

ESTTA Tracking number: **ESTTA926651**

Filing date: **10/05/2018**

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	Joma Sport, S.A.		
Entity	Corporation	Citizenship	Spain
Address	Ramon y Cajal, 112 El Portillo de Toledo, 45512 SPAIN		

Attorney information	Richard Lehv Fross Zelnick Lehrman & Zissu, P.C. 4 17th Floor New York, NY 10036 UNITED STATES rlehv@fzlj.com, cliu@fzlj.com, sdouglass@fzlj.com 9173763775		
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Applicant Information

Application No	87421914	Publication date	09/11/2018
Opposition Filing Date	10/05/2018	Opposition Period Ends	10/11/2018
Applicant	Zhang Yao No.23 Ziran Village,Zhangjiabang,Dazhen Village,Zhicheng Town,Changxing County, Huzhou CHINA		

Goods/Services Affected by Opposition

Class 025. First Use: 2017/03/28 First Use In Commerce: 2017/03/28 All goods and services in the class are opposed, namely: Coats; Outer jackets; Overcoats; Waist-coats

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2741503	Application Date	09/03/2002
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	JOMA		

Design Mark	<h1>JOMA</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Clothing for men, women and children, namely, shirts, t-shirts, [trousers,] shorts, [skirts, pullovers, sweaters, cardigans,] jackets; [swimwear, namely, bathing suits, bathing trunks and bikinis; coats, anoraks, belts, ties, wristbands,] socks; [headgear, namely, hats, caps, head bands;] footwear, namely, shoes, [boots, slippers,] sandals and sport shoes

U.S. Registration No.	1906599	Application Date	01/28/1993
Registration Date	07/18/1995	Foreign Priority Date	NONE

Word Mark	JOMA SPORT
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1968/10/00 First Use In Commerce: 1989/09/00 sports shoes, football shoes, sports shirts, tracksuits, sports pants and stockings; [and for tailored garments for ladies, gentlemen and children; namely, suits, jackets, pants, shirts, and] shorts, and footwear (except orthopaedic footwear)
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Attachments	76446314#TMSN.png(bytes) 74353515#TMSN.png(bytes) F2779362.PDF(131937 bytes)
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Signature	/Richard Lehv/
Name	Richard Lehv
Date	10/05/2018

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

Opposer's Ref: JOMA USA TC 1810798

In the Matter of Application Serial No. 87421914
Mark: JOMAKE
Filed: April 23, 2017
Published in the *Official Gazette*: September 11, 2018

JOMA SPORT, S.A.,

Opposer,

-against-

ZHANG YAO,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Joma Sport, S.A., a company organized and existing under the laws of Spain, located and doing business at Ramon y Cajal, 112, 45512 El Portillo de Toledo, Spain, believes it will be damaged by the registration of the mark shown in Application Serial No. 87421914, and opposes that application under Section 13(a) of the Trademark Act of 1946, 15 U.S.C. § 1063(a).

As grounds for its opposition, Opposer, by its attorneys, Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer is using the mark JOMA on and in connection with a variety of goods, including clothing, in commerce in the United States. Such use commenced long prior to any date on which Applicant may rely.

2. Opposer is the owner of U.S. Registration No. 2,741,503 for the mark JOMA for “Clothing for men, women and children, namely, shirts, t-shirts, shorts, jackets; socks; footwear,

namely, shoes, sandals and sport shoes,” in International Class 25. This Registration was issued on July 29, 2003. The foregoing registration is valid and subsisting, in full force and effect, and incontestable under the provision of Section 15 of the Trademark Act, 15 U.S.C. § 1065.

3. Opposer is the owner of U.S. Registration No. 1,906,599 for the mark JOMA SPORT and Design for “sports shoes, football shoes, sports shirts, tracksuits, sports pants and stockings; shorts, and footwear (except orthopaedic footwear),” in International Class 25. This Registration was issued on July 18, 1995. The foregoing registration is valid and subsisting, in full force and effect, and incontestable under the provision of Section 15 of the Trademark Act, 15 U.S.C. § 1065.

4. In view of the foregoing, Opposer is the owner of statutory and common law rights in the JOMA mark in the United States.

5. Applicant, Zhang Yao, filed Application Serial No. 87421914 for the mark JOMAKE for “Coats; Outer jackets; Overcoats; Waistcoats.” in International Class 25 on April 23, 2017. This mark was published for opposition in the Trademark Official Gazette of September 11, 2018.

6. Applicant’s JOMAKE mark is confusingly similar to Opposer's JOMA mark. The parties’ marks create confusingly similar commercial impressions and are confusingly similar in meaning, appearance and sound.

7. Not only are the marks confusingly similar, but also the parties’ goods are identical or closely related. Opposer uses the mark JOMA on and in connection with clothing, including jackets, while Applicant claims to use the mark JOMAKE on and in connection with “Coats; Outer jackets; Overcoats; Waistcoats.”

8. Upon information and belief, Applicant applied to register the mark JOMAKE with full knowledge of Opposer's rights in the JOMA mark and with full knowledge of Opposer's existing federal trademark registrations for JOMA for the identical or closely related products. Further, under 15 U.S.C. § 1072, the registration of Opposer's mark constituted constructive notice of Opposer's claim of ownership of its marks.

9. Applicant's application and the presumption of exclusivity that would come from a registration to Applicant of the JOMAKE mark are inconsistent with the prior rights of Opposer in the JOMA mark and the rights of Opposer flowing from its own federal trademark registrations.

10. The use by Applicant of a mark confusingly similar to Opposer's mark for identical or highly related goods is likely to create the mistaken impression that Applicant's goods are made by, come from, or are otherwise associated with Opposer or its goods or that Applicant's goods are endorsed, sponsored, or in some other way connected with Opposer. Any use of the mark JOMAKE on or in connection with the goods in Application Serial No. 87421914 is likely to cause confusion or mistake or to deceive the public into the belief that goods offered by Applicant under its mark come from or are otherwise authorized or sponsored by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

11. By reason of all the foregoing, Opposer will be damaged by the registration of the mark JOMAKE to Applicant.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that the registration of the mark in Application Serial No. 87421914 be denied.

Dated: New York, New York
October 5, 2018

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

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