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

Proceeding	92076463
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Date	05/17/2021
Attachments	92076463 AMENDED Petition to Cancel 2424295 Registration for SPINNING in Class 41.pdf(528522 bytes)

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

Peloton Interactive, Inc.,)	Cancellation Nos. 92076463 (Parent);
)	92076469; 92076471; 92076483;
Petitioner,)	92076499; 92076516; 92076554
)	
v.)	
)	AMENDED PETITION TO
Mad Dogg Athletics, Inc.,)	CANCEL REGISTRATION
)	
Respondent.)	
)	Registration No. 2424295
)	Mark: SPINNING
)	Class: 41

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the cancellation of Registration No. 2424295 (the “’295 Registration”) for the term SPINNING owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The term SPINNING is generic, and Mad Dogg should be barred from continuing to abusively enforce its improper trademark rights across the spinning industry.

2. For many years, countless fitness industry participants, including Peloton, have received baseless cease-and-desist letters from Mad Dogg and its lawyers threatening expensive litigation if all uses of the term SPINNING are not halted. Indeed, Mad Dogg’s founder, John Baudhuin, publicly admits that Mad Dogg spends “hundreds of thousands of dollars a year” policing its purported trademarks and chasing down infringers. As detailed below, even bloggers and journalists have received cease-and-desist letters from Mad Dogg baselessly seeking to halt their use of the term SPINNING.

3. But Mad Dogg's expensive efforts cannot stem the tide. Spinning class and spinning bike are part of the fitness lexicon. Even five minutes of simple Google searching reveal that everyone in the world—other than Mad Dogg—understands that “spinning” is a generic term to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spinning classes” and “spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spinning class culture over the years, including a February 2019 article entitled, “Spinning With My Shrink.”

4. As one journalist wrote in a 2015 piece for the online outlet TechDirt reporting on Mad Dogg's trademarks on SPIN and SPINNING, “Much like other types of workout classes, nobody sees spinning as a source identifier...Nobody thinks of Mad Dogg Athletics. Hell, most people haven't even *heard* of MDA...The term spinning is generic. It just is.”

5. Peloton was one of the many victims of Mad Dogg's improper campaign. In fact, just two weeks before Christmas 2020, Mad Dogg demanded that Peloton remove a video from its YouTube site that showcased a group of Peloton members, self-described as “black women physicians” who love spinning on their Peloton bikes and who call themselves the “Mocha Spin Docs.” Mad Dogg objected because the word “spin” was used.

6. Enough is enough. It is time to put a stop to Mad Dogg's tactic of profiting by threatening competitors, marketplaces and even journalists with enforcement of generic trademarks. Accordingly, for the reasons detailed herein and those to be shown in this proceeding, Peloton respectfully requests that the U.S. Patent and Trademark Office find the term SPINNING to be generic and cancel Mad Dogg's '295 Registration.

THE PARTIES

7. Peloton is a Delaware corporation with its headquarters located at 125 West 25th Street, 11th Floor, New York, NY 10001.

8. Mad Dogg is a California corporation. Mad Dogg's current address, according to the TSDR records, is 2111 Narcissus Court, Venice, CA 90291.

PELOTON'S STANDING

9. Peloton sells spinning bikes.

10. Peloton offers connected spinning classes.

11. Peloton should be able to freely talk about, advertise, and market its products, classes and services using terms common in the fitness industry, including spinning, without the continued threat of litigation from Mad Dogg.

12. Similarly, Peloton's members should be able to freely talk about their Peloton experiences on Peloton's website and social media channels, using terms common in the fitness industry, including spinning, without the threat of litigation from Mad Dogg.

13. For example, Peloton has purchased in the past, and wants to purchase in the future, common words like "spinning" as search engine keywords, and to include those terms in its paid advertisements that result from a search.

14. In the past, when Peloton has used the term "spinning" in its online and keyword advertising, it has received aggressive communications from Mad Dogg demanding that Peloton immediately stop this use and remove all references to the "spinning" term.

15. Peloton should be able to, and is entitled to, market and advertise its spinning classes using the term "spinning." Based on Mad Dogg's overly aggressive enforcement efforts

against Peloton and others, it is strongly likely that Mad Dogg would challenge this type of use based on its SPINNING mark and registration.

16. Peloton is entitled to the freedom to use this common term to discuss and advertise its spinning classes. It is clear from Mad Dogg's litigation history that it would assert this mark (and its associated registration, which is the subject of this Petition) against Peloton. Indeed, it already has, in past cease-and-desist correspondence sent to Peloton.

