

ESTTA Tracking number: **ESTTA971327**

Filing date: **05/03/2019**

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	Majestic Apparel, LLC
Granted to Date of previous extension	05/05/2019
Address	2711 Centerville Road, Suite 400 Wilmington, DE 19808 UNITED STATES

Attorney information	Daniel S. Marks Morgan, Lewis & Bockius LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004 UNITED STATES trademarks@morganlewis.com, jennifer.evans@morganlewis.com, daniel.marks@morganlewis.com, karen.butcher@morganlewis.com, katie.feiereisel@morganlewis.com 202.739.5545
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Applicant Information

Application No	79236536	Publication date	11/06/2018
Opposition Filing Date	05/03/2019	Opposition Period Ends	05/05/2019
International Registration No.	1412681	International Registration Date	02/14/2018
Applicant	MS TRADEMARKS Sp. z o.o. Al. Gen. Wladyslawa Andersa 615 PL-43-300 Bielsko - Biala POLAND		

Goods/Services Affected by Opposition

Class 018. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Trunks and travelling bags; all-purpose carrying bags; sports bags, carry-all bags for campers; rucksacks and knapsacks
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing, namely, coats, raincoats, water-proof coats, waistcoats, vests, jackets, soft-shell jackets, trousers, shorts, shirts, singlets, polo shirts, T-shirts; slacks, pants, lounge pants, Bermuda shorts, gym shorts, sweat shirts, trousers, skirts, tops, belts of textiles, fabric belts; headgear in the nature of skull caps, baseball caps, swim caps, knotted caps, bucket caps, hats, visors being headwear, headbands; footwear; footwear for sports and for campers; sandals, flip flops; water shoes, tennis shoes, football boots, basketball shoes; shoe inserts for primarily non-orthopedic purposes; trousers, namely, snowboard trousers, ski

trousers, hiking trousers, fitness trousers, jogging trousers; shorts, namely, shorts for fitness, jogging and swimming; shirts, namely, sports jerseys and sports vests; sweatshirts and hoodies, and sports sweatshirts and fleece tops; tracksuits; jackets, namely, ski jackets, snowboard jackets, softshell jackets, jogging and hiking jackets; gloves; skiing and snowboarding gloves; cycling gloves; underwear; boxer shorts; undershirts; thermal underwear; socks, namely, ski socks, hiking socks, tennis socks, bicycle socks and football socks; headbands for clothing; waist belts; scarves; balaclavas; tube scarves; ear muffs; swimming trunks; one-piece and two-piece swimsuits; dressing gowns; swimming caps; wetsuits for swimmers; cycling vests; cycling leggings and shorts; cycling jerseys; cross-country ski boots, snowboard boots; ski boots; ski boot bags; gaiters


Class 028. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Gymnastic and sporting equipment and articles, namely, football gloves, boxing gloves, footballs, basketballs, volley balls, tennis balls, hand balls, rugby balls, squash balls, jump ropes, ice skate guards, wrist guards for athletic use, shin guards for athletic use, elbow guards for athletic use, leg guards for athletic use, knee guards for athletic use, arm guards for athletic use, kettle bells, exercise weights, exercise bars, exercise hand grippers, chest expanders, skateboards, roller skates, in-line roller skates, ice skates, tennis racquets, badminton rackets, badminton shuttlecocks, badminton game playing sets, squash rackets, sledges for use in down-hill amusement rides, skis, snowboards, ski covers, ski poles, ski bindings and component parts therefor, snowboard bindings, stationary cycles, rowing machines, exercise treadmills, exercise benches, aerobic step machines, swimming kick boards, swim fins, scuba fins, swimming rings


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.	4937023	Application Date	10/04/2012
Registration Date	04/12/2016	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of Stylized mountain design.		
Goods/Services	Class 025. First use: First Use: 2013/11/21 First Use In Commerce: 2013/11/21 Athletic uniforms; Jackets; Jerseys; Pants; Shirts; Shorts; Sweat pants; Sweat shirts		

U.S. Registration No.	4956158	Application Date	10/04/2012
Registration Date	05/10/2016	Foreign Priority	NONE

