

ESTTA Tracking number: **ESTTA606644**

Filing date: **05/28/2014**

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	Trek Bicycle Corporation		
Entity	Corporation	Citizenship	Wisconsin
Address	801 W. Madison Street Waterloo, WI 53594 UNITED STATES		

Attorney information	Mary Catherine Merz Merz & Associates, P.C. 1010 Lake Street, Suite 400 Oak Park, IL 60301-1135 UNITED STATES docket@merz-law.com, jwidmer@merz-law.com Phone:708-383-8801		
----------------------	---	--	--

Applicant Information

Application No	86139059	Publication date	04/29/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	05/29/2014
Applicant	ZHAOQING JUNHONG INDUSTRIAL CO., LTD. RIVERSITE INDUSTRIAL ESTATE GUANGDONG PROVINCE, 526238 CHINA		

Goods/Services Affected by Opposition

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Tires
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	res judicata

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1168276	Application Date	04/21/1980
Registration Date	09/08/1981	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		

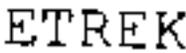
Goods/Services	Class 012. First use: First Use: 1977/03/10 First Use In Commerce: 1977/03/10 Bicycles and Bicycle Frames		
----------------	--	--	--

U.S. Registration No.	1989281	Application Date	11/29/1994
Registration Date	07/23/1996	Foreign Priority Date	NONE
Word Mark	TREKKING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 bicycles		

U.S. Registration No.	1994479	Application Date	10/03/1994
Registration Date	08/20/1996	Foreign Priority Date	NONE
Word Mark	TREK 100		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 providing ride support vehicles in competitive and recreational events, namely bicycle tours, bicycle races, and triathlons		

U.S. Registration No.	2060274	Application Date	10/06/1994
Registration Date	05/13/1997	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1990/09/00 First Use In Commerce: 1990/09/00 cycling computers and head protective helmets for bicycle users</p> <p>Class 012. First use: First Use: 1993/01/00 First Use In Commerce: 1993/01/00 bicycles, bicycle frames, and a full line of parts and accessories for bicycles, namely, handlebars, [handlebar end extensions, handlebar stems,] seats, seat posts, seat post clamps and binder bolts, [tires, tire innertubes, pedals,] forks for supporting bicycles upon bicyclewheels, [bicycle suspensions, wheels and wheel rims,] water bottles, water bottle cages, bicycle mounted racks, [bicycle carrying racks for motor vehicles,] tools and tire repair kits for bicycles, lock holders, [audible warning devices, namely, bells for bicycles,] lighting systems for bicycles [and bicycle fenders]</p> <p>Class 028. First use: First Use: 1993/10/00 First Use In Commerce: 1993/10/00 exercise equipment, namely, stationary exercise cycles</p>		

U.S. Registration No.	2687012	Application Date	03/01/2000
Registration Date	02/11/2003	Foreign Priority	NONE

		Date	
Word Mark	ETREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 On-line retail and wholesale store services, featuring a wide range of consumer-products, except footwear, all provided via the Internet		

U.S. Registration No.	2708232	Application Date	08/29/1997
Registration Date	04/22/2003	Foreign Priority Date	03/03/1997
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/06/30 First Use In Commerce: 2002/06/30 Non-alcoholic beverages sold in liquid form, namely, non-carbonated fruit juices, either alone or flavored with any or all of the following - water, herbs and spices (Based on Use in Commerce); non-carbonated drinking waters either alone or flavored with any or all of the following - herbs, spices, and natural fruit flavors (Based on Use in Commerce) and (Based on 44(e))		

U.S. Registration No.	2742116	Application Date	10/04/2002
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 bicycles and bicycle frames		

U.S. Registration No.	2745442	Application Date	01/05/1998
Registration Date	08/05/2003	Foreign Priority	NONE

		Date	
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 1988/06/00 First Use In Commerce: 1988/06/00 bicycling apparel, namely, bicycling jersey; form fitting and reinforced seat elastic shorts; ankle length socks; wind resistant jackets with enhanced visibility fabric, extra sleeve length, high collar and extended length back panel; vests with enhanced visibility fabric, high collar and extended length back panel</p> <p>Class 028. First use: First Use: 1988/06/00 First Use In Commerce: 1988/06/00 padded and reinforced fingerless bicycling gloves</p>		