17. For example, Mad Dogg has asserted its SPINNING trademark, and the '295 Registration, against terms such as LIFE'S WORTH SPINNING FOR, SPINDURANCE, SPIN THE WORLD and SPINSATIONAL, among others.

18. Peloton has a personal stake and a real interest in whether the term "spinning" is deemed generic, because it will have the freedom to use this term in the future without any legal challenges from Mad Dogg once the genericness of that term is confirmed by the Board.

19. Peloton has a genuine and reasonable belief in the damage it will suffer in the continued registration of the SPINNING term because it has already been challenged repeatedly by Mad Dogg in the past and threatened with legal action. If the '650 Registration remains in force, it is reasonable for Peloton to believe that Mad Dogg will assert that registration against Peloton in any legal action Mad Dogg were to bring against Peloton, particularly given Mad Dogg's prior litigation history as noted above, as well as Mad Dogg's prior assertion of this mark against Peloton in past correspondence.

20. Peloton therefore believes that it is being damaged, and will continue to be damaged, by the continued registration of the '295 Registration for the mark SPINNING in Class 41, and therefore has standing to bring this Petition.

21. As grounds for cancellation, Peloton alleges as follows:

FACTS

Spinning Bikes

22. A spinning bike is a type of indoor exercise cycle that closely mimics the ride of an actual bike, including the ability to stand up on the pedals (like on a real bike). The handlebars are typically placed lower so that the rider is leaning forward during the ride, and the seat is often smaller and less padded.

23. A spinning bike uses a weighted flywheel typically located in the front of the bike, with pedals attached. There is no rear wheel. The tension on the wheel can be adjusted by a resistance knob located in front of the seat, to simulate riding up and down hills.

24. Spinning bikes are built with very solid frames to avoid shaking during vigorous pedaling, and usually have padded handlebars to add comfort when riders are standing and leaning on the bars. Spinning bikes also often have pedals that require special shoes that “clip” into place for a more stable ride and greater power generation.

Spinning Classes

25. Spinning bikes have become immensely popular in recent years because of the community and motivation provided by spinning classes. These classes are typically held at a gym or workout studio, where multiple spinning bikes are placed in a room, usually close together, with an instructor in front:



A Peloton spinning class



<https://www.bostonmagazine.com/health/spin-studios-boston/>

26. The class usually involves loud music, energetic instructions and a community atmosphere of encouragement and competition.

Peloton Captures the Spirit of Spinning Classes With an In-Home Bike

27. Since its inception in 2012, Peloton has disrupted the fitness industry, becoming the largest interactive fitness platform in the world with a loyal community of over 4.4 million members.

28. Peloton has delivered more than 400,000 Peloton bikes (“Peloton Bike”), and, in the second quarter of fiscal year 2021 alone, its members completed over 98 million Peloton workouts.

29. The Peloton Bike solved two major problems for would-be exercisers. First, it removed a significant constraint of in-studio spinning classes, which are offered only at fixed locations and times, by allowing riders the flexibility to access spinning classes—in their own home and on their own schedule.

30. Second, the Peloton Bike solved a problem faced by previous at-home stationary bikes—rider boredom due to lack of variety and engagement—by providing live and on-demand classes with an improved and more efficient graphical user interface that not only recreates, but enhances, the real-time competition and community engagement that has made in-studio spinning classes so popular.

Mad Dogg and Its Spinning Bikes

31. Mad Dogg offers a range of in-home spinning bikes. Mad Dogg made the unfortunate choice to select the generic term “SPINNING” as the “brand” name of its bikes, *see, e.g., www.spinning.com*, even though this is the exact term for this category of exercise bike.

32. Mad Dogg doubled down on its poor choice of names by expending significant time and money securing trademark registrations for the generic SPINNING term, several of which are the subject of this and companion cancellation proceedings.

33. Mad Dogg has no protectable rights in the SPINNING term. Yet it has spent years engaged in a bullying campaign of demand letters and litigation to force people and companies to stop using the very term they have every right to use.

34. Mad Dogg should no longer be able to intimidate Peloton, and the world, into avoiding this commonplace generic term to accurately describe their bikes and classes.

Spinning Is a Generic Term

35. With five minutes of simple Google searching, it is easy to see that everyone in the world, other than Mad Dogg, believes that “spinning” is a generic term to describe a type of exercise bike and associated in-studio class.