		Date	
Word Mark	MAJESTIC		
Design Mark			
Description of Mark	The mark consists of Stylized mountain design with the word "MAJESTIC" underneath.		
Goods/Services	Class 025. First use: First Use: 2013/11/21 First Use In Commerce: 2013/11/21 Athletic uniforms; Jackets; Jerseys; Pants; Shirts; Shorts; Sweat pants; Sweat shirts		

U.S. Registration No.	5059775	Application Date	02/01/2013
Registration Date	10/11/2016	Foreign Priority Date	NONE
Word Mark	MAJESTIC FAN FASHION		
Design Mark			
Description of Mark	The mark consists of the word "MAJESTIC" on top of the words "FAN FASHION" with a stylized mountain above "MAJESTIC" and a curved line between		

	"MAJESTIC" and "FAN FASHION".
Goods/Services	Class 025. First use: First Use: 2013/11/12 First Use In Commerce: 2013/11/12 Athletic uniforms; Jackets; Jerseys; Pants; Shirts; Sweatshirts

U.S. Registration No.	5311628	Application Date	03/27/2014
Registration Date	10/17/2017	Foreign Priority Date	NONE

Word Mark	MAJESTIC
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Description of Mark	The mark consists of a stylized mountain design with the word "MAJESTIC" underneath, all on a stylized depiction of a baseball field, consisting of two triangles with arced lines and a pentagon representing a baseball home plate.
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Goods/Services	Class 025. First use: First Use: 2015/09/00 First Use In Commerce: 2015/09/00 Jackets; Shirts; Shorts; Sweat shirts
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Attachments	85745878#TMSN.png(bytes) 85745840#TMSN.png(bytes) 85838291#TMSN.png(bytes) 86233849#TMSN.png(bytes) 011558-03__103818683v1_Notice of Opposition - M Logo 5_1_19 Draft.pdf(206724 bytes)
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Signature	/DSM/
Name	Daniel S. Marks
Date	05/03/2019

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

MAJESTIC APPAREL, LLC,

Opposer,

v.

MS TRADEMARKS SP. Z.O.O.,

Applicant.



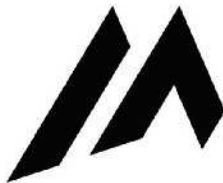
Serial. No. 79/236,536

Opposition No.

NOTICE OF OPPOSITION

Majestic Apparel, LLC (“Opposer”), a Delaware limited liability company with offices at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, believes that it will be damaged by the registration of the stylized “M” designation, set forth below and shown in U.S. Trademark Application Serial No. 79/236,536 (“Applicant’s Designation”), filed by MS Trademarks Sp. z.o.o. (“Applicant”), and hereby opposes the same.

Applicant’s Designation:



As grounds for opposition, Opposer alleges as follows:

1. Opposer is a well-known provider of officially-licensed athletic apparel for professional and college athletics, including Major League Baseball, the National Football League, and the National Basketball Association.
2. Since at least as early as 2013, and long before the February 14, 2018 filing date of the application for Applicant’s Designation, Opposer has continuously used the “M” mark set

forth below (the “M Mark”) in the United States in connection with apparel and related products, including athletic uniforms, jackets, pants, shorts, shirts, and sweats.


M Mark:



3. The M Mark symbolizes the extensive goodwill and consumer recognition that Majestic has established through years of continuous use and substantial expenditures of time, effort, and other resources in the advertising and promotion of goods offered under the M Mark.

4. In addition to its common law rights in the M Mark, Opposer owns the following registrations issued by the United States Patent and Trademark Office for trademarks consisting of or incorporating the M Mark used in connection with apparel:

Registration/Application Number	Mark	International Class(es)	Date of First Use in Commerce
4,937,023		25	11/21/2013
4,956,158		25	11/21/2013
5,059,775		25	11/12/2013

Registration/Application Number	Mark	International Class(es)	Date of First Use in Commerce
5,311,628		25	9/2015

5. The registrations referenced above are valid and subsisting, are in full force and effect, and constitute prima facie evidence of the Opposer’s exclusive right to use the marks in commerce in connection with the goods and services specified in the registrations.

6. The M Mark is strong and distinctive, and has been since prior to Applicant’s filing date or, upon information and belief, any date upon which Applicant can rely for priority in this proceeding.