U.S. Registration No.	2876977	Application Date	09/27/2001
Registration Date	08/24/2004	Foreign Priority Date	NONE
Word Mark	TREKLITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1977/12/22 First Use In Commerce: 1979/07/17 orienteering equipment and clothing for outdoor sporting activities, namely, protective outer wear</p> <p>Class 025. First use: First Use: 1977/12/22 First Use In Commerce: 1979/07/17 orienteering equipment and clothing for outdoor sporting activities, namely, leggings, pants, gators, shirts, and jackets</p>		

U.S. Registration No.	3031210	Application Date	06/28/2004
Registration Date	12/20/2005	Foreign Priority Date	NONE
Word Mark	TREK TRAVEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 039. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Arranging travel tours featuring hiking, river rafting, whale watching, kayaking, and bicycling; cultural tours, namely, conducting sightseeing tours for others</p> <p>Class 041. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Sporting and cultural activities related to bicycling, namely, wine tastings and cultural tours, namely, guided tours of wineries</p> <p>Class 043. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 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</p>		

U.S. Registration No.	3042834	Application Date	07/08/2004
-----------------------	---------	------------------	------------

Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	TREK UNIVERSITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2004/10/01 First Use In Commerce: 2004/10/01 Instructional and training services in the field of retailing bicycles, bicycleclothing and bicycle accessories, and in the fields of bicycle safety, bicycle recreation, bicycle service and bicycle repair		

U.S. Registration No.	3053077	Application Date	10/21/2003
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1993/01/31 First Use In Commerce: 1993/01/31 backpacks, [fanny packs,] textile totebags, [hip packs,] messenger bags, rack-trunks, saddle bags, bicycle seat packs, all purpose sports bags		

U.S. Registration No.	3066516	Application Date	11/06/2002
Registration Date	03/07/2006	Foreign Priority Date	NONE
Word Mark	TREKER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2002/11/00 First Use In Commerce: 2002/11/00 OFF-ROAD ALL-TERRAIN UTILITY VEHICLES		

U.S. Registration No.	3397739	Application Date	07/03/2007
Registration Date	03/18/2008	Foreign Priority Date	NONE
Word Mark	TREK BICYCLE STORE		

Design Mark	Trek Bicycle Store
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1996/09/01 First Use In Commerce: 1996/09/01 retail stores featuring bicycles

U.S. Registration No.	3516346	Application Date	03/27/2008
Registration Date	10/14/2008	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark	Trek		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 On-line retail and wholesale store services featuring a wide range of consumer products except footwear all provided via the Internet		

U.S. Registration No.	3576106	Application Date	07/31/2008
Registration Date	02/17/2009	Foreign Priority Date	NONE
Word Mark	TREK STOP		

Design Mark	<h1>TREK STOP</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/06/30 First Use In Commerce: 2008/06/30 retail vending services in the field of automated vending machines that dispenses bicycle parts, bicycle accessories, energy bars, beverages and gels		

U.S. Registration No.	3653169	Application Date	02/05/2008
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	TREK 100		
Design Mark	<h1>Trek 100</h1>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/01 First Use In Commerce: 1989/05/01 Charitable fund raising services by means of bicycle rides and entertainment events		

U.S. Registration No.	3709688	Application Date	05/16/2008
Registration Date	11/10/2009	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2009/08/10 First Use In Commerce: 2009/08/10 Powders used in the preparation of sports drinks and energy drinks

U.S. Registration No.	3789682	Application Date	08/05/2009
Registration Date	05/18/2010	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/01 First Use In Commerce: 1989/05/01 Charitable fund raising services by means of bicycle rides and entertainment events		

U.S. Registration No.	3798045	Application Date	02/05/2008
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	<h1>Trek</h1>
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2000/04/28 First Use In Commerce: 2000/04/28 Exercise equipment, namely, stationary trainers for use with bicycles

U.S. Registration No.	3900734	Application Date	06/17/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark	<h1>Trek</h1>		
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Electric Bikes		

