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

Proceeding	92076499
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Reg. No. 2,003,922

Peloton Interactive, Inc.,)	
	)	Can. No. 92076499
Petitioner,)	
)	
v.)	
)	
Mad Dogg Athletics, Inc.)	
)	
Registrant.)	
_____)	

MAD DOGG ATHLETICS, INC.’S
MOTION TO DISMISS PETITION TO CANCEL; OR, IN THE ALTERNATIVE,
MOTION FOR A MORE DEFINITE STATEMENT AND MOTION TO STRIKE

Table of Contents

I.	INTRODUCTION	1
II.	LEGAL STANDARD	3
III.	ARGUMENT	4
	A. Peloton’s Retributive Pleading Is Insufficient to Confer Standing	4
	B. In the Alternative, Peloton Must Provide a More Definite Statement	12
	C. Paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 of the Should Be Stricken from the Petition Because They Are Immaterial	16
	D. Paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 Should Be Stricken from the Petition Because They Fail To Comply with FRCP 10(b) Requiring that Each Numbered Paragraph Be Limited to a Single Set of Circumstances	18
IV.	CONCLUSION	19

Table of Authorities

Cases

<i>Advanced Cardiovascular Systems Inc. v. SciMed Life Systems Inc.</i> , 988 F.2d 1157, 26 USPQ2d 1038 (Fed. Cir. 1993)	3
<i>Baker v. Carr</i> , 82 S.Ct. 691 (1962).....	4
<i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 554 (2007).....	12
<i>Continental Specialties Corp. v. Continental Connector Corp.</i> , 192 USPQ 449 (TTAB 1976)	10
<i>Covidien LP v. Masimo Corp.</i> , 109 USPQ 2d 1696 (TTAB 2014).....	3
<i>Empresa Cubana del Tabaco v. General Cigar Co.</i> , 753 F.3d 1270, 111 USPQ2d 1058 (Fed. Cir. 2014).....	4
<i>FBI v. Societe: M. Bril & Co.</i> , 172 USPQ 310 (TTAB 1971).....	11
<i>Int’l Tel. and Telegraph Corp. v. Int’l Mobile Machines Corp.</i> , 218 USPQ 1024 (TTAB 1983)	9
<i>Isle of Aloe, Inc. v. Aloe Creme Laboratories, Inc.</i> , 180 USPQ 794 (TTAB 1974).....	18
<i>Jewelers Vigilance Comm., Inc. v. Ullenberg Corp.</i> , 823 F.2d 490 (Fed. Cir. 1987) ...	3, 4, 11
<i>Lipton Indus., Inc. v. Ralston Purina Co.</i> , 670 F.2d 1024, 1029–30, 213 USPQ 185 (CCPA 1982)	3, 4, 8, 11
<i>M/S R.M. Dhariwal (HUF) 100% EOU v. Zarda King Ltd.</i> , 2019 USPQ 2d 149090 (TTAB 2019)	8, 9
<i>Order of Sons of Italy in America v. Profumi Fratelli Nostra AG</i> , 36 USPQ2d 1221 (TTAB 1995)	17
<i>Otto Roth & Co. v. Universal Foods Corp.</i> , 640 F.2d 1317 (CCPA 1981).....	9
<i>Ritchie v. Simpson</i> , 170 F.3d 1092 (Fed. Cir. 1999).....	4
<i>University of Notre Dame Du Lac v. J.C. Gourmet Food Imports Co.</i> , 703 F.2d 1372 (Fed. Cir. 1983).....	9
<i>Yard-Man, Inc. v. Getz Exterminators, Inc.</i> , 157 USPQ 100 (T.T.A.B. 1968).....	11

Statutes

15 U.S.C. § 1063.....	3
15 U.S.C. § 1064.....	4
Fed. R. Civ. P. 10(b)	2, 18
Fed. R. Civ. P. 12(b)(6).....	1, 2
Fed. R. Civ. P. 12(e)	1, 2
Fed. R. Civ. P. 8(a)	18

Rules

TBMP § 309.03.....	18
TBMP § 503.....	1, 3
TBMP § 503.02.....	2, 3
TBMP § 505.....	1
TBMP § 506.....	16
TBMP § 506.01.....	17
TBMP §309.03(a)(2).....	12
TBMP §505.....	2

TBMP §505.01..... 12
Trademark Rule 2.116(a)..... 16

Treatises

C. Wright & A. Miller, FEDERAL PRACTICE AND PROCEDURE Civil (3d Ed. 2021) 12

Regulations

37 C.F.R. § 2.116(a)..... 16

MAD DOGG ATHLETICS, INC.’S
MOTION TO DISMISS PETITION TO CANCEL; OR, IN THE ALTERNATIVE,
MOTION FOR A MORE DEFINITE STATEMENT AND MOTION TO STRIKE

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (“FRCP”) and § 503 of the Trademark Board Manual of Procedure (“TBMP”), Registrant Mad Dogg Athletics, Inc. (“Mad Dogg” or “Registrant”), by and through its undersigned attorneys of record, hereby moves the Trademark Trial and Appeal Board (the “Board”) to dismiss the above-referenced cancellation action brought by Peloton Interactive, Inc. (“Peloton” or “Petitioner”), on the grounds that Peloton has failed to state a claim upon which relief can be granted because Peloton lacks standing to seek cancellation of the mark at issue in this proceeding.

In the alternative, pursuant to FRCP 12(e) and TBMP § 505, Mad Dogg hereby moves the Board for entry of an Order requiring a more definite statement of Peloton’s allegations in the instant proceeding because those allegations, as currently stated, fail to clearly state the basis of Peloton’s claims against Mad Dogg.

I. INTRODUCTION

Peloton lacks standing to bring this action because it does not use, or even claim to use, Mad Dogg’s registered trademark “SPINNING” in connection with exercise equipment in the nature of stationary exercise bicycles and weight training machines.

To the contrary, the instant Petition, along with the six additional pending Petitions filed before the Board (Can. Nos. 92076463, 92076469, 92076483, 92076471, 92076516, and 92076554) are nothing more than retaliatory lawsuits filed in response to Mad Dogg’s civil lawsuit for patent infringement against Peloton, which is currently pending in the Eastern District of Texas. *See Mad Dogg Athletics, Inc. v. Peloton Interactive, Inc.*, Case No. 2:20-CV-0382-JRG (E.D. Tx., 2020).

As such, Peloton, a company currently valued at approximately 45 billion dollars, has no actual grievance upon which to base the instant Petition, other than a desire to punish Mad Dogg for seeking to protect Mad Dogg's valuable patent rights.

Unfortunately for Peloton, a case of "sour grapes" is insufficient to establish standing in this Proceeding. So, too, is a desire to engage in monopolistic behavior by needlessly filing a series of meritless lawsuits... of which, curiously, Mad Dogg is not alone.

Peloton also has filed lawsuits against other leading providers of indoor cycling instruction and stationary exercise bicycles. *See, e.g., Peloton Interactive Inc. v. Echelon Fitness Multimedia LLC*, Case No. 1:21-cv-00160-UNA (Del. 2021); *Peloton Interactive Inc. v. Icon Health & Fitness Inc.*, Case No. 1:20-cv-00662 (Del. 2020); *Peloton Interactive Inc. v. Flywheel Sports, Inc.*, Case No. 2:18-CV-00390-RWS (E.D. Tx. 2018).

Accordingly, the instant Petition should be dismissed pursuant to FRCP 12(b)(6) and TBMP § 503.02 because it constitutes nothing more than a meritless attack on Mad Dogg in an attempt to create leverage in Peloton's unrelated patent infringement defense.

In the alternative, if the Board does not grant Respondent's motion to dismiss on said grounds, the Board should order Petitioner to provide a more definite statement of its pleadings pursuant to FRCP 12(e) and TBMP §505. Said statement should properly identify the specific marks and goods and services at issue to allow Mad Dogg a full and fair opportunity to respond to each allegation in a clear and unambiguous manner. In doing so, Respondent asks the Board to strike paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 in their entirety because these paragraphs are immaterial to the instant cancellation proceeding. In addition, Respondent asks the Board to strike paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 because these paragraphs are not limited to a single set of legal and/or factual circumstances as required by FRCP 10(b).

///

II. LEGAL STANDARD

A motion to dismiss for failure to state a claim upon which relief can be granted is a test solely of the legal sufficiency of a complaint. TBMP § 503.02; *Advanced Cardiovascular Systems Inc. v. SciMed Life Systems Inc.*, 988 F.2d 1157, 26 USPQ2d 1038, 1041 (Fed. Cir. 1993); *Covidien LP v. Masimo Corp.*, 109 USPQ2d 1696, 1697 (TTAB 2014).

To withstand a motion to dismiss, a pleading “need only allege such facts as would, if proved, establish that the plaintiff is entitled to the relief sought, that is, that (1) the plaintiff has *standing* to maintain the proceeding, and (2) a valid ground exists for denying the registration sought (in the case of an opposition), or for canceling the subject registration (in the case of a cancellation proceeding).” TBMP § 503.02 (emphasis added).

Under section 13 of the Lanham Act, “[a]ny person who believes that he would be *damaged by the registration of a mark* upon the principal register may ... file an opposition [or cancellation] ... stating the grounds therefor.” 15 U.S.C. § 1063 (emphasis added).

