Design Mark	<b>COBRA</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1986/09/00 First Use In Commerce: 1986/09/00 clothing; namely, shirts, sweaters, jackets, [golf gloves,] visors and caps

U.S. Registration No.	2562715	Application Date	09/25/1997
Registration Date	04/23/2002	Foreign Priority Date	NONE

Word Mark	COBRA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1988/12/08 First Use In Commerce: 1988/12/08 clothing, for golf, namely, T-shirts, sweatshirts, sweaters, pants, shorts, jackets and hats

U.S. Registration No.	657078	Application Date	03/28/1957
Registration Date	01/14/1958	Foreign Priority Date	NONE

Word Mark	COBRA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1957/02/00 First Use In Commerce: 1957/02/00 GOLF CLUBS

U.S. Registration No.	1731123	Application Date	04/03/1992
Registration Date	11/10/1992	Foreign Priority Date	NONE

Word Mark	COBRA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 all-purpose sport bags Class 028. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 golf bags

U.S. Registration No.	1876713	Application Date	04/03/1992
Registration Date	01/31/1995	Foreign Priority Date	NONE
Word Mark	KING COBRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1986/02/18 First Use In Commerce: 1986/02/18 golf clubs		

U.S. Registration No.	2149337	Application Date	04/02/1997
Registration Date	04/07/1998	Foreign Priority Date	NONE
Word Mark	COBRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1973/10/15 First Use In Commerce: 1974/03/15 [ golf bag covers, ] golf bags, [ golf balls, ] golf club heads, [ golf club inserts, ] golf club shafts, golf clubs, hand grips for golf clubs, [ head covers for golf clubs, ] [ golf gloves, ] golf irons, [ golf putter covers,] golf putters		

U.S. Registration No.	3898067	Application Date	01/11/2010
Registration Date	12/28/2010	Foreign Priority Date	NONE
Word Mark	COBRA S3		

Design Mark	<b>COBRA S3</b>
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2010/08/01 First Use In Commerce: 2010/08/01 Golf clubs

Attachments	74217718#TMSN.gif( bytes ) 75362582#TMSN.gif( bytes ) 75268000#TMSN.gif( bytes ) 77909248#TMSN.jpeg( bytes ) Notice of Opposition - COBRA LORD.pdf(164236 bytes ) Exhibit A to Notice of Opposition.pdf(193867 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Anne E. Naffziger/
Name	Anne E. Naffziger
Date	02/18/2014

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

In re Opposition of:	)	
	)	
Cobra Golf Incorporated	)	
Opposer,	)	Opposition No. _____
	)	Serial No. 86/072,020
v.	)	
	)	
Jonathan Myers	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

In the matter of Application Serial No. 86/072,020 for the mark COBRA LORD in International Class 25, published for opposition on February 11, 2014 and filed September 23, 2013 by Jonathan Myers, a U.S. Citizen with an address of record at 5820 Hersholt Ave., Lakewood, CA 90712 (hereinafter “Applicant”), Opposer, Cobra Golf Incorporated, a Delaware corporation, located and doing business at 1818 Aston Avenue, Carlsbad, CA 92008 (hereinafter “Opposer”), believes that it will be damaged by registration of the COBRA LORD mark and hereby opposes same. As grounds for the opposition, it is alleged that:

**I. LIKELIHOOD OF CONFUSION**

1. Opposer is and for many years prior to the filing date of the application at issue, and alleged first use of the mark by Applicant, been engaged in the manufacture, marketing, promotion, distribution and sale of clothing, headwear, sports bags, sports equipment and accessories bearing Opposer’s family of COBRA marks (hereinafter “COBRA marks”).

2. Opposer, including through its predecessors in interest, has used its COBRA marks in the United States since at least as early as 1957. Accordingly, Opposer's COBRA marks are associated with Opposer in the United States and Opposer has priority of use and registration.