U.S. Registration No.	3900782	Application Date	07/15/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	<h1>TREK</h1>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2007/10/11 First Use In Commerce: 2007/10/11 Conducting workshops and seminars in properly fitting bicycles for individual bicyclists; Instruction in the field of properly fitting bicycles for individual bicyclists		

U.S. Registration No.	3979036	Application Date	02/17/2010
Registration Date	06/14/2011	Foreign Priority Date	NONE

Word Mark	TREK
-----------	------

Design Mark			
Description of Mark	The mark consists of a stylized shield design, on which appears 4 vertical curved lines. The word "TREK" appears on the top border of the shield design.		
Goods/Services	Class 025. First use: First Use: 2010/08/31 First Use In Commerce: 2010/08/31 Cycling apparel, namely, jerseys and shorts, hats, tshirts		

U.S. Registration No.	4021852	Application Date	11/10/2010
Registration Date	09/06/2011	Foreign Priority Date	NONE

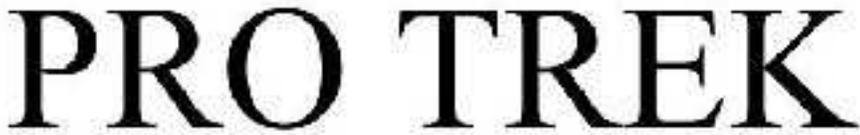
Word Mark	TREK BICYCLES OF TUCSON
-----------	-------------------------

Design Mark			
-------------	--	--	--

Description of Mark	The mark consists of standard letters with the word "Trek" on top of the words "Bicycles of Tucson".
Goods/Services	Class 035. First use: First Use: 2007/06/04 First Use In Commerce: 2007/06/04 Retail stores featuring bicycles

U.S. Registration No.	4077999	Application Date	11/18/2010
Registration Date	12/27/2011	Foreign Priority Date	NONE

Word Mark	PRO TREK
-----------	----------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 014. First use: First Use: 2011/05/01 First Use In Commerce: 2011/05/01 electronic wrist watches
----------------	---

U.S. Registration No.	4372869	Application Date	07/15/2010
Registration Date	07/23/2013	Foreign Priority Date	NONE

Word Mark	TREK
-----------	------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 041. First use: First Use: 2011/01/31 First Use In Commerce: 2011/01/31 Health club services, namely, providing instruction and equipment in the field of physical exercise; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Training services in the field of physical exercise
----------------	--

U.S. Application No.	86006347	Application Date	07/10/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	TREK
Design Mark	
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 1995/08/01 First Use In Commerce: 1995/08/01 Trailers for bicycles

U.S. Application No.	86117686	Application Date	11/13/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1995/12/15 First Use In Commerce: 1995/12/15 Provision of professional cycling services, namely, providing support services in the nature of team marketing, rider marketing; arranging and conducting incentive reward programs to promote the sale of bicycles, cycling accessories, and cycling services; promotional sponsorship of individuals in sports and/or a sports team; organizing, arranging and conducting individual and team bicycle racing events for promotional purposes; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet</p> <p>Class 041. First use: First Use: 1995/12/15 First Use In Commerce: 1995/12/15 Organization of cycling events; organizing, arranging, and conducting individual and team bicycle racing events; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet</p>		

Attachments	75933601#TMSN.gif(bytes)
-------------	----------------------------

	78171262#TMSN.gif(bytes) 76599435#TMSN.gif(bytes) 78447581#TMSN.jpeg(bytes) 77221529#TMSN.jpeg(bytes) 77433264#TMSN.jpeg(bytes) 77536257#TMSN.jpeg(bytes) 77388493#TMSN.jpeg(bytes) 77476296#TMSN.jpeg(bytes) 77797825#TMSN.jpeg(bytes) 77388536#TMSN.jpeg(bytes) 85065052#TMSN.jpeg(bytes) 85085570#TMSN.jpeg(bytes) 77937970#TMSN.jpeg(bytes) 85173419#TMSN.jpeg(bytes) 85179666#TMSN.jpeg(bytes) 85085438#TMSN.jpeg(bytes) 86006347#TMSN.jpeg(bytes) 86117686#TMSN.jpeg(bytes) 24138.Notice of Opposition MAXTREK.pdf(205382 bytes)
--	---

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	/Jennifer A. Widmer/
Name	Jennifer A. Widmer
Date	05/28/2014

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

In the Matter of U.S. Application Serial No. 86/139,059
For: MAXTREK
Filed: December 10, 2013
Date of Publication: April 29, 2014

TREK BICYCLE CORPORATION)
)
 Opposer,)
)
 v.) Opposition No. _____
)
ZHAOQING JUNHONG)
INDUSTRIAL CO., LTD)
)
 Applicant.)