36. Indeed, Wikipedia states that “[i]ndoor cycling, often also called spinning, . . . is a form of exercise with classes . . . and involves using a special stationary exercise bicycle with a weighted flywheel in a classroom setting.” https://en.wikipedia.org/wiki/Indoor_cycling

37. The Urban Dictionary defines “spinning class” as a “[n]ew form of group exercise in which a dozen or more people (usually women) sit on indoor stationary bikes together and pedal to the sound of music and the directions of an instructor.”

<https://www.urbandictionary.com/define.php?term=spinning>

38. In February 2017, the Wall Street Journal published an article titled, “I Hate Spinning. Then I Spun.” It details the author’s “surviv[al of] seven different spinning experiences in seven days,” including visits to “six . . . New York spinning clubs (SoulCycle, Flywheel, Revolve, Peloton, Swerve and IMAXShift).” <https://www.wsj.com/articles/i-hated-spinning-then-i-spun-1487272204>

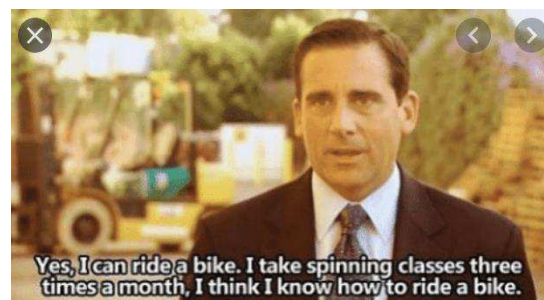
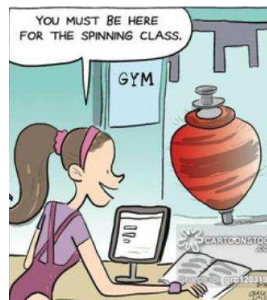
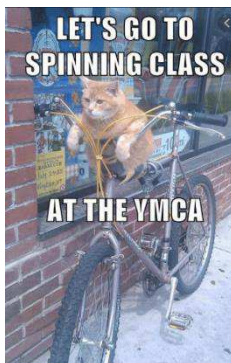
39. In a July 2017 report entitled “As Workouts Intensify, a Harmful Side Effect Grows More Common,” the New York Times discussed how first time spinning class visitors should exercise care and not overdo it. Indeed, the New York Times has covered spinning class culture over the years, including a February 2019 article entitled, “Spinning With My Shrink.”

<https://www.nytimes.com/2019/02/19/well/mind/spinning-with-my-shrink.html>

40. Bloomberg reported on the spinning phenomenon in a February 2018 article entitled “Analyst Warns That the Spinning Exercise Craze May Be Near Its Peak,” discussing, among other companies, SoulCycle and Cyc Fitness, and explored the crossover of spinning and fashion in its December 2017 article “SoulCycle Is Betting High Fashion Will Get You Spinning.” <https://www.bloomberg.com/news/articles/2018-02-28/spinning-craze-nears-peak-as-nyc-price-cuts-signal-oversupply>; <https://www.bloomberg.com/news/articles/2017-12-04/soulcycle-is-betting-high-fashion-will-get-you-spinning>

41. TIME Magazine published an article in March 2017 titled “Why You Should Rethink Your Spinning Obsession,” discussing the benefits and downsides to spin classes. <https://time.com/4703017/spinning-cycling-stationary-bike/>

42. Spinning class has also been enthusiastically adopted in pop culture as evidenced by the many memes that result from a Google search of “spinning class” memes, including:



43. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the term spinning. For example, in a December 11, 2013 article on

the then-popular website Racked entitled “Meet the Company that Trademarked the Word ‘Spin,’” the author wrote:

Be careful when using the words “spin,” “spinning,” or “spinner” because a company in California actually owns them—and there’s a good chance they’ll come after you if you use the words when referencing other businesses.

Following various fitness stories Racked wrote, we received a “cease and desist” letter from a company called Mad Dogg Athletics. Never heard of them? They are an LA-based company that trademarked the “spin” terms some 20 years ago, a prescient move considering the recent full-on boom of cycling studios.

Mad Dogg chases down countless companies, demanding they instead replace “spin” with the term “indoor cycling.”

<https://www.racked.com/2013/12/11/7631719/the-cycling-patent-debate-that-is-spinning-out-of-control>

44. The December 11, 2013 Racked article further cites one spinning enthusiast saying of Mad Dogg’s trademarks on spin and spinning: “The words are generic. They are part of the exercise vocabulary.”