Accordingly, a petitioner's “right – or standing – to bring a cancellation proceeding flows from section 13 of the Lanham Act.” *Jewelers Vigilance Comm., Inc. v. Ullenberg Corp.*, 823 F.2d 490, 492 (Fed. Cir. 1987).

While there is no definition of the word “damaged” in Section 13, it is clear that “[t]he purpose in requiring standing is to prevent litigation where there is no real controversy between the parties, where a plaintiff, petitioner or opposer, is no more than an intermeddler.” *Id.*; *Lipton Indus., Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 1029–30, 213 USPQ 185, 189 (CCPA 1982).

Thus, the question of standing is whether the petitioner:

alleged such *a personal stake in the outcome of the controversy* as to assure that concrete adverseness which

sharpens the presentation of issues upon which the court so largely depends for illumination of difficult ... questions.

Baker v. Carr, 82 S.Ct. 691, 703 (1962) (emphasis added).

III. ARGUMENT

A. Peloton's Retributive Pleading Is Insufficient to Confer Standing.

Pursuant to 15 U.S.C. § 1064, a petition to cancel a registration may be filed by any person who believes that she, he, or it is or will be damaged by the continued registration of the mark. The test for standing, however, includes two elements: (1) the Petitioner must have a “real interest in the proceedings”; and (2) the Petitioner must have a “reasonable basis for its belief of damage.” *Ritchie v. Simpson*, 170 F.3d 1092, 1095 (Fed. Cir. 1999); *see also Empresa Cubana del Tabaco v. General Cigar Co.*, 753 F.3d 1270, 111 USPQ2d 1058, 1062 (Fed. Cir. 2014); *Lipton Indus., Inc. v. Ralston Purina Co.*, 670 F.2d 1024 (CCPA 1981).

In other words, the Petitioner's belief that she, or he, or it is or will be damaged by the continued registration of the mark must be *genuine*.

Accordingly, to establish a bona fide interest in the instant Proceeding, Peloton “must allege a distinct and palpable injury . . .” *Jewelers Vigilance.*, 823 F.2d at 493.

In doing so, Peloton must plead facts sufficient to show a personal interest in the outcome of the case *beyond that of the general public*. *Id.* (citing *Lipton Indus.*, 670 F.2d at 1028) (emphasis added).

The lack of any such interest in the instant Proceeding is fatal to Peloton's Petition.

Peloton does not use or even claim to use the mark SPINNING in connection with the sale of stationary bicycles.

Given Peloton’s meteoric rise from an under-funded startup with only approximately \$400,000 in early 2012 to becoming the most lucrative provider of connected fitness¹ worldwide with a market value of approximately \$45,000,000,000, without having the need to use Mad Dogg’s SPINNING trademark to identify the goods and services that Peloton provides clearly belies the lack of genuineness that is required for Peloton to establish standing in this case.

To be clear, Peloton has no interest in or need to use the SPINNING mark in connection with Peloton’s indoor cycling business. Peloton merely wants to punish Mad Dogg for protection of Mad Dogg’s own intellectual property rights after Mad Dogg filed a patent lawsuit against Peloton in late 2020.

In its Petition, Peloton does not bother to claim that Peloton uses the term SPINNING to refer to its own goods or services, or even to physical fitness instruction generally.

Tellingly, Peloton conspicuously avoids mentioning that Mad Dogg has trained and certified more indoor cycling instructors under its SPINNING mark than any fitness provider worldwide.

Instead, Peloton conflates the term “SPINNING,” which is at issue in this proceeding, with the term “SPIN,” which is a separate and distinct federally registered trademark also owned by Mad Dogg, and which is *not* the subject of the instant Petition.

Specifically, in this Proceeding relating to Mad Dogg’s SPINNING mark, Peloton refers to “*spin* bikes” when describing indoor bicycles and related fitness equipment (1 TTABVUE 3; Petition to Cancel, ¶¶ 11 – 13), “*spin* classes” when describing fitness classes (including Peloton’s own fitness classes) utilizing said indoor bicycles (1 TTABVUE 4; Petition to Cancel, ¶¶ 14 – 15), “the spirit of *spin* classes” when describing Peloton’s products and business model

¹ Connected fitness is a term of art in the fitness industry that refers to the set of tools, whether apps or equipment, which bring together one’s fitness and one’s digital life, allowing fitness enthusiasts the near experience of working out in the gym from the safe and comfortable environment of their home.

(1 TTABVUE 5; Petition to Cancel, ¶¶ 16 – 17), and claims that “Peloton was one of many victims” because “Mad Dogg objected [to Peloton’s use of] the word ‘*spin*’ ” on Youtube. (1 TTABVUE 2; Petition to Cancel, ¶ 5) (emphasis added).

Accordingly, Peloton does not have any “real interest in the proceedings” because it does not use, or claim to use, Mad Dogg’s registered trademark “SPINNING.”

Moreover, the Petition is replete with hearsay statements (without supporting exhibits) claiming that the term “spin” (not “spinning”) is allegedly used as a “generic term” by certain unidentified third parties. Petitioner’s allegations concerning the alleged use of the term “spin” are not relevant to the instant proceeding concerning Mad Dogg’s long-standing and incontestable SPINNING trademark.

To the extent such allegations are relevant at all, they are relevant only to the co-pending petition to cancel Mad Dogg’s SPIN trademark registration (Can. No. 92076483), not this proceeding. A list of such allegations is set forth below:

- Paragraph 4: alleging that a “journalist wrote in a 2015 piece for the online outlet TechDirt reporting on Mad Dogg’s trademarks on *SPIN* and SPINNING....”;
- Paragraph 24: Peloton’s alleged definition of “*spin* class”;
- Paragraph 26: alleging that “the New York Times has covered *spin* class culture over the years;
- Paragraph 27: alleging that “[t]he Washington Post has also routinely covered the *spin* class phenomenon”;
- Paragraph 29: alleging that “TeenVogue has published several articles about *spin* classes;
- Paragraph 30: alleging that TIME Magazine discussed “the benefits and downsides to *spin* classes”;

- Paragraph 31: alleging that “CNET published an article in July 2020 titled ‘*Spin* class at home: How to get the best results without going to a gym’ ”;
- Paragraph 32: alleging that “the Huffington Post published a series of *spin* class memes entitled ‘20 Things That’ll Make Spin Enthusiasts Say ‘Yas,’ ”;
- Paragraph 33: alleging that “[t]he Huffington Post has featured several other articles... including the July 2017 article ‘How To Not Die In *Spin* Class’; the June 2016 article “My Soul-Wrenching Experience At *Spin* Class”; the December 2016 article “This *Spin* Class Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love Spin *Class*.”;
- Paragraph 34: alleging the results for a “Google search of “*spin class*” memes;
- Paragraph 35: alleging that a “blogger” wrote an “article on the then-popular website Racked entitled “Meet the Company that Trademarked the Word ‘*Spin*,’ ”;
- Paragraph 38: alleged article entitled “What Is a *Spin* Bike?”.

See 1 TTABVue 6 – 9; Petition to Cancel, ¶¶ 24 – 38 (emphasis added).

Because Peloton does not use or claim to use the term SPINNING, it follows that Peloton can have no real interest in Mad Dogg’s SPINNING Mark sufficient to meet the requirement for standing.

Nevertheless, Peloton attempts to gloss over this fact by using the terms “spin” and “spinning” interchangeably in the hope that the Board will construe the marks to be the same.

They are not.

To the contrary, Peloton’s own filing of *seven* different petitions, rather than a single petition, can be taken as an admission by Peloton of the obvious differences in the marks and uses

at issue, namely, SPIN, SPINNING, SPIN FITNESS, and SPIN PILATES (Can. Nos. 92076516; 92076483; 92076469; 92076499; 92076471; 92076463; and 92076554). *See Exhs. 1 – 7.*

In addition, to meet the threshold for standing, Peloton must allege a *reasonable basis* for its belief that it would be damaged by the continued registration of Mad Dogg’s SPINNING Mark. *See, Lipton Indus.*, 670 F.2d at 1029 (emphasis added).

The court in *Lipton* gave examples of how a petitioner could plead and prove a reasonable basis for believing that it would sustain any such damages.

First, the petitioner may assert likelihood of confusion (that is not wholly without merit). *Id.* at 1029. That was not done here.

Second, the petitioner could assert that it had an application that was rejected due to the subject registration. *Id.* Similarly, that was not done here.

When the alleged descriptiveness or genericness of a mark is at issue, the petitioner may plead (and later prove) its standing by alleging that it is engaged in the sale of the same or related products or services (or that the product or service in question is within the normal expansion of plaintiff’s business) **and that the plaintiff has an interest in using the term descriptively** in its business (*i.e.*, that the petitioner is a competitor). *See, e.g., M/S R.M. Dhariwal (HUF) 100% EOU v. Zarda King Ltd.*, 2019 USPQ 2d 149090, at *4 (TTAB 2019) (standing to assert a § 2(c) claim may be established by facts that plaintiff is a competitor and has a present or prospective right to use the name).

Peloton has not alleged a likelihood of confusion between Mad Dogg’s SPINNING Mark and any of Peloton’s own marks, nor has Peloton alleged that any of its marks would be refused registration due to the trademark registration for Mad Dogg’s SPINNING Mark. *Lipton Indus.*, 670 F.2d at 1029.