NOTICE OF OPPOSITION

Opposer, Trek Bicycle Corporation ("Opposer"), a Wisconsin corporation with its principal place of business at 801 West Madison Street, Waterloo, Wisconsin 53594, believes it will be damaged by registration of the standard character word mark MAXTREK, Serial No. 86/139,059, in Class 12 and hereby opposes the same, 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, Zhaoqing Junhong Industrial Co., Ltd. ("Applicant") is a Chinese limited company

with its principal place of business at Riverside Industrial Estate, Hi-Tech District, Zhaoqing City, Guangdong Province, 526238, CHINA.

2. As evidenced by the publication of Serial No. 86/139,059 in the Official Gazette of April 29, 2014, Applicant seeks to register MAXTREK ("Applicant's Mark") in connection with "tires" in Class 12.

3. Upon information and belief, Applicant filed Serial No. 86/139,059 on December 10, 2013 based on intent to use the mark in commerce in connection with the claimed goods.

4. Since at least 37 years prior to the application filing date for Applicant's Mark, 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 in the United States and throughout the world. As such, Trek has extensive, non-registered statutory and common law rights in and to its TREK trade name, which Trek uses in connection with its business activities.

6. Since at least 36 years prior to the application filing date for Applicant's Mark, Trek adopted and has continuously

used its TREK trademark in connection with bicycles, bicycle frames, bicycle parts and accessories, including tires and wheels.

7. Trek is the owner of the following U.S. Trademark registrations:

Registration No. 1,168,276 for TREK for "bicycles and bicycle frames";

Registration No. 1,989,281 for TREKKING for "bicycles";

Registration No. 1,994,479 for TREK 100 for "providing ride support vehicles in competitive and recreational events, namely, bicycle tours, bicycle races, and triathlons";

Registration No. 2,060,274 for TREK for "exercise equipment, namely, stationary exercise cycles," "bicycles," "cycling computers," "head protective helmets for bicycle users" and "tire repair kits for bicycles," among other things;

Registration No. 2,687,012 for ETREK for "online retail and wholesale store services, featuring a wide range of consumer products, except footwear, all provided via the Internet";

Registration No. 2,708,232 for TREK for "non-alcoholic beverages";

Registration No. 2,742,116 for TREK Stylized for "bicycles and bicycle frames";

Registration No. 2,745,442 for TREK for "bicycling apparel, namely, bicycling jersey; form fitting and reinforced seat elastic shorts; ankle length socks; wind resistant jackets with enhanced visibility fabric, extra sleeve length, high collar and extended length back panel; vests with enhanced visibility fabric, high collar and extended length back panel" and "padded and reinforced fingerless bicycling gloves";

Registration No. 2,876,977 for TREKLITE for "orienteering equipment and clothing for outdoor sporting activities, namely protective outer wear" and "orienteering equipment and clothing for outdoor sporting activities, namely, leggings, pants, gators, shirts, and jackets";

Registration No. 3,031,210 for TREK TRAVEL for "travel arrangement of bicycling tours," "sporting and cultural activities related to bicycling," and "services for providing food and drinks, temporary accommodation, all related to bicycling activities";

Registration No. 3,042,834 for TREK UNIVERSITY for "instruction 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";

Registration No. 3,053,077 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";

Registration No. 3,066,516 for TREKER for "off road all-terrain utility vehicles";

Registration No. 3,397,739 for TREK BICYCLE STORE for "retail stores featuring bikes";

Registration No. 3,516,346 for TREK for "online retail and wholesale store services featuring a wide range of consumer products except footwear all provided via the Internet";