45. In August 2015, the online outlet TechDirt, in reporting on Mad Dogg’s trademarks on spin and spinning, wrote, “Much like other types of workout classes, nobody sees spinning as a source identifier any longer. Nobody thinks of Mad Dogg Athletics. Hell, most people haven’t even *heard* of MDA...The term spinning is generic. It just is.”

<https://www.techdirt.com/articles/20150806/06201131868/spin-bike-ebay-listing-removed-because-spin-bike-is-apparently-non-generic-trademark.shtml>

46. In another instance, Adam Johnson, an author for the site *Indoor Cycling Tips*, wrote in his article “What Is a Spin Bike?”:

Thinking of braving one of those indoor bike classes at your local gym? Me too, but how different is a spin bike to your normal road bike?

For some people, attending spin classes is a great way to keep motivated in working out. You have a coach to guide you in your training every step of the way. Plus, the group setting can add fun and variety to an otherwise lonely workout.

...

But what is a spin bike anyway? A spin bike is a type of stand-alone indoor stationary bike with a pedal that is directly connected to a weighted flywheel. Riding on a spin bike is comparable to riding on a bike.

...

Technically speaking, the term Spin Bike is actually a trademark owned by Mad Dog [sic] Athletics.

Despite the fact that Mad Dog [sic] Athletics have a proprietary right over the names Spin® and Spinning®, *the terms have become generic because of the popularity of the products and classes based around their products.*

<https://indoorcyclingtips.com/what-is-a-spin-bike/#:~:text=An%20indoor%2FSpin%20bike%20is,the%20pedal%20on%20your%20bike.>

47. The above is just a small sampling of the vast library of generic uses of the “spinning” term. Of course, there would be far more uses of the term “spinning” if Mad Dogg hadn’t threatened and bullied so many companies, studios, authors, bloggers and exercise enthusiasts, including Peloton.

Recent Consumer Surveys Confirm That “Spinning” Is a Generic Term

48. Peloton commissioned a consumer survey in February 2021 to test whether consumers perceive the term “spinning” to be generic in the context of physical fitness instruction.

49. An overwhelming **92.5%** of respondents identified the term “spinning” as generic.

50. Similarly, in a second consumer survey commissioned by Peloton in February 2021 testing whether consumers perceive the term “spinning” to be generic in the context of indoor exercise or fitness equipment, an astounding **93%** of respondents categorized “spinning” as generic.

**THE '295 REGISTRATION FOR "SPINNING" SHOULD BE
CANCELLED BECAUSE THAT TERM IS GENERIC**

51. Mad Dogg owns the '295 Registration for the mark SPINNING in Class 41 for "providing facilities for recreation, physical fitness, exercising activities, fitness instruction, and fitness consultation."

52. As detailed above and fully incorporated here, the term "spinning" is generic for "providing facilities for recreation, physical fitness, exercising activities, fitness instruction, and fitness consultation."

53. The relevant public understands the mark SPINNING to primarily refer to "providing facilities for recreation, physical fitness, exercising activities, fitness instruction, and fitness consultation."

54. This term was generic when Mad Dogg first adopted it, as it simply refers to the spinning flywheel that is the central mechanism of the spinning bike used in the instructional classes.

55. This term, moreover, as Wikipedia and many reporters and bloggers recognize, has become, over time, overwhelmingly viewed as generic references to both the bikes and the fitness classes and facilities using spinning bikes.

56. Peloton is being damaged, and will continue to be damaged, by the continued registration of this trademark on the Principal Register, as Peloton (and the world) should be free to use this term to discuss, market and sell its spinning bike products and services. The continued existence of the '295 Registration, however, constrains Peloton from this unfettered use, based on Mad Dogg's repeated threats in the past.

57. Accordingly, pursuant to 15 U.S.C. § 1064(3), the '295 Registration should be cancelled.

PRAYER FOR RELIEF

58. Peloton prays that this Petition be granted and that the '295 Registration be cancelled.

Dated: May 17, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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*Counsel for Petitioner
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CERTIFICATE OF SERVICE

I certify that on May 17, 2021, I served the following document:

AMENDED PETITION TO CANCEL REGISTRATION

via email on counsel for Respondent at the following address:

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: May 17, 2021

/s/ Jennifer L. Barry
Jennifer L. Barry