

**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

Steven N. Feldman
LATHAM & WATKINS LLP
885 Third Avenue
New York, New York 10022-4834
+1.212.906.1200 / +1.212.751.4864 Fax
steve.feldman@lw.com

Jennifer L. Barry
LATHAM & WATKINS LLP
12670 High Bluff Drive
San Diego, CA 92130
+1.858.523.5400 / +1.858.523.5450 Fax
jennifer.barry@lw.com, ipdocket@lw.com

*Counsel for Petitioner
PELTON INTERACTIVE, INC.*