Similarly, Peloton has not alleged that it has an interest in using the term “spinning” descriptively in its business, or that it is a direct competitor of Mad Dogg. *M/S R.M. Dhariwal*, 2019 USPQ 2d 149090.

The conspicuous absence of any such allegations by Peloton regarding a likelihood of confusion, Peloton’s purported rights in a confusingly similar mark, or any interest by Peloton in using the term “spinning” to describe or refer to Peloton’s own indoor cycling goods and services is dispositive of Peloton’s lack of any reasonable basis for believing that it will be damaged by the continued registration of Mad Dogg’s SPINNING Mark. *See Int’l Tel. and Telegraph Corp. v. Int’l Mobile Machines Corp.*, 218 USPQ 1024, 1983 WL 66937 at *3 (TTAB 1983) (“[I]nasmuch as petitioner has alleged neither likelihood of confusion nor that it has actually been refused registration of its mark in view of respondent’s registration, it has not alleged a reasonable basis for its belief that it is or will be damaged by the continued existence of respondent’s registration.”). *See also University of Notre Dame Du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *Otto Roth & Co. v. Universal Foods Corp.*, 640 F.2d 1317, 209 USPQ 40 (CCPA 1981).

Tellingly, as reproduced below, in paragraph 45 of the Petition, Peloton admits that its damages, if any, are limited to “its *spin bike* products and services”:

- Paragraph 45: “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 *spin bike* products and services, but instead is constrained by Mad Dogg’s threats from doing so.”

1 TTABVUE 11; Petition for Cancellation at ¶ 45 (emphasis added).

Despite the absence in its Petition of any pleading sufficient to meet the above tests for conferring standing, Peloton nevertheless attempts to mislead the Board into believing that it does in fact have standing; namely, by conflating the term “SPIN” with the term “SPINNING.”

As discussed below, Peloton intentionally conflates these terms in a vague and ambiguous manner to obscure the fact that they are, in fact, separate marks, and that Peloton is really only complaining about Mad Dogg’s SPIN trademark. Specifically, Peloton contends that its harm arises from its belief that it “should be free to . . . market and sell its *spin bike products and services.*” *Id.*

Peloton’s belief that it should be free to use Mad Dogg’s trademark for SPIN to describe Peloton’s own goods or services is insufficient to attack Mad Dogg’s trademark registration for SPINNING at issue in this Proceeding.²

Therefore, all allegations relating to Mad Dogg’s SPIN trademark are inappropriate in the operative pleading in this Proceeding because such allegations do not support a finding that Peloton has a personal interest in filing a petition to cancel Mad Dogg’s SPINNING Mark.

Moreover, Peloton’s vague and conclusory belief that it is or has been somehow “constrained by Mad Dogg’s threats from [using the mark]” does not meet Peloton’s burden of providing specific conditions and circumstances, from which damage by the continued registration of Mad Dogg’s SPINNING Mark can be assumed. *Continental Specialties Corp. v. Continental Connector Corp.*, 192 USPQ 449 (TTAB 1976) (“[I]t is well settled that the threat of a suit for infringement . . . , does not by itself constitute damage within the meaning of Section 13

² See **Exhibit 1**, Peloton’s Petition to Cancel the mark SPIN (Can. No. 92076483). Pursuant to 37 C.F.R. § 2.122(a-d), the Board may take notice of adjudicated facts and pleadings, and the court may take judicial notice when supplied with the necessary information. The Board may take such judicial notice of the facts and pleadings whether requested or not. See TBMP § 704.12; see also TBMP § 704.03(b)(1)(A) (“A party that wishes to rely on its ownership of a federal registration of its mark that is not the subject of a proceeding before the Board may make the registration of record by offering evidence sufficient to establish that the registration is still subsisting, and that it is owned by the party which seeks to rely on it.”); TBMP § 704.07 (regarding official records).

of the Trademark Act.”); *Yard-Man, Inc. v. Getz Exterminators, Inc.*, 157 USPQ 100 (TTAB. 1968) (same).³ *See also FBI v. Societe: M. Bril & Co.*, 172 USPQ 310, 313 (TTAB. 1971) (conditions and circumstances of damage must be shown).

So, too, are Peloton’s disingenuous allegations that it wants to remove Mad Dogg’s SPINNING Mark from the Principal Register so that the term can be used by the general public.

As noted above, Peloton can have no genuine interest in canceling Mad Dogg’s SPINNING Mark, because, *inter alia*, it does not use the term “spinning” descriptively. *Ritchie v. Simpson*, 170 F.3d at 1095 (petitioner in cancellation action must have direct and personal stake in outcome of the case).

In addition, Peloton has no right to seek cancellation of Mad Dogg’s SPINNING Mark for the benefit of the “general public,” because, as pointed out in *Jewelers Vigilance Committee*, 823 F.2d at 493, sufficient facts must be pled to show a *personal interest* beyond that of the general public. *See also Lipton Indus.*, 670 F.2d at 1028 (“[I]f [Petitioner] does not plead facts sufficient to show a personal interest in the outcome beyond that of the general public, the case may be dismissed for failure to state a claim.”).

As to its conclusory allegation that it will be harmed by the continued registration of Mad Dogg’s SPINNING Mark, Peloton simply fails to show any harm that it might suffer.

Even assuming, *arguendo*, that Peloton wants to use the term “spin” generically to refer to its exercise bikes or indoor cycling classes, as it alleges, then Mad Dogg’s SPINNING Mark is not at issue inasmuch as Peloton has filed a separate petition to cancel Mad Dogg’s SPIN registration for “stationary exercise bicycles” in International Class 028 and for “physical fitness instruction” in International Class 041. *See Exhibit 1*.

Because Peloton, in light of the fact that it does not use or claim to use the term SPINNING descriptively, can have no real interest in Mad Dogg’s SPINNING Mark, Peloton

has no personal interest in this proceeding and therefore cannot *reasonably* believe that it will be damaged by the continued registration of Mad Dogg’s SPINNING Mark – Particularly in light of the fact that Peloton has not relied on any such use in growing its business over 100,000 fold in the past 9 years. Thus, Peloton does not have standing to bring this action.

B. In the Alternative, Peloton Must Provide a More Definite Statement.

Peloton’s Petition must “include enough detail to give the defendant fair notice of the basis for each claim.” TBMP §309.03(a)(2); *see Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 570 (2007). An order for a more definite statement is appropriate where the pleading is “so vague or ambiguous that the movant cannot make a responsive pleading in good faith or without prejudice to itself.” TBMP §505.01, *citing* C. Wright & A. Miller, FEDERAL PRACTICE AND PROCEDURE Civil (3d Ed. 2021) at § 1377.

Peloton’s Petition for Cancellation is so vague and ambiguous that, should the Board deny Mad Dogg’s motion to dismiss the action in its entirety as requested above, Mad Dogg cannot in good faith form a response without prejudicing itself.

Specifically, Petitioner has failed to adequately identify those marks upon which it bases its claims. Peloton’s Petition claims to assert a group of marks, namely, “spin and spinning,” that is not defined. Although Peloton does not allege that Peloton uses these marks itself, in paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 of the Petition, Peloton conflates these broad and undefined terms:

- *Paragraph 1*: alleging that “[t]he terms *SPIN and SPINNING* are generic....”;
- *Paragraph 2*: alleging that Mad Dogg and its lawyers have sent cease-and-desist letters to third-parties regarding “uses of the terms *SPIN and SPINNING*....”;

- Paragraph 3: alleging “that ‘*spin*’ and ‘*spinning*’ are generic terms to describe a type of exercise bike and associated in-studio class”;
- Paragraph 4: conflating “*SPIN and SPINNING*” as used in an alleged “piece for the online outlet TechDirt”;
- Paragraph 6: Requesting a finding that “the terms *SPIN and SPINNING* [are] generic”;
- Paragraph 18: conflating “ ‘*SPIN*’ and ‘*SPINNING*’ ” to describe “the ‘brand’ name of [Mad Dogg’s] bikes”;
- Paragraph 19: conflating “*SPIN and SPINNING*” to allege and describe Mad Dogg’s trademark registrations;
- Paragraph 20: conflating “*SPIN and SPINNING*” and alleging that “Mad Dogg has no protectable rights in the *SPIN and SPINNING* terms”;
- Paragraph 22: alleging “that ‘*spin*’ and ‘*spinning*’ are generic terms” on Google;
- Paragraph 28: conflating alleged “Bloomberg” articles which allegedly include the term “*spin*” in the title, with other alleged “Bloomberg” articles which allegedly include the term “*spinning*” in the title;
- Paragraph 30: conflating alleged “TIME Magazine” article allegedly entitled “ ‘Why You Should Rethink Your *Spinning Obsession,* ’ ” by also alleging that said article “discuss[ed] the benefits and downsides to *spin classes*”;
- Paragraph 35: conflating “*spin and spinning*” to describe alleged use of these terms by “bloggers and journalists...”;
- Paragraph 36: same;
- Paragraph 37: conflating the use of “*spin and spinning*” as allegedly used in an article by “the online outlet TechDirt”;
- Paragraph 39: conflating “*spin and spinning*”

See 1 TTABVUE 1 – 10; Petition for Cancellation at ¶¶ 1-4, 6, 18-20, 22, 28, 30, 35-37, 39 (emphasis added).