3. Opposer is the owner of U.S. Trademark Registration No. 1,851,522, registered August 30, 1994, for its COBRA mark for use in connection with "clothing; namely, shirts, sweaters, jackets, visors and caps" in International Class 25

4. Opposer is the owner of U.S. Trademark Registration No. 2,562,715, registered April 23, 2002, for its COBRA Stylized mark for use in connection with "clothing, for golf, namely, T-shirts, sweatshirts, sweaters, pants, shorts, jackets and hats" in Class 25.

5. Opposer is the owner of U.S. Trademark Registration No. 657,078, registered January 14, 1958, for its COBRA mark for use in connection "golf clubs" in Class 28.

6. Opposer is the owner of U.S. Trademark Registration No. 1,731,123, registered November 10, 1992, for its COBRA mark for use in connection "all-purpose sports bags" in Class 18 and "golf bags" in Class 28.

7. Opposer is the owner of U.S. Trademark Registration No. 1,876,713 registered January 31, 1995, for its KING COBRA mark for use in connection "golf clubs" in Class 28.

8. Opposer is the owner of U.S. Trademark Registration No. 2,149,337, registered April 7, 1998, for its COBRA mark for use in connection "golf bags, golf club heads, golf club shafts, golf clubs, hand grips for golf clubs, golf irons, golf putters" in Class 28.

9. Opposer is the owner of U.S. Trademark Registration No. 3,898,067, registered December 28, 2010, for its COBRA S3 mark for use in connection "golf clubs" in Class 28.

10. Pursuant to 15 U.S.C. § 1065 and 1115 (b), the referenced registrations in paragraphs 3-8, have become incontestable and all the registrations are evidence of Opposer's right to use the

mark in connection with the goods identified in the registrations. Copies of the registrations identified in paragraphs 3-9 are attached hereto as Exhibit A.

11. As noted in paragraph 2, since long prior to September 23, 2013, filing date of the application herein opposed and June 6, 2011, alleged first use of the mark by Applicant, Opposer adopted and commenced use of its COBRA marks as a trademark in connection with the marketing, promoting, offering for sale and selling of various items of clothing, headwear, sports bags, sports equipment and accessories in the United States, continuously using the COBRA marks since at least as early as 1957 in connection with the sale of goods in commerce. The COBRA marks have been continuously used by Opposer in connection with the marketing, promoting, offering for sale and selling of its products in the United States since that time.

12. As a result of the extensive use and advertising by Opposer of the trademarks referred to herein, said marks have become associated with Opposer and Opposer has built up valuable goodwill in said marks such that the marks have come to identify Opposer's goods, including clothing, headwear, sports bags, sports equipment and accessories, and distinguish Opposer's goods, from the related goods of others.

13. The Application at issue is for the trademark COBRA LORD and Applicant seeks to register the trademark for "hats; jackets; t-shirts" in International Class 25."

14. The goods identified by Applicant in Serial No. 85/072,020 are the same as and related to goods on which Opposer has previously used and now uses its COBRA marks and to the goods recited in Opposer's registrations referred to herein and attached as Exhibit A.

15. Applicant's COBRA LORD trademark has a substantially similar sight, sound and overall commercial impression to Opposer's COBRA marks.

16. Applicant's trademark is substantially identical or equivalent to and creates the substantially same commercial impression in the minds of prospective purchasers as the Opposer's COBRA marks identified herein and previously used by Opposer and is likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive, all to Opposer's damage.

17. Applicant's goods identified in Application No. 85/072,020 are identical and related to the goods sold by Opposer under its trademarks, resulting in the same target consumers and channels of trade for marketing, promoting and the offering for sale of the parties' respective products.

18. As a result of confusing similarity between the Applicant's trademark and Opposer's COBRA marks, the proximity of the parties' goods, target consumers and resulting channels of trade, there is a likelihood of consumer confusion resulting from Applicant's use and registration of the COBRA LORD trademark seen in Application No. 85/072,020.

### **COUNT 2 – DILUTION**

19. Opposer repeats and realleges the allegations set forth in Paragraphs 1-18 as fully set forth herein.

20. The COBRA marks through extensive advertising, promotion and sales have become famous trademarks and became famous long prior to the filing date of Applicant's filing for COBRA LORD or its alleged first use of the mark.