Registration No. 3,576,106 for TREK STOP for "retail vending services in the field of automated vending machines that dispenses bicycle parts, bicycle accessories, energy bars, beverages and gels";

Registration No. 3,653,169 for TREK 100 for "Charitable fund raising services by means of bicycle rides and entertainment events"; and

Registration No. 3,709,688 for TREK for "Powders used in the preparation of sports drinks and energy drinks";

Registration No. 3,789,682 for TREK for "Charitable fund raising services by means of bicycle rides and entertainment events";

Registration No. 3,798,045 for TREK for "Exercise equipment, namely, stationary trainers for use with bicycles";

Registration No. 3,900,734 for TREK for "electric bikes";

Registration No. 3,900,782 for TREK for "Conducting workshops and seminars in properly fitting bicycles for individual bicyclists; Instruction in the field of properly fitting bicycles for individual bicyclists";

Registration No. 3,979,036 for TREK and Design for "Cycling apparel, namely jerseys and shorts, hats, t-shirts";

Registration No. 4,021,852 for TREK BICYCLES OF TUCSON for "retail stores featuring bicycle";

Registration No. 4,077,999 for PRO TREK for "electric wrist watches"; and

Registration No. 4,372,869 for TREK for "Health club services, namely, providing instruction and equipment in the field of physical exercise; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Training services in the field of physical exercise."

These registrations are valid, subsisting, uncancelled and are evidence of Trek's exclusive right to use TREK and the other identified marks in commerce in connection with the goods and services specified in the registrations.

8. Trek also is the owner of the following U.S. Trademark Applications:

Serial No. 86/006,347 for TREK for "trailers for bicycles"; and

Serial No. 86/117,686 for TREK for "provision of professional cycling services, namely providing support services during cycling events; organization of cycling events; organization and supervision of sales and promotional incentive schemes; promotional sponsorship of individuals in sports and/or a sports team; arranging, organization, running of individuals in sports and/or a sports team; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet."

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

10. Prior to the application filing date for Applicant's Mark, 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 MAXTREK.

12. Applicant's Mark so resembles Trek's TREK mark, trade name and other TREK-formative marks that it 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. 86/139,059 originate with Trek or otherwise are authorized, licensed or sponsored by Trek.

13. By reason of all the foregoing, Trek will be damaged by the registration of Applicant's Mark for the goods covered by Serial No. 86/139,059, because registration of the mark would be in violation of Trek's trademark and trade name rights.

14. Additionally, on September 18, 2012, Applicant filed U.S. Trademark Application Serial No. 85/731,261 for MAXTREK for "adhesive rubber patches for repairing tubes or tires; casings for pneumatic tires; inner tubes; inner tubes for vehicle tires; patches for repairing inner tubes; tires; tires for vehicle wheels; tires for vehicles; tires, solid, for vehicle wheels; treads for retreading tires" in Class 12 ("Serial No. 85/731,261"). A true and correct copy of the USPTO's TESS status print-out for Serial No. 85/731,261 is attached as Exhibit A.

15. On March 21, 2013, Opposer filed a Notice of Opposition against Serial No. 85/731,261 ("Opposition No. 91210091") and on September 17, 2013 a Default Judgment was entered against the applicant and registration of Serial No.

85/731,261 was refused. A true and correct copy of the Default Judgment is attached as Exhibit B.

16. Based upon the doctrine of *res judicata*, Applicant is now barred from seeking registration of Serial No. 86/139,059 because (a) the parties in this opposition are identical to the parties in Opposition No. 91210091, (b) there was a final judgment on the merits in Opposition No. 91210091 against the registration of the MAXTREK mark for the same goods, and (c) Serial No. 86/139,059 is for the same mark and the same goods that already were adjudicated in Opposition No. 91210091.

