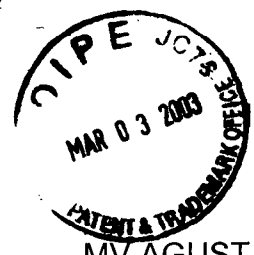




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03-03-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #64



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

MV AGUSTA MOTOR S.P.A.)	
Opposer,)	Opposition No. 119,317 (Parent)
)	Opposition No. 119,597
v.)	Opposition No. 119,598
)	
TEAM OBSOLETE PRODUCTS, LTD.)	
Applicant.)	Docket No.: 4014-2

AMENDED NOTICE OF OPPOSITION IN CONSOLIDATED PROCEEDING

Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

03 MAR 12 PM 9:30

MV Agusta Motor S.p.A., an Italian corporation of Via Macchi, 144, 21100 Varese, Italy, believes that it will be damaged by the registration of the mark MV AND DESIGN in Application Serial No. 75/350,788, the mark MV AGUSTA in Application Serial No. 75/350,790 and the mark MV in Application Serial No. 75/350,791 (hereinafter collectively "Applicant's Marks"), and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Application Serial No. 75/350,788 was filed on September 2, 1997 to register the mark MV AND DESIGN based on intent-to-use. The goods in the application as published are "MOTORCYCLES AND STRUCTURAL PARTS THEREFOR" in Class 12; and "CLOTHING, NAMELY, COATS, OVERALLS, DUNGAREES, GLOVES, JACKETS, JERSEYS, OVERALLS, PANTS, SHIRTS, T-SHIRTS, SWEATSHIRTS, VISORS, HATS AND FOOTWEAR in Class 25.

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2. On information and belief, Applicant has not used the mark MV AND DESIGN in the United States prior to the filing date of September 2, 1997.

3. Application Serial No. 75/350,790 was filed on September 2, 1997 to register the mark MV AGUSTA based on intent-to-use. The goods in the application as published are "MOTORCYCLES AND STRUCTURAL PARTS THEREFOR" in Class 12; and "CLOTHING, NAMELY, COATS, COVERALLS DUNGAREES, GLOVES, JACKETS, JERSEYS, OVERALLS, PANTS, SHIRTS, T-SHIRTS, SWEATSHIRTS, VISORS, HATS AND FOOTWEAR" in Class 25.

4. On information and belief, Applicant has not used the mark MV AGUSTA in the United States prior to the filing date of September 2, 1997.

5. Application Serial No. 75/350,791 was filed on September 2, 1997 to register the mark MV based on intent-to-use. The goods in the application as published are "CLOTHING, NAMELY, COATS, COVERALLS, DUNGAREES, GLOVES, JACKETS, JERSEYS, OVERALLS, PANTS, SHIRTS, T-SHIRTS, SWEATSHIRTS, VISORS, HATS AND FOOTWEAR" in Class 25.

6. On information and belief, Applicant has not used the mark MV in the United States prior to the filing date of September 2, 1997.

7. Opposer and its predecessors in interest have used the marks MV AND DESIGN and MV AGUSTA in the United States and throughout the world in connection with motorcycles, structural parts therefor, wearing apparel and other goods prior to the filing date of September 2, 1997 of Applications Serial Nos. 75/350,788. 75/350,790 and 75/350,791.

8. The marks MV AND DESIGN and MV AGUSTA used by Opposer and its predecessors in interest are famous marks known and registered throughout the world in connection with motorcycles, wearing apparel and related goods.

9. Opposer filed Application Serial No. 75/355, 732 to register the mark MV AGUSTA AND DESIGN for various goods in Classes 12, 14 and 25; and Application Serial No. 75/371,378 to register the mark MV AGUSTA AND DESIGN for various goods in Classes 3 and 18. Applications Serial Nos. 75/350,788, 75/350,790 and 75/350,791 filed by Applicant have been cited against both of these applications filed by Opposer.

10. Applicant was not the owner of Applicant's Marks at the time of filing Applications Serial Nos. 75/350,788, 75/350,790 and 75/350,791, and thus these applications are null and void.

11. At the time of filing Applications Serial Nos. 75/350,788, 75/350,790 and 75/350,791, Applicant knew that it was not the owner of Applicant's Marks, and thus the filing of these applications by Applicant was fraudulent and the applications are null and void.

12. By virtue of the marketing and sale by Opposer and its predecessors in interest of motorcycles and structural parts therefor, wearing apparel and other goods under the marks MV AND DESIGN and MV AGUSTA, such products have acquired a favorable reputation reflected in a substantial amount of goodwill which will be severely impaired by the registration of Applicant's Marks for the goods in Classes 12 and 25.

13. Applicant's Marks are the same as Opposer's marks MV AND DESIGN and MV AGUSTA and, when used on substantially the same goods, namely,

motorcycles and structural parts therefor, wearing apparel and related goods, are very likely to cause confusion, mistake or lead to deception as to the source or origin of Applicant's goods when sold under Applicant's Marks.

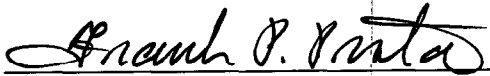
14. The motorcycles and parts therefor, and clothing on which Applicant's Marks are intended to be used, and the motorcycles and parts therefor, wearing apparel and other goods on which Opposer's marks MV AND DESIGN and MV AGUSTA are used are substantially the same products which are sold, distributed and advertised through the same channels of trade and to the same classes of purchasers.

Accordingly, confusion, mistake or deception are most likely, and many persons familiar with Opposer's marks MV AND DESIGN and MV AGUSTA are likely to buy Applicant's products under Applicant's Marks in the belief that the latter are products sold or authorized by Opposer.

15. By the grant of registrations for Applicant's Marks, Applicant will obtain at least *prima facie* the exclusive right to use these marks on motorcycles and structural parts therefor, and clothing. Such registrations will be a source of damage and injury to Opposer and to its customers who have traded with Opposer based on reliance on its MV AND DESIGN and MV AGUSTA marks.

WHEREFORE, Opposer prays that these consolidated oppositions be sustained and that registration of Applicant's Marks in Applications Serial Nos. 75/350,788, 75/350,790 and 75/350,791 be refused to Applicant.

MV AGUSTA MOTOR S.P.A.

By: 
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Date: March 3, 2003

CERTIFICATE OF SERVICE

A copy of the foregoing **AMENDED NOTICE OF OPPOSITION IN CONSOLIDATED PROCEEDING** was served on Robert T. Iannauci, President, Team Obsolete Products, Ltd., 139 Henry Street, Brooklyn, New York 11201, this 3rd day of March, 2003, via the United States Postal Service, First Class Mail.


Frank P. Presta
Frank P. Presta