

ESTTA Tracking number: **ESTTA1100675**

Filing date: **12/09/2020**

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

Proceeding	91266044
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Date	12/09/2020
Attachments	draft_answer_to_opposition_notice.pdf(174367 bytes)

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

In the Matter of Application No. 88/842,657

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. 91266044

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition (hereafter "Notice") filed by JOMA SPORT, S.A. (hereafter "Opposer") on November 18, 2020, the Applicant, MAXBIKE, INC. (hereafter "Applicant"), answers the Notice identified above as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice, and therefore denies the same.
2. Applicant admits that the records of the U.S. Patent and Trademark office shows 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 sports shoes". Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2 of the Notice, and therefore denies the same.
3. Applicant admits that the records of the U.S. Patent and Trademark office shows 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)". Applicant lacks knowledge or

information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3 of the Notice, and therefore denies the same.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice, and therefore denies the same.
5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice, and therefore denies the same.
6. Applicant admits that it is the owner of Application No. 88/842,657, filed on March 20, 2020, for the mark JOMA, which seeks registration for “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-screen displays; 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 advertisement display 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 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” and “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”. Any and all other allegations contained in paragraph 6 of the Notice are denied.

7. Applicant denies the allegation contained in paragraph 7 of the Notice.
8. Applicant denies the allegation contained in paragraph 8 of the Notice.
9. Applicant denies the allegation contained in paragraph 9 of the Notice.
10. Applicant denies the allegation contained in paragraph 10 of the Notice.
11. Applicant denies the allegation contained in paragraph 11 of the Notice.
12. Applicant denies the allegation contained in paragraph 12 of the Notice.

AFFIRMATIVE DEFENSES

In further answers to the Notice, the Applicant asserts that:

First Affirmative Defense

13. Opposer's Notice fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the opposition.

Second Affirmative Defense

14. There is no similarity and likelihood of confusion between Applicant's mark JOMA and Opposer's mark JOMA SPORT as to appearance. Specifically, the Applicant's mark JOMA is a standard character claim, whereas Opposer's mark JOMA SPORT contains a drawing of eagles and triangles. Furthermore, the Applicant's mark is simply for the word JOMA, whereas the Opposer's marks JOMA SPORT contains additional wording.

Third Affirmative Defense

15. The Opposer's mark JOMA SPORT does not sound like the Applicant's mark. Specifically, the Opposer's mark JOMA SPORT requires the pronunciation of the additional word SPORT.

Forth Affirmative Defense

16. Ordinary consumers would not confuse or conclude that the parties' products share a common source or affiliation or connection. Specifically, the Applicant's mark JOMA seeks registration for international class 9 and class 35, and Applicant's products are battery charging devices, LCD displays and accessories for electric motors and electric vehicles, and Applicant's service is for electric vehicle parts and accessories, whereas the Opposer's marks JOMA and JOMA SPORT are registered in international class 25, and Opposer's products are clothing and footwears.

Fifth Affirmative Defense

17. Purchase of goods and services sold along with the relevant marks are careful and sophisticated, thus marking any confusion or mistake amongst potential overlapping consumers highly unlikely.

Sixth Affirmative Defense

18. The respective trademarks, as appears on each party's respective goods and services, do not create the same or overall commercial impression when viewed separately by the ordinary consumer.

Seventh Affirmative Defense

19. On information and belief, the prices of Applicant's goods and services are significantly different compare to that of the Opposer's; thus, consumers are unlikely to purchase Applicant's goods and services supposing they derive from Opposer or vice versa.

Eighth Affirmative Defense

20. Opposer has no examples of any actual confusion amongst consumers with regards to Applicant's mark and Opposer's marks.

Applicant reserves the right to amend this Answer to assert any additional affirmative defenses arising from any applicable facts or law that may be revealed during discovery.

Relief Requested

WHEREFORE, the Applicant respectfully asks that this Opposition proceeding be dismissed forthwith and that the registration of the mark in Application No. 88/842,657 be granted.

Respectfully submitted,

Zhanyu Zhu
/Zhanyu Zhu/

MAXBIKE, INC
Phone: (949) 680-6667
Date: December 9, 2020