

ESTTA Tracking number: **ESTTA1032199**

Filing date: **01/29/2020**

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	LVMH Swiss Manufactures SA
Granted to Date of previous extension	01/29/2020
Address	RUE LOUIS-JOSEPH CHEVROLET 6A LA CHAUX-DE-FONDS, CH-2300 SWITZERLAND

Attorney information	JOHN P MARGIOTTA FROSS ZELNICK LEHRMAN & ZISSU, P.C. 151 WEST 42ND STREET 17TH FLOOR NEW YORK, NY 10036 UNITED STATES jmargiotta@fzlz.com, skipen@fzlz.com, ttabfiling@fzlz.com 212-813-5900
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Applicant Information

Application No	88191249	Publication date	10/01/2019
Opposition Filing Date	01/29/2020	Opposition Period Ends	01/29/2020
Applicant	Shenzhen Megir Watches Industry Co., Ltd. F/3-4, No. 3 Plant, Nanchang Jianyu 1st Industrial Zone, Gushu, Xixiang Street, Shenzhen, 518000 CHINA		

Goods/Services Affected by Opposition

Class 014. First Use: 2013/01/10 First Use In Commerce: 2013/01/10 All goods and services in the class are opposed, namely: Cases adapted for holding watches; Chronometers; Clocks; Clocks and watches, electric; Presentation boxes for watches; Watch bands; Watch chains; Wristwatches; Cases being parts of watches and clocks; Dials for clock-and-watch-making; Jewellery charms
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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.	2281436	Application Date	08/04/1998
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Registration Date	09/28/1999	Foreign Priority Date	NONE
Word Mark	TAG HEUER		
Design Mark	TAG HEUER		
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Clocks, watches and parts thereof[; jewelry]		

U.S. Registration No.	1471988	Application Date	02/19/1986
Registration Date	01/12/1988	Foreign Priority Date	08/26/1985
Word Mark	TAG HEUER		
Design Mark			
Description of Mark	THE MARK CONSISTS OF THE STYLIZED WORDS"TAG" AND "HEUER", IN A SHIELD DESIGN.		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 TIME MEASURING INSTRUMENTS, NAMELY, ELECTRONIC STOP WATCHES, REMOTE CONTROL MINI-PRINTER TIMERS, ELECTRONIC AND MANUAL TIMERS, PHOTOCCELL TIMERS, STARTING GATE TIMERS, TELEPHONE LIAISON TIMERS, IMPULSE DISTRIBUTOR TIMERS, ELECTRONIC PISTOL STARTING TIMERS, MANUAL CONTACTOR TIMERS Class 014. First use: First Use: 0 First Use In Commerce: 0 CLOCKS, WATCHES AND PARTS THEREOF Class 025. First use: First Use: 0 First Use In Commerce: 0		

	SPORTSWEAR, NAMELY, [T-SHIRTS, POLO SHIRTS, SWEATERS,] PAR-KAS [, JOGGING SUITS, SHORTS, CAPS, HATS, SWEATSHIRTS, GLOVES]
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Attachments	75530962#TMSN.png(bytes) 73583969#TMSN.png(bytes) F3378688.PDF(327142 bytes)
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Signature	/John Margiotta/
Name	JOHN P MARGIOTTA
Date	01/29/2020

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

LVMH SWISS MANUFACTURES SA,

Opposer,

-against-

SHENZHEN MEGIR WATCHES INDUSTRY
CO., LTD.,

Applicant.

NOTICE OF OPPOSITION

TAG Heuer, a branch of LVMH Swiss Manufacturers SA, a Swiss corporation located and doing business at Rue Louis-Joseph Chevrolet 6A, La Chaux-De-Fonds CH-2300, Switzerland (collectively, “TAG Heuer” or “Opposer”), believes that it would be damaged by the issuance of a registration for the design mark M MEGIR to Shenzhen Megir Watches Industry Co., Ltd. (“Applicant”), applied for in Application Serial No. 88/191,249, and therefore opposes the same pursuant to Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a).

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

A. The TAG HEUER Mark

1. Since 1860, watchmaking pioneer TAG Heuer has been blending technological innovation, high-precision timekeeping, and cutting-edge designs to create products whose performance continues to shape the passing of time. Opposer is one of the world’s most renowned and prestigious watch brands having around 1600 employees around the world, 150

Customer Service centers and 500 staff and master watchmakers worldwide, and whose products are sold in 170 TAG Heuer-owned stores, and 3,619 retails locations.

2. Opposer is indeed a luxury brand with an innovative spirit, and it has long-standing links with the world of sports and Hollywood. TAG Heuer is an official sponsor with significant sporting events, such as FIA Formula E championship, Official Timing Partner relating to The Premier League, Manchester United Football Club, EWC (Endurance World Championship) premier worldwide endurance motorcycle racing championship, Aston Martin Red Bull Racing Formula 1 Team, Porsche Motor Sports Including Formula E, the IMSA WeatherTech Sports Car Championship, Porsche Carrera Cup (PCC), the Indy 500 race and is also involved in International Tennis and Golf Competitions.