21. The COBRA marks are strong and highly distinctive marks.

22. Use of the COBRA LORD trademark would dilute the distinctive quality of the COBRA marks of Opposer.

23. Opposer would be damaged by the registration of the COBRA LORD mark because such registration will support and assist Applicant in the use of the COBRA LORD trademark and will give it the color of right in a trademark that dilutes the distinctive quality of the COBRA marks of Opposer.

WHEREFORE, Opposer prays that Application No. 86/072,020 be rejected and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lynn A. Sullivan", written over a horizontal line.

Date: February 18, 2014

Lynn A. Sullivan, Esq.  
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Attorneys for Opposer  
Cobra Golf Incorporated

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that the above document was filed electronically with the Trademark Trial & Appeal Board on February 18, 2014.



\_\_\_\_\_  
Anne E. Naffziger, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document has been served by first-class mail to:

JONATHAN MYERS  
5820 HERSHOLT AVE  
LAKEWOOD, CALIFORNIA 90712-1340

Date: February 18, 2014

Signed:   
\_\_\_\_\_  
Anne E. Naffziger, Esq.

# **EXHIBIT A**

**Int. Cl.: 25**

**Prior U.S. Cl.: 39**

**United States Patent and Trademark Office** **Reg. No. 1,851,522**  
**Registered Aug. 30, 1994**

**TRADEMARK  
PRINCIPAL REGISTER**

**COBRA**

**COBRA GOLF INCORPORATED II (CALIFOR-  
NIA CORPORATION)  
1812 ASTON AVENUE  
CARLSBAD, CA 92008**

**FIRST USE 9-0-1986; IN COMMERCE  
9-0-1986.**

**SER. NO. 74-217,718, FILED 11-1-1991.**

**FOR: CLOTHING; NAMELY, SHIRTS,  
SWEATERS, JACKETS, GOLF GLOVES,  
VISORS AND CAPS, IN CLASS 25 (U.S. CL. 39).**

**JOAN LESLIE BISHOP, EXAMINING ATTOR-  
NEY**

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 2,562,715**

**Registered Apr. 23, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**cobra**

**COBRA GOLF INCORPORATED (DELAWARE  
CORPORATION)  
1812 ASTON AVENUE  
CARLSBAD, CA 92008**

**FIRST USE 12-8-1988; IN COMMERCE 12-8-1988.**

**SER. NO. 75-362,582, FILED 9-25-1997.**

**FOR: CLOTHING, FOR GOLF, NAMELY, T-  
SHIRTS, SWEATSHIRTS, SWEATERS, PANTS,  
SHORTS, JACKETS AND HATS, IN CLASS 25 (U.S.  
CLS. 22 AND 39).**

**LINDA E. BLOHM, EXAMINING ATTORNEY**

*Cobra Trademark File*

# United States Patent Office

657,078  
Registered Jan. 14, 1958

## PRINCIPAL REGISTER Trademark

Ser. No. 27,083, filed Mar. 28, 1957

### COBRA

Burke Golf Equipment Corporation (Illinois corporation)  
160 Essex St.  
Newark, Ohio

For: GOLF CLUBS, in CLASS 22.  
First use in February 1957; in commerce in February  
1957.

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

New Cert.

Reg. No. 657,078

Registered Jan. 14, 1958

OG Date Jan. 19, 1999

**TRADEMARK  
PRINCIPAL REGISTER  
REGISTRATION ASSIGNED**

**COBRA**

COBRA GOLF INCORPORATED (DELA-  
WARE CORPORATION)  
1812 ASTON AVENUE  
CARLSBAD, CA 92008, BY ASSIGN-  
MENTS AND ASSIGNMENTS FROM  
BURKE GOLF EQUIPMENT CORPO-  
RATION (ILLINOIS CORPORATION)  
NEWARK, OH

FOR: GOLF CLUBS, IN CLASS 22  
(INT. CL. 28).