17. Previously, on July 28, 2008, Applicant's sister company, Maxtrek Pte Ltd., filed U.S. Trademark Application Serial No. 79/062,831 for MAXTREK and Design for "vehicles, namely, land vehicles; apparatus for locomotion by land, air or water, namely, land vehicles, aircraft, and boats; motors and engines for land vehicles; couplings and transmission components for land vehicles; air cushion vehicles; adhesive rubber patches for repairing rubber tubes; tire repair patches; tire treads of rubber used to retread tires; tire valves for vehicle tires; tires for agricultural vehicles; tires for aircraft; tires for automobiles; tires for bicycles, cycles; tires for buses; tires for commercial vehicles; tires for land vehicles; tires for motor vehicles wheels; tires for motor vehicles; tires for

motorcycles; tires for trucks; tires for two-wheeled vehicles; tires for vehicle wheels; tires, solid, for vehicle wheels" in Class 12, which registered on December 8, 2009 ("Registration No. 3722560"). A true and correct copy of the USPTO's TESS status print-out for Registration No. 3722560 is attached as Exhibit C.

18. On January 24, 2011, Opposer filed a Petition for Cancellation against Registration No. 3722560 ("Cancellation No. 92053546") and on May 9, 2011 a Default Judgment was entered against the registrant and Registration No. 3722560 was cancelled. A true and correct copy of the Default Judgment is attached as Exhibit D.

19. Based upon the doctrine of *res judicata*, Applicant is now barred from seeking registration of Serial No. 86/139,059 because (a) there is an identity of parties or those in privity with them in the pending opposition and in Cancellation No. 92053546, (b) there was a final judgment on the merits in Cancellation No. 92053546, and (c) Serial No. 86/139,059 is for the same mark and the same goods that already were adjudicated in Cancellation No. 92053546.

WHEREFORE, Trek prays that this Notice of Opposition be sustained in favor of Trek and that Serial No. 86/139,059 be

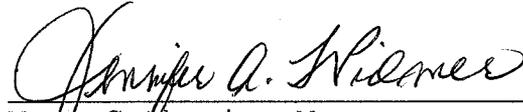
denied registration. Trek submits herewith its payment of the \$300 filing fee, as required by 37 C.F.R. §2.6(a)(17).

Respectfully submitted,

TREK BICYCLE CORPORATION

Date: May 28, 2014

By:



Mary Catherine Merz
Jennifer A. Widmer
MERZ & ASSOCIATES, P.C.
Attorneys at Law
1010 Lake Street, Suite 400
Oak Park, Illinois 60301
(708) 383-8801 (phone)
(708) 383-8897 (fax)
doCKET@merz-law.com

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on Applicant by First Class Mail this May 28, 2014, addressed to:

Lin Conghai
Convention Plaza
3011, 30/F, Office Tower
1 Harbour Road
HONG KONG

By:


Jennifer A. Widmer

EXHIBIT A



United States Patent and Trademark Office

Trademarks > **Trademark Electronic Search System (TESS)**

TESS was last updated on Tue May 27 03:10:42 EDT 2014

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT **SEARCH OG** BOTTOM HELP PREV LIST CURR LIST
NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC

Please logout when you are done to release system resources allocated for you.

List At: OR to record: **Record 2 out of 3**

TSDR **ASSIGN Status** **TTAB Status** *(Use the "Back" button of the Internet Browser to return to TESS)*

MAXTREK

Word Mark MAXTREK

Translations The wording MAXTREK has no meaning in a foreign language.

Goods and Services (ABANDONED) IC 012. US 019 021 023 031 035 044. G & S: Adhesive rubber patches for repairing tubes or tires; Casings for pneumatic tires; Inner tubes; Inner tubes for vehicle tires; Patches for repairing inner tubes; Tires; Tires for vehicle wheels; Tires for vehicles; Tires, solid, for vehicle wheels; Treads for retreading tyres

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85731261

Filing Date September 18, 2012

Current Basis 1B
Original Filing Basis 1B
Published for Opposition February 26, 2013
Owner (APPLICANT) ZHAOQING JUNHONG INDUSTRIAL CO., LTD. limited company (ltd.) CHINA RIVERSITE INDUSTRIAL ESTATE HI-TECH DISTRICT, ZHAOQING CITY GUANGDONG PROVINCE CHINA 526238
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator DEAD
Abandonment Date September 17, 2013

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[HOME](#) [SITE INDEX](#) [SEARCH](#) [eBUSINESS](#) [HELP](#) [PRIVACY POLICY](#)

EXHIBIT B

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

CME/mc

Mailed: September 17, 2013

Opposition No. 91210091

Trek Bicycle Corporation

v.