3. Opposer has also had relationships with numerous celebrities to endorse its products including Tom Brady, Leonardo DiCaprio, Brad Pitt, Jeff Gordon, Cameron Diaz, Cara Delevingne, and Patrick Dempsey, to name just a few.

4. In connection with its business and watches, Opposer has used the TAG HEUER mark in the following design format since long prior to any date on which Applicant may rely:



(the “TAG HEUER Mark”).


5. The TAG HEUER Mark is prominently featured in TAG Heuer's advertising, marketing, and promotional materials and in connection with its products offered for purchase throughout the United States and on Opposer's website.

6. Opposer has invested a significant amount of time, effort, and money in developing and promoting its goods and services under the TAG HEUER Mark. As a result of these efforts and the tremendous success of TAG HEUER products and services in the marketplace over many years, Opposer's TAG HEUER Mark has come to identify Opposer's goods and services exclusively and uniquely, has become well-known, and represents enormous goodwill of Opposer.

7. In addition to the common law rights accruing to Opposer in the TAG HEUER Mark, Opposer owns numerous federal registrations for the TAG HEUER Mark, including, but not limited to, the following:

- U.S. Registration No. 2,281,436 for TAG HEUER for use in connection with "clocks, watches and parts thereof" in International Class 14 which was registered on September 28, 1999;



- U.S. Registration No. 1,471,988 for the design mark  for use in connection with, *inter alia*, "time measuring instruments" in International Class 9 and "clocks, watches and parts thereof" in International Class 14 which was registered on January 12, 1988.

The above registrations are valid, subsisting, and in full effect and serve as conclusive evidence of Opposer's exclusive right in and to the TAG HEUER Mark. Moreover, U.S. Registration Nos. 2,281,436 and 1,471,988 have become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore serve as conclusive proof of Opposer's exclusive right to use the

TAG HEUER Mark in connection with the goods identified therein, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

B. Applicant's Application to Register Design Mark M MEGIR

8. Upon information and belief, the owner of the application at issue is Shenzhen Megir Watches Industry Co., Ltd. ("Applicant"), a China limited company (Ltd.) with an address of F/3-4, No. 3 Plant, Nanchang Jianyu 1st, Industrial Zone, Gushu, Xixiang Street, Shenzhen China 518000.

9. On November 13, 2018, Applicant filed Application Serial No. 88/191,249 to



register the design mark M MEGIR, , for use in connection with "Cases adapted for holding watches; Chronometers; Clocks; Clocks and watches, electric; Presentation boxes for watches; Watch bands; Watch chains; Wristwatches; Cases being parts of watches and clocks; Dials for clock-and-watch-making; Jewellery charms" in International Class 14, based on a first use date of January 10, 2013 ("Applicant's Mark").

10. Applicant's Mark is highly similar to Opposer's TAG HEUER Mark in sight and commercial impression.

11. On information and belief, Applicant's claimed first use date of Applicant's Mark is long after Opposer's TAG HEUER Mark was first used in commerce and long after the TAG HEUER Mark became well-known and exclusively identified with Opposer. Therefore, Opposer has priority.

12. Upon information and belief, Applicant had actual knowledge of Opposer's prior rights to and interest in the TAG HEUER Mark before adopting, using, or seeking to register Applicant's Mark for identical or closely related goods. At a minimum, as a matter of law, Applicant was on constructive notice of Opposer's rights in its TAG HEUER Mark based on Opposer's registration therefore.

13. The registration of Applicant's Mark would be inconsistent with Opposer's prior rights in its TAG HEUER Mark, as well as inconsistent with Opposer's statutory grant of exclusivity of use of its registered mark, and would destroy Opposer's investment and goodwill in its mark.

CLAIM FOR RELIEF UNDER LANHAM ACT SECTION 2(d)
(LIKELIHOOD OF CONFUSION)

14. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 13 as if fully set forth herein.

15. The TAG HEUER Mark is exclusively associated with Opposer and has been used continuously by Opposer since a date prior to any date on which Applicant can rely.

16. Applicant's Mark is confusingly similar to Opposer's TAG HEUER Mark in sound, sight, and commercial impression. In particular, both parties' marks incorporate shield designs and stack on top of each other the two word elements of their marks. Additionally, both parties' place the first word portion in the top half of the shield and the second word portion in the bottom half of the shield in a V-like layout with the third letter elongated to fit the tip of the shield.

17. The goods for which Applicant seeks to register Applicant's Mark are identical or closely related to the goods and services in connection with which Opposer has long used its TAG HEUER Mark.

18. By virtue of Opposer's longstanding use of the TAG HEUER Mark, the goodwill associated with the TAG HEUER Mark, and Opposer's incontestable registrations therefor, the registration by Applicant of a mark confusingly similar to the TAG HEUER Mark for goods identical or closely related is likely to cause confusion or cause mistake or to deceive the purchasing public into mistakenly believing that Applicant's goods offered under Applicant's Mark originate from, come from, or are otherwise associated with Opposer, or that Applicant's goods offered in connection with Applicant's Mark are endorsed, sponsored, or in some way connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

19. By reason of the foregoing, Opposer is likely to be harmed by registration of the application for Applicant's Mark.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Applicant in Application Serial No. 88/191,249 be denied.

Dated: January 29, 2020
New York, New York

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By:



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