7. On February 14, 2018, Applicant filed an application for Applicant’s Designation under Section 66(a) of the Lanham Act, Application Serial No. 79/236,536 (a request for extension of protection of International Registration Number 1,412,681), in connection with the goods set forth below:

- a. Class 18: Trunks and travelling bags; all-purpose carrying bags; sports bags, carry-all bags for campers; rucksacks and knapsacks;
- b. Class 25: Clothing, namely, coats, raincoats, waterproof coats, waistcoats, vests, jackets, soft-shell jackets, trousers, shorts, shirts, singlets, polo shirts, T-shirts; slacks, pants, lounge pants, bermuda shorts, gym shorts, sweat shorts, trouser shorts, skirts, tops, belts of textiles, fabric belts; headgear in the nature of skull caps, baseball caps, swim caps, knotted caps, bucket caps, hats, visors being headwear, headbands; footwear; footwear for sports and for campers; sandals, flip flops; water shoes, tennis shoes, football boots, basketball shoes; shoe inserts for primarily non-orthopedic purposes; trousers, namely, snowboard trousers, ski trousers, hiking trousers, fitness trousers, jogging trousers; shorts, namely, shorts for fitness, jogging and swimming; shirts, namely, sports jerseys and sports vests; sweatshirts and hoodies, and sports sweatshirts and fleece tops; tracksuits; jackets, namely, ski jackets, snowboard jackets, softshell jackets, jogging and hiking jackets; gloves; skiing and snowboarding gloves; cycling gloves; underwear;

boxer shorts; undershirts; thermal underwear; socks, namely, ski socks, hiking socks, tennis socks, bicycle socks and football socks; headbands for clothing; waist belts; scarves; balaclavas; tube scarves; ear muffs; swimming trunks; one-piece and two-piece swimsuits; dressing gowns; swimming caps; wetsuits for swimmers; cycling vests; cycling leggings and shorts; cycling jerseys; cross-country ski boots, snowboard boots; ski boots; ski boot bags; gaiters;

- c. Class 28: Gymnastic and sporting equipment and articles, namely, football gloves, boxing gloves, footballs, basketballs, volley balls, tennis balls, hand balls, rugby balls, squash balls, jump ropes, ice skate guards, wrist guards for athletic use, shin guards for athletic use, elbow guards for athletic use, leg guards for athletic use, knee guards for athletic use, arm guards for athletic use, kettle bells, exercise weights, exercise bars, exercise hand grippers, chest expanders, skateboards, roller skates, in-line roller skates, ice skates, tennis racquets, badminton rackets, badminton shuttlecocks, badminton game playing sets, squash rackets, sledges for use in down-hill amusement rides, skis, snowboards, ski covers, ski poles, ski bindings and component parts thereof, snowboard bindings, stationary cycles, rowing machines, exercise treadmills, exercise benches, aerobic step machines, swimming kick boards, swim fins, scuba fins, swimming rings.
8. Opposer's rights to the M Mark are superior to those of Applicant.
9. Applicant's use of and/or application for Applicant's Designation is without the consent, authorization or license of Opposer.
10. On November 6, 2018, the application for Applicant's Designation was published for opposition. On December 6, 2018, Opposer requested and received an extension of the opposition period until March 6, 2019. On March 4, 2019, with the consent of Applicant, Opposer requested and received an additional extension of the opposition period until May 5, 2019. Therefore, Opposer timely files this opposition.
11. Applicant's Designation is confusingly similar to Opposer's M Mark.
12. The goods applied for by Applicant under Applicant's Designation are identical or related to goods Opposer offers and/or has offered under the M Mark.
13. The registration of Applicant's Designation would grant Applicant rights to which it is not entitled, and would be inconsistent with the prior and established rights of Opposer in the M Mark.

14. Opposer believes it will be damaged by registration of Applicant's Designation on the ground that the subject designation so resembles the M Mark used by Opposer in the United States as to be likely, when used on or in connection with the services identified in the application for Applicant's Designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposer and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that Application Serial No. 79/236,536 be refused, that no registration be issued to Applicant, and that this opposition be granted in favor of Opposer.

Dated: May 3, 2019

Respectfully submitted,

By: /Daniel S. Marks/
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