Similarly, in paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 of the Petition for Cancellation, Peloton pleads only allegations related to the term “spin” which is similarly vague and undefined, and is not the subject of the instant action:

- Paragraph 5: claiming that “Peloton was one of many victims” because “Mad Dogg objected [to Peloton’s use of] the word ‘*spin*’ ” on Youtube;
- Paragraph 11: alleging that “[a] *spin bike* is a type of indoor exercise cycle...”;
- Paragraph 12: alleging that “[a] *spin bike* uses a weighted flywheel typically located in the front of the bike...”;
- Paragraph 13: alleging that “*spin bikes* are built with very solid frames to avoid shaking during vigorous pedaling...”;
- Paragraph 14: alleging that “*spin bikes* have become immensely popular in recent years because of the community and motivation provided by *spin classes*”;
- Paragraph 15: referring to “*spin class*” when alleging that such “class[es] usually involve[] loud music, energetic instructions and a community atmosphere of encouragement and competition”;
- Paragraph 16: referring to “the spirit of *spin classes*” when alleging that “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. 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.”;

- Paragraph 17: alleging that “[t]he Peloton Bike solved [certain] problems for would-be exercisers... 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 *spin classes* so popular.”;
- Paragraph 24: alleged definition for a “*spin class*” on “[t]he Urban Dictionary”;
- Paragraph 26: alleging that “the New York Times discussed how first time *spin class* visitors should exercise care and not overdo it” and that “the New York Times has covered *spin class* culture over the years”;
- Paragraph 27: Alleging that “[t]he Washington Post has also routinely covered the *spin class* phenomenon”;
- Paragraph 29: Alleging that “TeenVogue has published several articles about *spin classes*”;
- Paragraph 31: Alleging that “CNET published an article in July 2020 titled ‘*Spin class* at home: How to get the best results without going to a gym’ ”;
- Paragraph 32: Alleging that “the Huffington Post published a series of *spin class* memes entitled ‘20 Things That’ll Make *Spin Enthusiasts* Say ‘Yas,’ ”;
- Paragraph 33: Alleging that “[t]he Huffington Post has featured several other articles... including the July 2017 article “How To Not Die In *Spin Class*”; the June 2016 article “My Soul-Wrenching Experience At *Spin Class*”; the December 2016 article “This *Spin Class* Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love *Spin Class*.”;

- Paragraph 34: alleging that “*spin class* has been enthusiastically adopted in pop culture as evidenced by the dozens of memes that result from a Google search of ‘*spin class*’ memes...”;
- Paragraph 38: alleged article entitled “What Is a *Spin Bike*?”;
- Paragraph 45: alleging that “Peloton is being damaged, and will continue to be damaged” because “Peloton... should be free to use this term *to discuss, market and sell its spin bike products and services....*”

See 1 TTABVue 1 – 11; Petition for Cancellation at ¶¶ 5, 11-17, 24, 27, 29, 31-34, 38, 45 (emphasis added).

With these broad and undefined terms, Mad Dogg is left to speculate as to what marks and registrations are at issue *in this proceeding*. At times, Peloton appears to assert that the variations of the marks are without limitation, while at other times, when conflating the terms “spin” and “spinning,” appears to assert that the marks are identical or otherwise have an identical meaning. Further, Peloton does not link which goods or services should be listed in connection with each of its pleaded allegations for these terms, conflated and/or separately.

Accordingly, if the Board declines to grant Mad Dogg’s motion to dismiss this Proceeding in its entirety, the Board should order Peloton to make a more definite statement of the claims at issue in this Proceeding to enable Mad Dogg properly to respond to each such allegation.

C. Paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 of the Should Be Stricken from the Petition Because They Are Immaterial.

Pursuant to FRCP 12(f), the Board may order stricken from a pleading any “insufficient defense or any redundant, immaterial, impertinent or scandalous matter.” *See also* Trademark Rule 2.116(a), 37 C.F.R. § 2.116(a), and TBMP § 506. The primary purpose of pleadings under the Federal Rules of Civil Procedure is to give fair notice of the claims or defenses asserted,

however, the Board, in its discretion, may decline to strike even objectionable pleadings where their inclusion will not prejudice the adverse party, but rather will provide fuller notice of the basis for a claim or defense. *See, e.g., Order of Sons of Italy in America v. Profumi Fratelli Nostra AG*, 36 USPQ2d 1221, 1223 (TTAB 1995); TBMP § 506.01.

Nonetheless, the Board grants motions to strike in appropriate circumstances. *Western Worldwide Enterprises Group Inc. v. Qinqdao Brewery*, 17 USPQ2d 1137, 1139 (TTAB 1990) (ground for cancellation not available for registration over five years old); *Harsco Corp. v. Electrical Sciences Inc.*, 9 USPQ2d 1570, 1571-72 (TTAB 1988) (immaterial allegation stricken); TBMP § 506.01.

As set forth above, paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 of the Petition for Cancellation are immaterial to the instant proceeding because these paragraphs plead only allegations related to the vague and undefined term “spin,” which is not the subject of or related to issues of fact or law with respect to Mad Dogg’s continued registration of the term SPINNING.

In addition, Peloton’s allegations set forth in paragraphs 24–38 contain only immaterial, hearsay-within-hearsay allegations, namely, third-party news articles, but fail to include the alleged articles themselves (or any evidence whatsoever) as exhibits to the Petition. As such, Mad Dogg is unable to respond to these immaterial and irrelevant allegations without suffering undue prejudice. Accordingly, Mad Dogg respectfully requests that the Board strike paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 from the Petition in their entirety because these paragraphs are not material to Peloton’s Petition to cancel Mad Dogg’s trademark registration for SPINNING.

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D. Paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 Should Be Stricken from the Petition Because They Fail To Comply with FRCP 10(b) Requiring that Each Numbered Paragraph Be Limited to a Single Set of Circumstances.

With respect to Peloton’s other pleaded paragraphs, FRCP 8(a) requires that all pleadings contain a short and plain statement of the claim. Moreover, FRCP 10(b) requires that the averments of the claim be made in numbered paragraphs “... the contents of each of which shall be limited as far as practicable *to a statement of a single set of circumstances...*” FRCP 10(b) (emphasis added); *see also* TBMP § 309.03 (“All averments should be made in numbered paragraphs, the contents of each of which should be limited as far as practicable to a statement of a single set of circumstances. Each claim founded upon a separate transaction or occurrence should be stated in a separate count whenever a separation would facilitate the clear presentation of the matters pleaded.”)

As set forth above, paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 of the Petition conflate the broad and undefined terms “spin” and “spinning” into multiple allegations within the same numbered paragraphs. At the same time, Peloton appears to allege separate transactions and/or occurrences regarding the terms “spin” and “spinning” into the same counts and same numbered paragraphs. Accordingly, the Petition does not comply with the pleading requirements of FRCP 10(b), because paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 of the Petition are not limited to a single set of circumstances, and instead consist of vague and ambiguous allegations, each of which relates to a different set of circumstances for to the term “SPIN” on one hand, and the term “SPINNING” on the other. *See Isle of Aloe, Inc. v. Aloe Creme Laboratories, Inc.*, 180 USPQ 794, 794 (TTAB 1974) (while paragraphs were numbered, none of the paragraphs were limited to a statement of a single set of circumstances); FRCP 10(b).

It would be prejudicial for Mad Dogg to file an answer to the Petition as presently written, because doing so would force Mad Dogg to engage in speculation and conjecture that

may inadvertently result in incorrect or inaccurate responses. Accordingly, paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 of the Petition should be stricken and any subsequent petition filed by Peloton should be required to conform to Sections 8(a) and 10(b) of the Federal Rules of Civil Procedure.

IV. CONCLUSION

Based on the foregoing, the instant Petition should be dismissed in its entirety because Peloton lacks standing.

In the alternative, to the extent the Board allows the Proceeding to go forward, Respondent respectfully asks the Board to order Peloton to provide a more definite statement of its pleadings, to strike paragraphs 5, 11–17, 24, 27, 29, 31–34, 38, and 45 from the Petition in their entirety because these paragraphs are immaterial and relate to a mark that is not at issue in this Proceeding, and to strike paragraphs 1–4, 6, 18–20, 22, 28, 30, 35–37, and 39 from the Petition because these paragraphs are not limited to a single set of circumstances.

If the Board grants Mad Dogg’s alternative motion to strike and for a more definite statement, Mad Dogg will be able to avoid any prejudice that would result from filing an answer based on the language of the current pleading filed by Peloton in this Proceeding.

Respectfully submitted,



Dated: April 27, 2021

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EXHIBIT 1

ESTTA Tracking number: **ESTTA1114513**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, alethia.corneil@lw.com 858-523-5400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	2173202	Registration date	07/14/1998
Registrant	Mad Dogg Athletics, Inc. 2111 NARCISSUS COURT VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 028. First Use: 1992/01/00 First Use In Commerce: 1992/01/00 All goods and services in the class are subject to cancellation, namely: stationary exercise bicycles
Class 041. First Use: 1992/01/00 First Use In Commerce: 1992/01/00 All goods and services in the class are subject to cancellation, namely: physical fitness instruction

Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Cancel 2173202 Registration for SPIN in Classes 28 and 41.pdf(513529 bytes)
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Signature	/Jennifer L. Barry/
Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO CANCEL
v.	)	REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 2173202
Respondent.	)	Mark: SPIN
	)	Classes: 28 and 41

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the cancellation of Registration No. 2173202 (the “’202 Registration”) for the term SPIN owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg's expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won't Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and 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 terms SPIN and SPINNING to be generic and cancel Mad Dogg's '202 Registration.

