

ESTTA Tracking number: **ESTTA1058136**

Filing date: **05/27/2020**

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 | Honda Motor Co., Ltd. |
| Granted to Date of previous extension | 05/27/2020 |
| Address | 1-1, 2-CHOME, MINAMI-AOYAMA, MINATO-KU TOKYO, 107-8556 JAPAN |

| | |
|----------------------|--|
| Attorney information | DYAN FINGUERRA-DUCHARME PRYOR CASHMAN LLP 7 TIMES SQUARE NEW YORK, NY 10036 UNITED STATES dfinguerra-ducharme@pryorcashman.com, rklarberg@pryorcashman.com, halexis@pryorcashman.com, tmdocketing@pryorcashman.com 212-326-0443 |
|----------------------|--|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 88680692 | Publication date | 01/28/2020 |
| Opposition Filing Date | 05/27/2020 | Opposition Period Ends | 05/27/2020 |
| Applicant | Guangzhou Maike Auto Accessories Co., Ltd. Block B, No. 708 Guangshanyi Road Tianhe District Guangzhou, 510000 CHINA | | |

Goods/Services Affected by Opposition

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|---|
| Class 012. First Use: 2019/07/25 First Use In Commerce: 2019/07/25 All goods and services in the class are opposed, namely: Anti-theft devices for vehicles; Automobile bodies; Automobile tires; Automobile windshield sunshades; Baby carriages; Bicycle mudguards; Brake discs for vehicles; Bumpers for automobiles; Electric vehicles, namely, electric automobiles; Four-wheeled motor vehicles; Frames for bicycles; Gear lever knobs for vehicles; Hot air balloons; Locomotives; Luggage carriers for vehicles; Pneumatic tires; Pneumatic tyres and inner tubes for motorcycles; Railway handcars; Rims for bicycle wheels; Shock absorbers for automobiles; Sleighs for transport purposes; Sports cars; Trolleys; Upholstery for vehicles; Vehicle running boards; Vehicle wheel hubs; Vehicle windscreens; Waggon; Water vehicles, namely, hydrofoil boats supported by single or multi hulls, and structural parts therefor; Wheelchairs; Wheels; Windscreens for motor cars |
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Grounds for Opposition

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

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3667784 | Application Date | 10/21/2008 |
| Registration Date | 08/11/2009 | Foreign Priority Date | NONE |
| Word Mark | FURY | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 012. First use: First Use: 2009/04/22 First Use In Commerce: 2009/04/22 motorcycles and structural parts thereof | | |

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|-------------|--|
| Attachments | 77597523#TMSN.png(bytes) Notice of Opposition - FUNY - 5.27.20.pdf(149893 bytes) |
|-------------|--|

| | |
|-----------|---------------------------|
| Signature | /dyan finguerra-ducharme/ |
| Name | DYAN FINGUERRA-DUCHARME |
| Date | 05/27/2020 |


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

In the Matter of Trademark Application Serial No. 88/680,692

Mark: 

Filed: November 5, 2019

| | | |
|------------------------|---|-----------------------------|
| | X | |
| | : | |
| HONDA MOTOR CO., LTD., | : | |
| | : | |
| Opposer, | : | Opposition No. |
| | : | |
| v. | : | <u>NOTICE OF OPPOSITION</u> |
| | : | |
| GUANGZHOU MAIKE AUTO | : | |
| ACCESSORIES CO., LTD., | : | |
| | : | |
| Applicant. | : | |
| | X | |

Honda Motor Co., Ltd. (“Opposer”), a corporation organized and existing under the laws of Japan with a principal place of business at No. 1-1, 2-Chome, Minamiaoyama Minato-ku, Tokyo, Japan 107-8556, believes that it will be damaged by the registration of the Applicant’s  mark in Class 12 shown in Application Serial No. 88/680,692 and hereby opposes the same. The grounds for Opposition are as follows:

1. Opposer is a Japanese corporation and the world’s largest engine maker and one of the world’s leading auto manufacturers, which manufactures products that include automobiles and motorcycles and parts therefor. American Honda Motor Co., Inc. (“AHM”) is a wholly-owned subsidiary of Opposer and the exclusive distributor of FURY-branded products, and all associated vehicle emblems, marks and logos, within the United States. Among the products Opposer sells within the United States are motorcycles and structural parts thereof bearing and sold under the FURY mark.

2. At least as early as April 22, 2009, Opposer began to use the FURY mark on and in connection motorcycles and structural parts thereof and has continuously used the FURY mark in the United States in connection with these goods.

