

ESTTA Tracking number: **ESTTA1096316**

Filing date: **11/18/2020**

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	Joma Sport, S.A.
Granted to Date of previous extension	11/18/2020
Address	RAMON Y CAJAL, 112 PORTILLO DE TOLEDO TOLEDO, 45512 SPAIN
Attorney information	RICHARD LEHV FROSS ZELNICK LEHRMAN & ZISSU, P.C. 151 WEST 42ND STREET, 17TH FLOOR NEW YORK, NY 10036 UNITED STATES Primary Email: rlehv@fzlz.com Secondary Email(s): Bessinger-docket@fzlz.com, ttabfiling@fzlz.com 212-813-5900
Docket Number	JOMA 2008419

**Applicant Information**

Application No.	88842657	Publication date	07/21/2020
Opposition Filing Date	11/18/2020	Opposition Period Ends	11/18/2020
Applicant	maxbike,inc 204 MIDVALE LN IRVINE, CA 92620 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Batteries and battery chargers; Batteries for vehicles; Batteries, electric, for vehicles; Battery chargers for use with vehicle batteries; Battery charge devices; Battery chargers; Chargers for batteries; Control units for regulating start-up electrical motors; LCD large-screendisplays; LCD projectors used to display advertisements; Motor vehicle to trailer electrical connectors; Apparatus and instruments for conveying, distributing,transforming, storing, regulating or controlling electric current; Auxiliary battery packs; Battery charging devices for motor vehicles; Burglar alarms; Electric batteries for powering electric vehicles; Electrical controllers; Electrical storage batteries; Electronic LCD display unit with multi-networking (TCP/IP) capabilities; Electronic LCD advertisementdisplay unit with multi-networking (TCP/IP) capabilities; Electronic motor switches for switching off motors; Electronic motor vehicle ignition tuning kits comprised of an electronic control unit that monitors engine performances and delivers re-calculated sensor values to</p>
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the original engine control unit to increase engine performance; Electronic apparatus and instruments for controlling, adjusting and testing of drives and motors; Electronic controls for motors; Electronic-frequency converters for high velocity electro motors; Electronic power supplies for driving electric motors; Home theater products, namely, LCD; Liquid crystal display (LCD) monitors; Liquid crystal display (LCD) projectors; Liquid crystal display (LCD) televisions; Mechanical remote controls for motors; Power controllers; Remote controls for motors; Thin Film Transistor-Liquid Crystal Display (TFT-LCD) panels; Viewing devices, namely, digital photograph viewers, 3D digital photograph viewers, underwater digital photograph viewers, underwater 3D digital photographs viewers, underwater LCD displays, underwater enclosures for LCD displays and underwater enclosures for video players

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Wholesale and retail store services featuring Bicycle frames, Bicycle frames and bicycle handlebar grips, Bicycle parts, namely, tubes and connectors for bicycle frames, Bicycles, Electric bicycles, Electric vehicles, namely, self-propelled electric vehicle, Frames for bicycles, Mobility scooters, Mopeds, Push scooters, Sleighs for transport purposes, Snowmobiles, Two-wheeled trolleys, Folding bicycles, Folding electric bicycles, Motorized bicycles, Motorized mobility scooters, Motorized personal mobility scooters, Mountain bicycles, Self-propelled electric vehicle, Touring bicycles; On-line wholesale and retail store services featuring Bicycle frames, Bicycle frames and bicycle handlebar grips, Bicycle parts, namely, tubes and connectors for bicycle frames, Bicycles, Electric bicycles, Electric vehicles, namely, self-propelled electric vehicle, Frames for bicycles, Mobility scooters, Mopeds, Push scooters, Sleighs for transport purposes, Snowmobiles, Two-wheeled trolleys, Folding bicycles, Folding electric bicycles, Motorized bicycles, Motorized mobility scooters, Motorized personal mobility scooters, Mountain bicycles, Self-propelled electric vehicle, Touring bicycles; On-line wholesale and retail store services featuring controllers, LCD displays, batteries, battery chargers for vehicles

## 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			
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		
Design Mark			
Description of Mark	NONE		
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	F3777753.PDF(93679 bytes )
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Signature	/Richard Lehv/
Name	RICHARD LEHV
Date	11/18/2020

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

In the Matter of Application Serial No. 88842657  
Mark: JOMA  
Filed: March 20, 2020  
Published in the *Official Gazette*: July 21, 2020

JOMA SPORT, S.A.,

Opposer,

-against-

MAXBIKE, INC.,

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. 88842657 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. Among the goods sold by Opposer are clothing and other goods for cycling.

6. Applicant, Maxbike, Inc., filed Application Serial No. 88842657, based on intent to use, for the mark JOMA for a variety of goods and services related to cycling in International Classes 9 and 35.

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

8. Not only are the marks confusingly similar, but also the parties’ goods are closely related. Opposer uses the mark JOMA on and in connection with clothing and other goods for cycling, while Applicant intends to use the mark JOMA on and in connection with goods and services for cycling. Further, Opposer is known for goods and services for sports and for retail store services, and therefore would be assumed to be the source of Applicant’s goods and services.

9. Upon information and belief, Applicant applied to register the mark JOMA 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 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.

10. Applicant's application and the presumption of exclusivity that would come from a registration to Applicant of the JOMA 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.

11. Applicant's intent to use and registration of a mark identical to Opposer's mark for closely related goods is likely to create the mistaken impression that Applicant's goods and services are made by, rendered by, come from, or are otherwise associated with Opposer or its goods or that Applicant's goods and services are endorsed, sponsored, or in some other way connected with Opposer. Any use of the mark JOMA on or in connection with the goods in Application Serial No. 88842657 is likely to cause confusion or mistake or to deceive the public into the belief that goods and services 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).

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

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that the registration of the mark in Application Serial No. 88842657 be denied.

Dated: New York, New York  
November 18, 2020

Respectfully submitted,

FROSS ZELNICK LEHRMAN  
& ZISSU, P.C.

By: /Richard Lehv/  
Richard Lehv  
151 West 42<sup>nd</sup> Street, 17<sup>th</sup> Floor  
New York, New York 10036  
(212) 813-5900  
*Attorneys for Opposer*