THE PARTIES AND THE SUBJECT REGISTRATION

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.

9. Peloton believes that it is being damaged, and will continue to be damaged, by the continued registration of the '202 Registration for the mark SPIN in Classes 28 and 41.

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

FACTS

Spin Bikes

11. A spin 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.

12. A spin 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.

13. Spin 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. Spin bikes also often have pedals that require special shoes that "clip" into place for a more stable ride and greater power generation.

Spin Classes

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



A Peloton spin class



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

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

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

16. 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. 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.

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

Mad Dogg and Its Spin Bikes

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

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

20. Mad Dogg has no protectable rights in the SPIN and SPINNING terms. 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 terms they have every right to use.

21. Mad Dogg should no longer be able to intimidate the world into avoiding these commonplace generic terms to accurately describe their bikes and classes.

Spin and Spinning Are Generic Terms

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

23. 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.”

24. The Urban Dictionary defines “spin class” as “[a] group exercise in which participants ride stationary . . . bicycles at varying speeds . . . and resistance . . . settings. Popular among middle aged women, health nuts and racing cyclists.”

25. 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).”

26. In a July 2017 report entitled “As Workouts Intensify, a Harmful Side Effect Grows More Common,” the New York Times discussed how first time spin class visitors should exercise care and not overdo it. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a

September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and a February 2019 article entitled, “Spinning With My Shrink.”

27. The Washington Post has also routinely covered the spin class phenomenon, including a November 2018 article titled, “The spin instructor’s ‘love yourself’ approach didn’t motivate her. So what would?”; a March 2018 article called “Is your spin class too young, too thin and too white?”; the October 2016 article entitled, “Wanna spin that cycling class into a lucrative future? Start with the free fruit.”; and its December 2015 article “Why Hollywood loves to hate spin class,” which provided video clips from TV shows that parodied various “spin” classes, including clips from Saturday Night Live, Broad City and Unbreakable Kimmy Schmidt.

28. 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; explored the crossover of spinning and fashion in its December 2017 article “SoulCycle Is Betting High Fashion Will Get You Spinning”; discussed the growth of Peloton in a December 2015 article called “The Most Exclusive Spin Class Is in Your Living Room”; and covered the growing trend of spin class business meetings in a July 2013 article entitled “Sweaty Wall Streeters Skip Booze for Spin-Class Meetings.”

29. TeenVogue has published several articles about spin classes, including the April 2013 article “Seven Things to Know Before Your First Spin Class”; the May 2014 article “What’s the Deal with Cult Fitness Trends?”; and the August 2014 article “The Bike Isn’t Enough: What You Need to Know Before Your Next Spin Class.”

30. TIME Magazine published an article in March 2017 titled “Why You Should Rethink Your Spinning Obsession,” discussing the benefits and downsides to spin classes.

31. CNET published an article in July 2020 titled “Spin class at home: How to get the best results without going to a gym” regarding benefits of spinning and tips for beginners.

32. In May 2016, the Huffington Post published a series of spin class memes entitled “20 Things That’ll Make Spin Enthusiasts Say ‘Yas,’” such as:

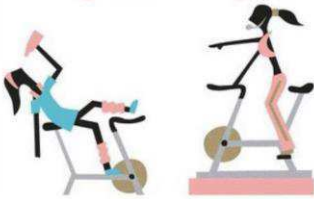
You know you *must* arrive 5 minutes before class to claim your favorite bike.



33. The Huffington Post has featured several other articles about spinning as well, including the July 2017 article “How To Not Die In Spin Class”; the June 2016 article “My Soul-Wrenching Experience At Spin Class”; the December 2016 article “This Spin Class Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love Spin Class.”

34. Similar to the TV show parodies and Huffington Post article, spin class has been enthusiastically adopted in pop culture as evidenced by the dozens of memes that result from a Google search of “spin class” memes, including:

What doesn't Kill you
makes you stronger!
Except a spin instructor...
They WILL Kill you.



35. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the terms spin and 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.”

36. 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.”

37. 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.”

38. 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.*

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

**THE ’202 REGISTRATION FOR “SPIN” SHOULD BE
CANCELLED BECAUSE THAT TERM IS GENERIC**

40. Mad Dogg owns the ’202 Registration for the mark SPIN in Class 28 for “stationary exercise bicycles” and Class 41 for “physical fitness instruction.”

41. As detailed above and fully incorporated here, the term “spin” is generic for both “stationary exercise bicycles” and “physical fitness instruction.”

42. The relevant public understands the mark SPIN to primarily refer to “stationary exercise bicycles” and “physical fitness instruction.”

43. 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 bike.

44. 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 using spin bikes.

45. 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 spin bike products and services, but instead is constrained by Mad Dogg’s threats from doing so.

46. Accordingly, pursuant to 15 U.S.C. § 1064(3), the ’202 Registration should be cancelled.

PRAYER FOR RELIEF

47. Peloton prays that this Petition be granted and that the ’202 Registration be cancelled.

Dated: February 16, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

EXHIBIT 2

ESTTA Tracking number: **ESTTA1114526**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, alethia.corneil@lw.com 8585235400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	2424295	Registration date	01/30/2001
Registrant	Mad Dogg Athletics, Inc. 2111 NARCISSUS COURT VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 1982/03/00 First Use In Commerce: 1982/03/00 All goods and services in the class are subject to cancellation, namely: providing facilities for recreation, physical fitness, exercising activities, fitness instruction, and fitness consultation
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Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Cancel 2424295 Registration for SPINNIN G in Class 41.pdf(513335 bytes)
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Signature	/Jennifer L. Barry/
-----------	---------------------

Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO CANCEL
v.	)	REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 2424295
Respondent.	)	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 terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg's expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won't Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and 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.”

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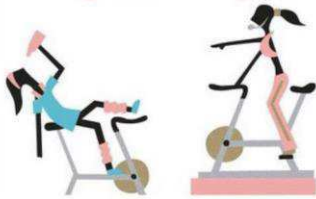
You know you *must* arrive 5 minutes before class to claim your favorite bike.



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34. Similar to the TV show parodies and Huffington Post article, spin class has been enthusiastically adopted in pop culture as evidenced by the dozens of memes that result from a Google search of “spin class” memes, including:

What doesn't Kill you
makes you stronger!
Except a spin instructor...
They WILL Kill you.



35. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the terms spin and 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.

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

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38. 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.

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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.***

39. The above is just a small sampling of the vast library of generic uses of the "spin" and "spinning" terms. Of course, there would be far more uses of the terms "spin" and "spinning" if Mad Dogg hadn't threatened and bullied so many companies, studios, authors, bloggers and exercise enthusiasts.

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

40. 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."

41. 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."

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

43. 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 bike.

44. 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 spin bikes.

45. 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 spin bike products and services, but instead is constrained by Mad Dogg's threats from doing so.

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

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

Dated: February 16, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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jennifer.barry@lw.com, ipdocket@lw.com

*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

EXHIBIT 3

ESTTA Tracking number: **ESTTA1114519**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, alethia.corneil@lw.com 8585235400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	1780650	Registration date	07/06/1993
Registrant	MAD DOGG ATHLETICS, INC. 2111 NARCISUS COURT VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 1982/03/00 First Use In Commerce: 1982/03/00 All goods and services in the class are subject to cancellation, namely: providing training and instruction to others by simulating an outdoor bicycle workout completed indoors on a stationerybicycle

Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Cancel 1780650 Registration for SPINNIN G in Class 41.pdf(514144 bytes)
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Signature	/Jennifer L. Barry/
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Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO CANCEL
v.	)	REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 1780650
Respondent.	)	Mark: SPINNING
	)	Class: 41

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the cancellation of Registration No. 1780650 (the “’650 Registration”) for the term SPINNING owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg's expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won't Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and a February 2019 article entitled, “Spinning With My Shrink.”

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*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

EXHIBIT 4

ESTTA Tracking number: **ESTTA1114516**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, aethia.corneil@lw.com 8585235400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	2003922	Registration date	10/01/1996
Registrant	Mad Dogg Athletics, Inc. 2111 NARCISUS COURT VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 028. First Use: 1990/01/00 First Use In Commerce: 1990/01/00 All goods and services in the class are subject to cancellation, namely: exercise equipment in the nature of stationary exercise bicycles and weight training machines
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Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Partially Cancel 2003922 Registration f or SPINNING in Class 28.pdf(513462 bytes)
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Signature	/Jennifer L. Barry/
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Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO PARTIALLY
v.	)	CANCEL REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 2003922
Respondent.	)	Mark: SPINNING
	)	Class: 28

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the partial cancellation of Registration No. 2003922 (the “’922 Registration”) for the term SPINNING owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg's expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won't Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and 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 terms SPIN and SPINNING to be generic and cancel Mad Dogg's '922 Registration.

THE PARTIES AND THE SUBJECT REGISTRATION

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.

9. Peloton believes that it is being damaged, and will continue to be damaged, by the continued registration of the '922 Registration for the mark SPINNING in Class 28.

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

FACTS

Spin Bikes

11. A spin 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.

12. A spin 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.

13. Spin 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. Spin bikes also often have pedals that require special shoes that "clip" into place for a more stable ride and greater power generation.

Spin Classes

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



A Peloton spin class



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

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

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

16. 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. 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.