3. Opposer is the owner of a U.S. registration for the FURY mark, U.S. Reg. No. 3,667,784, for use on and in connection with Class 12 “motorcycles and structural parts thereof,” filed on October 21, 2008, with a date of first use in commerce of April 22, 2009 (“Opposer’s Goods”). A true and correct copy of Opposer’s valid and subsisting trademark registration certificate for the FURY mark, along with a true and correct copy of the TSDR printout for the registration for the FURY mark, are attached hereto as **Exhibit A**. Opposer hereby gives notice in accordance with Trademark Rules of Practice 2.122(d)(2) that it will rely upon this registration as evidence in this proceeding, and a status copy showing present title may be introduced into evidence on its behalf during Opposer’s testimony period. Furthermore, this registration is valid, subsisting and in full force and effect and serve as evidence of Opposer’s exclusive right to use the FURY mark in commerce on or in connection with the goods identified in the registration, as provided by 15 U.S.C. § 1115(a). In addition, the FURY mark has become incontestable pursuant to 15 U.S.C. § 1065 and therefore serves as conclusive proof of Opposer’s exclusive right to use the FURY mark in commerce or in connection with the goods in the registration provided by 15 U.S.C. § 1115(b).


4. Opposer’s FURY mark is inherently distinctive and arbitrary.

5. Opposer’s registration for the FURY mark is not limited by channels of trade or by classes of purchasers.

6. Opposer has developed extensive common law rights in the FURY mark as a source identifier of reliable and high-quality motorcycles and motorcycle structural parts.

7. By virtue of widespread sales and advertising and promotion of the goods offered under the FURY mark, the FURY mark has become well-known by the general public and in the relevant industries, is recognized and relied upon as identifying Opposer's Goods and as distinguishing them from the goods of others, and has come to represent and symbolize extremely valuable goodwill belonging exclusively to Opposer. Opposer has spent substantial time, effort, and money promoting its goods under the FURY mark.

8. Upon information and belief, Guangzhou Maike Auto Accessories Co., Ltd. ("Applicant") is a Chinese limited liability company with an address at Block B, No. 708 Guangshanyi Road, Tianhe District, Guangzhou, China 510000.

9. Notwithstanding Opposer's prior rights in the FURY mark, Applicant filed U.S. Trademark Application Serial No. 88/680,692 for the  mark ("Applicant's FURY Mark") for Class 12 "anti-theft devices for vehicles; automobile bodies; automobile tires; automobile windshield sunshades; baby carriages; bicycle mudguards; brake discs for vehicles; bumpers for automobiles; electric vehicles, namely, electric automobiles; four-wheeled motor vehicles; frames for bicycles; gear lever knobs for vehicles; hot air balloons; locomotives; luggage carriers for vehicles; pneumatic tires; pneumatic tyres and inner tubes for motorcycles; railway handcars; rims for bicycle wheels; shock absorbers for automobiles; sleighs for transport purposes; sports cars; trolleys; upholstery for vehicles; vehicle running boards; vehicle wheel hubs; vehicle windcreens; waggon; water vehicles, namely, hydrofoil boats supported by single or multi hulls, and structural parts therefor; wheelchairs; wheels; windcreens for motor cars" (the "Application"). The Application was filed on November 5, 2019, and was published in the Official Gazette on January 28, 2020. The Application identifies a claimed date of first use in commerce of July 25, 2019.

10. Opposer has continuously and exclusively used the FURY mark in commerce prior to, and applied to register the FURY mark prior to, Applicant's filing date of the Application and the date of first use in commerce identified in the Application. As such, Opposer has priority.

11. Applicant's FURY Mark is confusingly similar to Opposer's FURY mark in sight, sound, meaning and commercial impression.

12. The Application identifies identical and/or closely related goods to Opposer's Goods.

13. The Application is not limited by channels of trade or by classes of purchasers.

14. Applicant is likely to market and promote its goods through the same channels of trade and to the same consumers as Opposer.

15. Registration should be refused pursuant to Section 2(d) of the Trademark Act of 1946, as amended, 15 U.S.C. § 1052(d), on the grounds that Applicant's FURY Mark so resembles Opposer's FURY mark as to cause confusion, mistake and/or deception, all to the damage of Opposer.

16. If Applicant is granted registration for the Applicant's FURY Mark, it would obtain, thereby, at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer, by its undersigned attorneys, requests that the Trademark Trial and Appeal Board sustain its opposition to Application Serial No. 88/680,692 and grant any and all further relief to Opposer that the Board finds necessary and just in the circumstances.