Zhaoqing Junhong Industrial
Co., Ltd.

On July 30, 2013, the Board issued an order allowing applicant thirty days to show cause why judgment should not be entered against it based on its failure to participate in the mandatory discovery conference (the "Prior Order"). Applicant has failed to respond to the Prior Order. Accordingly, judgment by default is hereby entered against applicant, the opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 37(b), and Trademark Rule 2.120(g)(1).

***By the Trademark Trial
and Appeal Board***

EXHIBIT C



United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue May 27 03:10:42 EDT 2014

TESS HOME NEW USER STRUCTURED FREE FORM BROWSER Dict SEARCH OG BOTTOM HELP PREV LIST CURR LIST
NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC

Please logout when you are done to release system resources allocated for you.

List At: OR to record: **Record 3 out of 3**

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)



MAXTREK

新 美 途

Word Mark MAXTREK

Translations The non-Latin characters in the mark transliterate to "XIN MEI TU" and this has no meaning in a foreign language.

Goods and Services (CANCELLED) IC 012. US 019 021 023 031 035 044. G & S: Vehicles, namely, land vehicles; apparatus for locomotion by land, air or water, namely, land vehicles, aircraft, and boats; motors and engines for land vehicles; couplings and transmission components for land vehicles; air cushion vehicles; adhesive rubber patches for repairing rubber tubes; tire repair patches; tire treads of rubber used to retread tires; tire valves for vehicle tires; tires for agricultural vehicles; tires for aircraft; tires for automobiles; tires for bicycles, cycles; tires for buses; tires for commercial vehicles; tires for land vehicles; tires for motor vehicles wheels; tires for motor vehicles; tires for motorcycles; tires for trucks; tires for two-wheeled vehicles; tires for vehicle wheels; tires, solid, for vehicle wheels

Mark Drawing

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Code

Design 26.05.03 - Incomplete triangles (must have two angles); Triangle, incomplete
Search Code (two angles)
26.05.15 - Four or more triangles; Triangles - four or more
26.05.16 - Triangles touching or intersecting
28.01.03 - Asian characters; Chinese characters; Japanese characters

Trademark NOTATION-SYMBOLS Notation Symbols such as Non-Latin
Search characters,punctuation and mathematical signs,zodiac signs,prescription marks
Facility SHAPES-BAR-BANDS Designs with bar, bands or lines
Classification SHAPES-CHEVRONS Designs with a general shape of a chevron or V character
Code SHAPES-MISC Miscellaneous shaped designs
SHAPES-TRIANGLES Triangular shaped designs and marks including
incomplete triangles

Serial
Number 79062831

Filing Date July 28, 2008

Current
Basis 66A

Original
Filing Basis 66A

Published for
Opposition August 18, 2009

Registration
Number 3722560

International
Registration 0986842
Number

Registration
Date December 8, 2009

Owner (REGISTRANT) Maxtrek Pte Ltd Company SINGAPORE 66 Tannery Lane,
Unit 01-03E Sindo Building; Singapore 347805 SINGAPORE

Priority Date March 4, 2008

Description Color is not claimed as a feature of the mark. The mark consists of a design shape
of Mark consisting of four intersecting chevrons next to which is the term "MAXTREK"
in a stylized font. Underneath the term "MAXTREK" are three Chinese
characters.

Type of
Mark TRADEMARK

Register PRINCIPAL

Live/Dead
Indicator DEAD

Cancellation May 17, 2011
Date

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT **SEARCH OG** TOP HELP PREV LIST CURR LIST
NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC

[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

EXHIBIT D

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

RA

Mailed: May 9, 2011

Cancellation No. 92053546

Trek Bicycle Corporation

v.

Maxtrek Pte Ltd

On March 22, 2011, the Board sent a notice of default to respondent because no answer had been filed.

The record shows no response thereto.

Accordingly, judgment by default is hereby entered against respondent, the petition to cancel is granted, and Registration No. 3722560 will be cancelled in due course. See Fed. R. Civ. P. 55, and Trademark Rule 2.114(a).

***By the Trademark Trial
and Appeal Board***