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

Mad Dogg and Its Spin Bikes

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

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

20. Mad Dogg has no protectable rights in the SPIN and SPINNING terms. 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 terms they have every right to use.

21. Mad Dogg should no longer be able to intimidate the world into avoiding these commonplace generic terms to accurately describe their bikes and classes.

Spin and Spinning Are Generic Terms

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

23. 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.”

24. The Urban Dictionary defines “spin class” as “[a] group exercise in which participants ride stationary . . . bicycles at varying speeds . . . and resistance . . . settings. Popular among middle aged women, health nuts and racing cyclists.”

25. 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).”

26. In a July 2017 report entitled “As Workouts Intensify, a Harmful Side Effect Grows More Common,” the New York Times discussed how first time spin class visitors should exercise care and not overdo it. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a

September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and a February 2019 article entitled, “Spinning With My Shrink.”

27. The Washington Post has also routinely covered the spin class phenomenon, including a November 2018 article titled, “The spin instructor’s ‘love yourself’ approach didn’t motivate her. So what would?”; a March 2018 article called “Is your spin class too young, too thin and too white?”; the October 2016 article entitled, “Wanna spin that cycling class into a lucrative future? Start with the free fruit.”; and its December 2015 article “Why Hollywood loves to hate spin class,” which provided video clips from TV shows that parodied various “spin” classes, including clips from Saturday Night Live, Broad City and Unbreakable Kimmy Schmidt.

28. 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; explored the crossover of spinning and fashion in its December 2017 article “SoulCycle Is Betting High Fashion Will Get You Spinning”; discussed the growth of Peloton in a December 2015 article called “The Most Exclusive Spin Class Is in Your Living Room”; and covered the growing trend of spin class business meetings in a July 2013 article entitled “Sweaty Wall Streeters Skip Booze for Spin-Class Meetings.”

29. TeenVogue has published several articles about spin classes, including the April 2013 article “Seven Things to Know Before Your First Spin Class”; the May 2014 article “What’s the Deal with Cult Fitness Trends?”; and the August 2014 article “The Bike Isn’t Enough: What You Need to Know Before Your Next Spin Class.”

30. TIME Magazine published an article in March 2017 titled “Why You Should Rethink Your Spinning Obsession,” discussing the benefits and downsides to spin classes.

31. CNET published an article in July 2020 titled “Spin class at home: How to get the best results without going to a gym” regarding benefits of spinning and tips for beginners.

32. In May 2016, the Huffington Post published a series of spin class memes entitled “20 Things That’ll Make Spin Enthusiasts Say ‘Yas,’” such as:

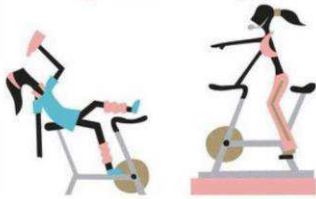
You know you *must* arrive 5 minutes before class to claim your favorite bike.



33. The Huffington Post has featured several other articles about spinning as well, including the July 2017 article “How To Not Die In Spin Class”; the June 2016 article “My Soul-Wrenching Experience At Spin Class”; the December 2016 article “This Spin Class Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love Spin Class.”

34. Similar to the TV show parodies and Huffington Post article, spin class has been enthusiastically adopted in pop culture as evidenced by the dozens of memes that result from a Google search of “spin class” memes, including:

What doesn't Kill you
makes you stronger!
Except a spin instructor...
They WILL Kill you.



35. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the terms spin and 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.”

36. 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.”

37. 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."

38. 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.*

39. The above is just a small sampling of the vast library of generic uses of the "spin" and "spinning" terms. Of course, there would be far more uses of the terms "spin" and "spinning" if Mad Dogg hadn't threatened and bullied so many companies, studios, authors, bloggers and exercise enthusiasts.

**THE CLASS 28 PORTION OF THE '922 REGISTRATION FOR "SPINNING"
SHOULD BE CANCELLED BECAUSE THAT TERM IS GENERIC**

40. Mad Dogg owns the '922 Registration for the mark SPINNING in Class 28 for "exercise equipment in the nature of stationary exercise bicycles and weight training machines."

41. As detailed above and fully incorporated here, the term “spinning” is generic for “exercise equipment in the nature of stationary exercise bicycles and weight training machines.”

42. The relevant public understands the mark SPINNING to primarily refer to “exercise equipment in the nature of stationary exercise bicycles and weight training machines.”

43. 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 bike.

44. 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 using spin bikes.

45. 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 spin bike products and services, but instead is constrained by Mad Dogg’s threats from doing so.

46. Accordingly, pursuant to 15 U.S.C. § 1064(3), the ’922 Registration should be cancelled.

PRAYER FOR RELIEF

47. Peloton prays that this Petition be granted and that the ’922 Registration be cancelled.

Dated: February 16, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

EXHIBIT 5

ESTTA Tracking number: **ESTTA1114555**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, alethia.corneil@lw.com 8585235400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	3286726	Registration date	08/28/2007
Registrant	Mad Dogg Athletics, Inc. 2111 NARCISSUS CT. VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 1997/02/28 First Use In Commerce: 1997/02/28 All goods and services in the class are subject to cancellation, namely: Providing information in the field of exercise and fitness via the Internet
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Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Cancel 3286726 Registration for SPINNIN G in Class 41.pdf(513701 bytes)
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Signature	/Jennifer L. Barry/
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Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO CANCEL
v.	)	REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 3286726
Respondent.	)	Mark: SPINNING
	)	Class: 41

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the cancellation of Registration No. 3286726 (the “’726 Registration”) for the term SPINNING owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg’s expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and 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 terms SPIN and SPINNING to be generic and cancel Mad Dogg's '726 Registration.

THE PARTIES AND THE SUBJECT REGISTRATION

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.

9. Peloton believes that it is being damaged, and will continue to be damaged, by the continued registration of the '726 Registration for the mark SPINNING in Class 41.

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

FACTS

Spin Bikes

11. A spin 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.

12. A spin 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.

13. Spin 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. Spin bikes also often have pedals that require special shoes that "clip" into place for a more stable ride and greater power generation.

Spin Classes

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



A Peloton spin class



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

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

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

16. 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. 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.

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

Mad Dogg and Its Spin Bikes

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

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

20. Mad Dogg has no protectable rights in the SPIN and SPINNING terms. 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 terms they have every right to use.

21. Mad Dogg should no longer be able to intimidate the world into avoiding these commonplace generic terms to accurately describe their bikes and classes.

Spin and Spinning Are Generic Terms

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

23. 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.”

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September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and a February 2019 article entitled, “Spinning With My Shrink.”

27. The Washington Post has also routinely covered the spin class phenomenon, including a November 2018 article titled, “The spin instructor’s ‘love yourself’ approach didn’t motivate her. So what would?”; a March 2018 article called “Is your spin class too young, too thin and too white?”; the October 2016 article entitled, “Wanna spin that cycling class into a lucrative future? Start with the free fruit.”; and its December 2015 article “Why Hollywood loves to hate spin class,” which provided video clips from TV shows that parodied various “spin” classes, including clips from Saturday Night Live, Broad City and Unbreakable Kimmy Schmidt.

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29. TeenVogue has published several articles about spin classes, including the April 2013 article “Seven Things to Know Before Your First Spin Class”; the May 2014 article “What’s the Deal with Cult Fitness Trends?”; and the August 2014 article “The Bike Isn’t Enough: What You Need to Know Before Your Next Spin Class.”

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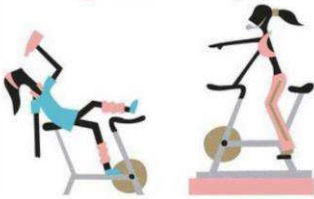
You know you *must* arrive 5 minutes before class to claim your favorite bike.



33. The Huffington Post has featured several other articles about spinning as well, including the July 2017 article “How To Not Die In Spin Class”; the June 2016 article “My Soul-Wrenching Experience At Spin Class”; the December 2016 article “This Spin Class Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love Spin Class.”

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What doesn't Kill you
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Except a spin instructor...
They WILL Kill you.



35. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the terms spin and 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.”

36. 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.”

37. 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."

38. 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.*

39. The above is just a small sampling of the vast library of generic uses of the "spin" and "spinning" terms. Of course, there would be far more uses of the terms "spin" and "spinning" if Mad Dogg hadn't threatened and bullied so many companies, studios, authors, bloggers and exercise enthusiasts.

THE '726 REGISTRATION FOR "SPINNING" SHOULD BE CANCELLED BECAUSE THAT TERM IS GENERIC

40. Mad Dogg owns the '726 Registration for the mark SPINNING in Class 41 for "Providing information in the field of exercise and fitness via the Internet."

41. As detailed above and fully incorporated here, the term “spinning” is generic for methods of fitness and exercise.

42. The relevant public understands the mark SPINNING to primarily refer to methods of fitness and exercise.

43. 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 bike.

44. 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 fitness and exercise methods using spin bikes.

45. 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 spin bike products and services, but instead is constrained by Mad Dogg’s threats from doing so.

