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

Proceeding no.	91266044
Party	Plaintiff Joma Sport, S.A.
Correspondence address	RICHARD LEHV FROSS ZELNICK LEHRMAN & ZISSU PC 151 WEST 42ND STREET 17TH FLOOR NEW YORK, NY 10036 UNITED STATES Primary email: rlehv@fzlj.com Secondary email(s): Bessinger-docket@fzlj.com, ttabfiling@fzlj.com 212-813-5900
Submission	Motion to Amend Pleading/Amended Pleading
Filer's name	Richard Lehv
Filer's email	rlehv@fzlj.com, besieger-docket@fzlj.com
Signature	/Richard Lehv/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

JOMA SPORT, S.A.,

Opposer,

-against-

MAXBIKE, INC.,

Applicant.

Opposition No. 91266044

[PROPOSED] AMENDED 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 (the “Application”).

FIRST CLAIM FOR RELIEF: LIKELIHOOD OF CONFUSION

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.

**SECOND CLAIM FOR RELIEF: NO BONA FIDE INTENT
TO USE THE MARK**

14. Opposer repeats and realleges Paragraphs 1 through 12 as if fully set forth in this Paragraph.

15. At the time it filed its Application, Applicant declared, under penalty of U.S. law, that it had a bona fide intent to use the mark on all the goods and services in the Application.

16. On information and belief, Applicant did not have a bona fide intent to use the mark in the Application on or in connection with all the identified goods and services as of the filing date of the Application, as required by Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b). The factual basis for this belief is the absence in Applicant's discovery responses of documentary evidence to support Applicant's professed intent to use the mark on all the goods and services in the Application.

17. By reason of the foregoing, Applicant is not entitled to a registration, and Opposer will be damaged by the registration of the mark in the Application.

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
March 4, 2022

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

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

Certificate of Service

I certify that the foregoing is being served by email on the attorney for Applicant, on March 4, 2022, at verano.place@yahoo.com; michael@sobowo.com.

/Richard Lehv/
Richard Lehv