FIRST USE 2-0-1957; IN COMMERCE  
2-0-1957.

SER. NO. 72-027,083, FILED 3-28-1957.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Jan. 19, 1999.*

COMMISSIONER OF PATENTS AND TRADEMARKS

**Int. Cls.: 18 and 28**

**Prior U.S. Cls.: 3 and 22**

**United States Patent and Trademark Office** **Reg. No. 1,731,123**  
Registered Nov. 10, 1992

**TRADEMARK  
PRINCIPAL REGISTER**

**COBRA**

COBRA GOLF INCORPORATED, II (CALIFOR-  
NIA CORPORATION)  
1812 ASTON AVENUE  
CARLSBAD, CA 92008

FOR: ALL-PURPOSE SPORT BAGS, IN  
CLASS 18 (U.S. CL. 3).  
FIRST USE 0-0-1978; IN COMMERCE  
0-0-1978.

FOR: GOLF BAGS, IN CLASS 28 (U.S. CL. 22).  
FIRST USE 0-0-1978; IN COMMERCE  
0-0-1978.

OWNER OF U.S. REG. NO. 657,078.

SER. NO. 74-262,222, FILED 4-3-1992.

JEFFREY SMITH, EXAMINING ATTORNEY

Int. Cl.: 28

Prior U.S. Cl.: 22

**United States Patent and Trademark Office**

**Reg. No. 1,876,713**

Registered Jan. 31, 1995

**TRADEMARK  
PRINCIPAL REGISTER**

**KING COBRA**

COBRA GOLF INCORPORATED, II (CALIFOR-  
NIA CORPORATION)  
1812 ASTON AVENUE  
CARLSBAD, CA 92008

FOR: GOLF CLUBS, IN CLASS 28 (U.S. CL.  
22).

FIRST USE 2-18-1986; IN COMMERCE  
2-18-1986.

OWNER OF U.S. REG. NO. 657,078.

SER. NO. 74-262,224, FILED 4-3-1992.

JEFFREY SMITH, EXAMINING ATTORNEY

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

Reg. No. 2,149,337

United States Patent and Trademark Office

Registered Apr. 7, 1998

TRADEMARK  
PRINCIPAL REGISTER

**cobra**

COBRA GOLF INCORPORATED (DELAWARE  
CORPORATION)  
1812 ASTON AVENUE  
CARLSBAD, CA 92008

FOR: GOLF BAG COVERS, GOLF BAGS,  
GOLF BALLS, GOLF CLUB HEADS, GOLF  
CLUB INSERTS, GOLF CLUB SHAFTS, GOLF  
CLUBS, HAND GRIPS FOR GOLF CLUBS,  
HEAD COVERS FOR GOLF CLUBS, GOLF  
GLOVES, GOLF IRONS, GOLF PUTTER

COVERS, GOLF PUTTERS, IN CLASS 28 (U.S.  
CLS. 22, 23, 38 AND 50).

FIRST USE 10-15-1973; IN COMMERCE  
3-15-1974.

OWNER OF U.S. REG. NOS. 657,078, 2,105,606  
AND OTHERS.

SER. NO. 75-268,000, FILED 4-2-1997.

KARLA PERKINS, EXAMINING ATTORNEY

**United States of America**  
United States Patent and Trademark Office

**COBRA S3**

**Reg. No. 3,898,067**

**Registered Dec. 28, 2010**

**Int. Cl.: 28**

**TRADEMARK**

**PRINCIPAL REGISTER**

COBRA GOLF INCORPORATED (DELAWARE CORPORATION)  
1818 ASTON AVENUE  
CARLSBAD, CA 92008

FOR: GOLF CLUBS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 8-1-2010; IN COMMERCE 8-1-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 657,078, 1,851,522, AND OTHERS.

SN 77-909,248, FILED 1-11-2010.

AMY HELLA, EXAMINING ATTORNEY



*David J. Kybas*

Director of the United States Patent and Trademark Office