46. Accordingly, pursuant to 15 U.S.C. § 1064(3), the ’726 Registration should be cancelled.

PRAYER FOR RELIEF

47. Peloton prays that this Petition be granted and that the ’726 Registration be cancelled.

Dated: February 16, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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jennifer.barry@lw.com, ipdocket@lw.com

*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

EXHIBIT 6

ESTTA Tracking number: **ESTTA1114596**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, alethia.corneil@lw.com 8585235400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	3528187	Registration date	11/04/2008
Registrant	Mad Dogg Athletics, Inc. 2111 NARCISUS CT. VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 2007/06/30 First Use In Commerce: 2007/06/30 All goods and services in the class are subject to cancellation, namely: providing physical fitness instruction and consultation in the fields of healthand exercise; health club services, namely, providing instruction and equipmentin the field of physical exercise
--

Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Cancel 3528187 Registration for SPIN PI LATES in Class 41.pdf(514009 bytes)
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Signature	/Jennifer L. Barry/
Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO CANCEL
v.	)	REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 3528187
Respondent.	)	Mark: SPIN PILATES
	)	Class: 41

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the cancellation of Registration No. 3528187 (the “187 Registration”) for the term SPIN PILATES owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg’s expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and 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 terms SPIN and SPINNING to be generic and cancel Mad Dogg's '187 Registration.

THE PARTIES AND THE SUBJECT REGISTRATION

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.

9. Peloton believes that it is being damaged, and will continue to be damaged, by the continued registration of the '187 Registration for the mark SPIN PILATES in Class 41.

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

FACTS

Spin Bikes

11. A spin 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.

12. A spin 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.

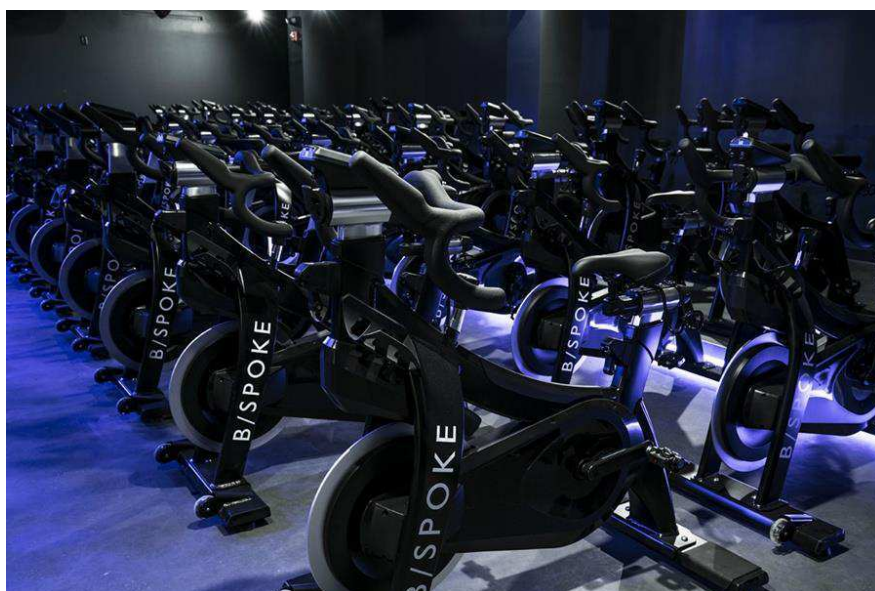
13. Spin bikes are built with very solid frames to avoid shaking during vigorous pedaling, and usually have padded handlebars to add comfort when riders are standing and leaning on the bars. Spin bikes also often have pedals that require special shoes that "clip" into place for a more stable ride and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

Spin Classes

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



A Peloton spin class



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

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

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

16. 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. 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.

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

Mad Dogg and Its Spin Bikes

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

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

20. Mad Dogg has no protectable rights in the SPIN and SPINNING terms. 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 terms they have every right to use.

21. Mad Dogg should no longer be able to intimidate the world into avoiding these commonplace generic terms to accurately describe their bikes and classes.

Spin and Spinning Are Generic Terms

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

23. 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.”

24. The Urban Dictionary defines “spin class” as “[a] group exercise in which participants ride stationary . . . bicycles at varying speeds . . . and resistance . . . settings. Popular among middle aged women, health nuts and racing cyclists.”

25. 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).”

26. In a July 2017 report entitled “As Workouts Intensify, a Harmful Side Effect Grows More Common,” the New York Times discussed how first time spin class visitors should exercise care and not overdo it. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a

September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and a February 2019 article entitled, “Spinning With My Shrink.”

27. The Washington Post has also routinely covered the spin class phenomenon, including a November 2018 article titled, “The spin instructor’s ‘love yourself’ approach didn’t motivate her. So what would?”; a March 2018 article called “Is your spin class too young, too thin and too white?”; the October 2016 article entitled, “Wanna spin that cycling class into a lucrative future? Start with the free fruit.”; and its December 2015 article “Why Hollywood loves to hate spin class,” which provided video clips from TV shows that parodied various “spin” classes, including clips from Saturday Night Live, Broad City and Unbreakable Kimmy Schmidt.

28. 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; explored the crossover of spinning and fashion in its December 2017 article “SoulCycle Is Betting High Fashion Will Get You Spinning”; discussed the growth of Peloton in a December 2015 article called “The Most Exclusive Spin Class Is in Your Living Room”; and covered the growing trend of spin class business meetings in a July 2013 article entitled “Sweaty Wall Streeters Skip Booze for Spin-Class Meetings.”

29. TeenVogue has published several articles about spin classes, including the April 2013 article “Seven Things to Know Before Your First Spin Class”; the May 2014 article “What’s the Deal with Cult Fitness Trends?”; and the August 2014 article “The Bike Isn’t Enough: What You Need to Know Before Your Next Spin Class.”

30. TIME Magazine published an article in March 2017 titled “Why You Should Rethink Your Spinning Obsession,” discussing the benefits and downsides to spin classes.

31. CNET published an article in July 2020 titled “Spin class at home: How to get the best results without going to a gym” regarding benefits of spinning and tips for beginners.

32. In May 2016, the Huffington Post published a series of spin class memes entitled “20 Things That’ll Make Spin Enthusiasts Say ‘Yas,’” such as:

You know you *must* arrive 5 minutes before class to claim your favorite bike.



33. The Huffington Post has featured several other articles about spinning as well, including the July 2017 article “How To Not Die In Spin Class”; the June 2016 article “My Soul-Wrenching Experience At Spin Class”; the December 2016 article “This Spin Class Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love Spin Class.”

34. Similar to the TV show parodies and Huffington Post article, spin class has been enthusiastically adopted in pop culture as evidenced by the dozens of memes that result from a Google search of “spin class” memes, including:

What doesn't Kill you
makes you stronger!
Except a spin instructor...
They WILL Kill you.



35. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the terms spin and 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.”

36. 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.”

37. 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.”

38. 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.*

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

**THE ’187 REGISTRATION FOR “SPIN PILATES” SHOULD BE
CANCELLED BECAUSE THAT TERM IS GENERIC**

40. Mad Dogg owns the ’187 Registration for the mark SPIN PILATES in Class 41 for “providing physical fitness instruction and consultation in the fields of health and exercise;

health club services, namely, providing instruction and equipment in the field of physical exercise.” Mad Dogg disclaimed the term “pilates.”

41. As detailed above and fully incorporated here, the term “spin” is generic for “providing physical fitness instruction and consultation in the fields of health and exercise; health club services, namely, providing instruction and equipment in the field of physical exercise.”

42. The relevant public understands the mark SPIN to primarily refer to “providing physical fitness instruction and consultation in the fields of health and exercise; health club services, namely, providing instruction and equipment in the field of physical exercise.”

43. 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 bike.

44. 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 using spin bikes.

45. 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 spin bike products and services, but instead is constrained by Mad Dogg’s threats from doing so.

46. Accordingly, pursuant to 15 U.S.C. § 1064(3), the ’187 Registration should be cancelled.

PRAYER FOR RELIEF

47. Peloton prays that this Petition be granted and that the ’187 Registration be cancelled.

Dated: February 16, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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jennifer.barry@lw.com, ipdocket@lw.com

*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

EXHIBIT 7

ESTTA Tracking number: **ESTTA1114559**

Filing date: **02/16/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Peloton Interactive, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	125 WEST 25TH STREET, 11TH FLOOR NEW YORK, NY 10001 UNITED STATES		
Attorney information	JENNIFER L. BARRY LATHAM & WATKINS LLP 12670 HIGH BLUFF DRIVE SAN DIEGO, CA 92130 UNITED STATES Primary Email: jennifer.barry@lw.com Secondary Email(s): steve.feldman@lw.com, ipdocket@lw.com, allison.blanco@lw.com, alethia.corneil@lw.com 8585235400		
Docket Number	068587-0013		

Registration Subject to Cancellation

Registration No.	3521332	Registration date	10/21/2008
Registrant	Mad Dogg Athletics, Inc. 2111 NARCISUS CT. VENICE, CA 90291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 028. First Use: 2008/03/31 First Use In Commerce: 2008/03/31 All goods and services in the class are subject to cancellation, namely: exercise equipment, namely, resistance training machines, elastic tubing, exercise mats, exercise blocks, exercise straps, exercise balls, stability balls, weighted resistance products in the nature of resistance cables, exercise weights
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Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
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Attachments	PTON - MDA - TTAB Petition to Cancel 3521332 Registration for SPIN FI TNESS in Class 28.pdf(513229 bytes)
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Signature	/Jennifer L. Barry/
Name	Jennifer L. Barry
Date	02/16/2021

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

Peloton Interactive, Inc.,	)	Cancellation No.
)	
Petitioner,)	
	)	PETITION TO CANCEL
v.	)	REGISTRATION
)	
Mad Dogg Athletics, Inc.,)	
	)	Registration No. 3521332
Respondent.	)	Mark: SPIN FITNESS
	)	Class: 28

INTRODUCTION

1. Petitioner Peloton Interactive, Inc. (“Peloton”) respectfully requests the cancellation of Registration No. 3521332 (the “’332 Registration”) for the term SPIN FITNESS owned by Respondent Mad Dogg Athletics, Inc. (“Mad Dogg”). The terms SPIN and SPINNING are 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 terms SPIN and 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 terms SPIN and SPINNING.