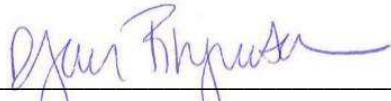
Opposer appoints as its attorneys in these proceedings Dyan Finguerra-DuCharme and Ryan S. Klarberg of the firm Pryor Cashman LLP, 7 Times Square, New York, New York 10036,

to whom all correspondence in this proceeding should be addressed. Please charge Deposit Account No. 500932 for the filing fee for this Notice of Opposition and for any other fees that may be due.

Dated: May 27, 2020

Respectfully submitted,

PRYOR CASHMAN LLP



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Attorneys for Opposer Honda Motor Co., Ltd.

EXHIBIT A

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35, and 44

Reg. No. 3,667,784

United States Patent and Trademark Office

Registered Aug. 11, 2009

**TRADEMARK
PRINCIPAL REGISTER**

FURY

HONDA MOTOR CO., LTD. (JAPAN CORPORATION)
NO. 1-1, 2-CHOME, MINAMIAOYAMA
MINATO-KU, JAPAN 107-8556

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: MOTORCYCLES AND STRUCTURAL PARTS THEREOF, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

SN 77-597,523, FILED 10-21-2008.

FIRST USE 4-22-2009; IN COMMERCE 4-22-2009.

CHRISIE B. KING, EXAMINING ATTORNEY

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Mark: FURY

FURY

US Serial Number: 77597523

Application Filing Date: Oct. 21, 2008

US Registration Number: 3667784

Registration Date: Aug. 11, 2009

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Sep. 09, 2019

Publication Date: Feb. 17, 2009

Notice of Allowance Date: May 12, 2009

Mark Information

Mark Literal Elements: FURY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: motorcycles and structural parts thereof

International Class(es): 012 - Primary Class

U.S Class(es): 019, 021, 023, 031, 035, 044

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 22, 2009

Use in Commerce: Apr. 22, 2009

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Honda Motor Co., Ltd.

Owner Address: No. 1-1, 2-Chome, Minamiaoyama
Minato-Ku JAPAN 107-8556

Legal Entity Type: CORPORATION

State or Country JAPAN
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Dyan Finguerra-DuCharme

Docket Number: 18223.00198

Attorney Primary Email Address: dfinguerra-ducharme@pryorcashman.com

Attorney Email Authorized: Yes

Correspondent

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Correspondent e-mail Authorized: Yes

Domestic Representative

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Domestic Representative e-mail: dfinguerra-ducharme@pryorcashman.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

| Date | Description | Proceeding Number |
|---------------|---|-------------------|
| Sep. 09, 2019 | NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED | |
| Sep. 09, 2019 | REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS) | 76293 |
| Sep. 09, 2019 | REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED | 76293 |
| Sep. 09, 2019 | CASE ASSIGNED TO POST REGISTRATION PARALEGAL | 76293 |
| Jul. 29, 2019 | TEAS SECTION 8 & 9 RECEIVED | |
| Aug. 11, 2018 | COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED | |
| Sep. 19, 2014 | NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED | |
| Sep. 18, 2014 | REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. | 70131 |
| Sep. 18, 2014 | CASE ASSIGNED TO POST REGISTRATION PARALEGAL | 70131 |
| Sep. 08, 2014 | TEAS SECTION 8 & 15 RECEIVED | |
| Aug. 11, 2009 | REGISTERED-PRINCIPAL REGISTER | |
| Jul. 09, 2009 | LAW OFFICE REGISTRATION REVIEW COMPLETED | 78288 |
| Jul. 08, 2009 | ASSIGNED TO LIE | 78288 |
| Jul. 08, 2009 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED | |
| Jun. 23, 2009 | STATEMENT OF USE PROCESSING COMPLETE | 71034 |
| May 30, 2009 | USE AMENDMENT FILED | 71034 |
| Jun. 23, 2009 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 71034 |
| May 30, 2009 | TEAS STATEMENT OF USE RECEIVED | |
| May 12, 2009 | NOA MAILED - SOU REQUIRED FROM APPLICANT | |
| Feb. 17, 2009 | PUBLISHED FOR OPPOSITION | |
| Jan. 28, 2009 | NOTICE OF PUBLICATION | |
| Jan. 12, 2009 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 78145 |
| Jan. 12, 2009 | ASSIGNED TO LIE | 78145 |
| Dec. 26, 2008 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Dec. 25, 2008 | ASSIGNED TO EXAMINER | 68365 |
| Oct. 27, 2008 | NEW APPLICATION ENTERED IN TRAM | |

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Sep. 09, 2019