3. But Mad Dogg’s expensive efforts cannot stem the tide. Spin class and spin 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 “spin” and “spinning” are generic terms to describe a type of exercise bike and associated in-studio class. As detailed below, countless publications review “spin/spinning classes” and “spin/spinning bikes” provided by a wide variety of different companies including Peloton, SoulCycle, Flywheel, NordicTrack and others. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and 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 terms SPIN and SPINNING to be generic and cancel Mad Dogg's '332 Registration.

THE PARTIES AND THE SUBJECT REGISTRATION

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.

9. Peloton believes that it is being damaged, and will continue to be damaged, by the continued registration of the '332 Registration for the mark SPIN FITNESS in Class 28.

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

FACTS

Spin Bikes

11. A spin 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.

12. A spin 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.

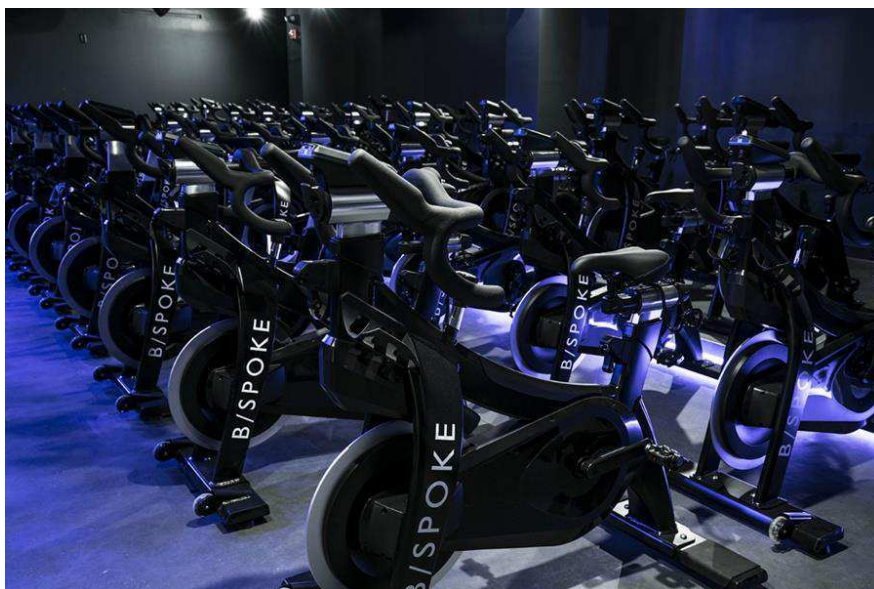
13. Spin bikes are built with very solid frames to avoid shaking during vigorous pedaling, and usually have padded handlebars to add comfort when riders are standing and leaning on the bars. Spin bikes also often have pedals that require special shoes that "clip" into place for a more stable ride and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

Spin Classes

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



A Peloton spin class



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

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

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

16. 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. 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.

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

Mad Dogg and Its Spin Bikes

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

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

20. Mad Dogg has no protectable rights in the SPIN and SPINNING terms. 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 terms they have every right to use.

21. Mad Dogg should no longer be able to intimidate the world into avoiding these commonplace generic terms to accurately describe their bikes and classes.

Spin and Spinning Are Generic Terms

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

23. 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.”

24. The Urban Dictionary defines “spin class” as “[a] group exercise in which participants ride stationary . . . bicycles at varying speeds . . . and resistance . . . settings. Popular among middle aged women, health nuts and racing cyclists.”

25. 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).”

26. In a July 2017 report entitled “As Workouts Intensify, a Harmful Side Effect Grows More Common,” the New York Times discussed how first time spin class visitors should exercise care and not overdo it. Indeed, the New York Times has covered spin class culture over the years, including a March 2014 article titled “Welcome to Spin Class: You Won’t Last,” a

September 2016 article called “Spin Class Full? Feel the Burn from Your Living Room,” and a February 2019 article entitled, “Spinning With My Shrink.”

27. The Washington Post has also routinely covered the spin class phenomenon, including a November 2018 article titled, “The spin instructor’s ‘love yourself’ approach didn’t motivate her. So what would?”; a March 2018 article called “Is your spin class too young, too thin and too white?”; the October 2016 article entitled, “Wanna spin that cycling class into a lucrative future? Start with the free fruit.”; and its December 2015 article “Why Hollywood loves to hate spin class,” which provided video clips from TV shows that parodied various “spin” classes, including clips from Saturday Night Live, Broad City and Unbreakable Kimmy Schmidt.

28. 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; explored the crossover of spinning and fashion in its December 2017 article “SoulCycle Is Betting High Fashion Will Get You Spinning”; discussed the growth of Peloton in a December 2015 article called “The Most Exclusive Spin Class Is in Your Living Room”; and covered the growing trend of spin class business meetings in a July 2013 article entitled “Sweaty Wall Streeters Skip Booze for Spin-Class Meetings.”

29. TeenVogue has published several articles about spin classes, including the April 2013 article “Seven Things to Know Before Your First Spin Class”; the May 2014 article “What’s the Deal with Cult Fitness Trends?”; and the August 2014 article “The Bike Isn’t Enough: What You Need to Know Before Your Next Spin Class.”

30. TIME Magazine published an article in March 2017 titled “Why You Should Rethink Your Spinning Obsession,” discussing the benefits and downsides to spin classes.

31. CNET published an article in July 2020 titled “Spin class at home: How to get the best results without going to a gym” regarding benefits of spinning and tips for beginners.

32. In May 2016, the Huffington Post published a series of spin class memes entitled “20 Things That’ll Make Spin Enthusiasts Say ‘Yas,’” such as:

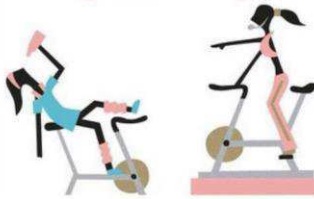
You know you *must* arrive 5 minutes before class to claim your favorite bike.



33. The Huffington Post has featured several other articles about spinning as well, including the July 2017 article “How To Not Die In Spin Class”; the June 2016 article “My Soul-Wrenching Experience At Spin Class”; the December 2016 article “This Spin Class Makes You Feel Like You’re Soaring Through Space”; and the March 2014 article “8 Reasons To Learn To Love Spin Class.”

34. Similar to the TV show parodies and Huffington Post article, spin class has been enthusiastically adopted in pop culture as evidenced by the dozens of memes that result from a Google search of “spin class” memes, including:

What doesn't Kill you
makes you stronger!
Except a spin instructor...
They WILL Kill you.



35. Even bloggers and journalists have received letters from Mad Dogg baselessly seeking to halt their use of the terms spin and 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.”

36. 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.”

37. 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."

38. 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.*

39. The above is just a small sampling of the vast library of generic uses of the "spin" and "spinning" terms. Of course, there would be far more uses of the terms "spin" and "spinning" if Mad Dogg hadn't threatened and bullied so many companies, studios, authors, bloggers and exercise enthusiasts.

THE '332 REGISTRATION FOR "SPIN FITNESS" SHOULD BE CANCELLED BECAUSE THAT TERM IS GENERIC

40. Mad Dogg owns the '332 Registration for the mark SPIN FITNESS in Class 28 for "exercise equipment, namely, resistance training machines, elastic tubing, exercise mats,

exercise blocks, exercise straps, exercise balls, stability balls, weighted resistance products in the nature of resistance cables, exercise weights.” Mad Dogg disclaimed the word “fitness.”

41. As detailed above and fully incorporated here, the term “spin” is generic for fitness and exercise equipment.

42. The relevant public understands the mark SPIN to primarily refer to fitness and exercise equipment.

43. 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 bike.

44. 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 using spin bikes, as well as other fitness and exercise equipment.

45. 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 spin bike products and services, including fitness and exercise equipment, but instead is constrained by Mad Dogg’s threats from doing so.

46. Accordingly, pursuant to 15 U.S.C. § 1064(3), the ’332 Registration should be cancelled.

PRAYER FOR RELIEF

47. Peloton prays that this Petition be granted and that the ’332 Registration be cancelled.

Dated: February 16, 2021

Respectfully submitted,

By: /s/ Steven N. Feldman

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*Counsel for Petitioner
PELTON INTERACTIVE, INC.*

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2021, I served the following document(s):

**MAD DOGG ATHLETICS, INC.'S MOTION TO DISMISS PETITION TO
CANCEL, OR, IN THE ALTERNATIVE, MOTION FOR A MORE DEFINITE
STATEMENT AND MOTION TO STRIKE**

upon counsel for Petitioner named below:

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by electronic mail on the same date.

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

Executed on April 27, 2021, at Silver Spring, Maryland.

/s/
Matthew E. Graham