

ESTTA Tracking number: **ESTTA1285440**Filing date: **05/16/2023**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer information

Name	Goja, LLC		
Entity	limited liability company	Citizenship	Florida
Address	8400 NW 36TH ST, SUITE 500 DORAL, FL 33166 UNITED STATES		
Attorney information	STEWART N. MESHER K&L GATES LLP 2801 VIA FORTUNA, SUITE 650 AUSTIN, TX 78746 UNITED STATES Primary email: atxtrademarks@klgates.com Secondary email(s): stewart.mesher@klgates.com, jenna.figueroa@klgates.com, ttablitigationdocket@klgates.com 5124826800		
Docket no.	260732940000		

Applicant information

Application no.	97402208	Publication date	04/18/2023
Opposition filing date	05/16/2023	Opposition period ends	05/18/2023
Applicant	Sunnybelle Inc. 6 ROOSEVELT DRIVE COTO DE CAZA, CA 92679 UNITED STATES		

Goods/services affected by opposition

Class 021. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Cleaning cloth

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark cited by opposer as basis for opposition

U.S. registration no.	4237368	Application date	04/02/2012
Register	Principal		
Registration date	11/06/2012	Foreign priority date	NONE

Word mark	MAGICFIBER
Design mark	
Description of mark	NONE
Goods/services	Class 021. First use: First Use: Mar 30, 2012 First Use In Commerce: Mar 30, 2012 Cleaning cloths for camera lenses; Cloths for cleaning

Attachments	2023.05.16 (2607329.40000) MAGIC CLEANING CLOTH Opposition w exhibits .pdf(2458798 bytes)
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Signature	/Stewart N. Mesher/
Name	Stewart N. Mesher
Date	05/16/2023

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

In the Matter of Trademark Application No. 97/402,208

For the Mark: MAGIC CLEANING CLOTH

Date Filed: May 9, 2022

Goja, LLC,
a Florida limited liability company,
Opposer,

Opposition No. _____

v.

Sunnybelle Inc. DBA Sunnybelle Inc.,
a California corporation,
Applicant.

NOTICE OF OPPOSITION

Goja, LLC (“Opposer”), is a Florida limited liability company, having a business address at 8400 NW 36th St, Suite 500, Doral, FL 33166. Opposer believes it will be damaged by registration of MAGIC CLEANING CLOTH, Trademark Application Serial No. 97/402,208 (“Opposed Application”), filed May 9, 2022, by Sunnybelle Inc. DBA Sunnybelle Inc. (“Applicant”), and hereby opposes the registration under Section 2(d) of the Lanham Act (15 U.S.C. § 1052(d)). As grounds for the opposition, Opposer alleges as follows:

1. Opposer is a Florida limited liability company, having its principal place of business at 8400 NW 36th St, Suite 500, Doral, FL 33166.
2. Opposer is an ecommerce company that creates, buys, and scales brands and products. Opposer also is the owner of the MAGICFIBER brand, used in connection with a specialized cloth for cleaning, and a trademark registration for MAGICFIBER related thereto.
3. Opposer owns an incontestable United States Trademark Registration for MAGICFIBER (Reg. No. 4,237,368) on the Principal Register for “cleaning cloths for camera lenses; cloths for cleaning” in International Class 21 (“Opposer’s Mark”) (filed April 2, 2012; registered

November 6, 2012; first used in commerce March 30, 2012). Opposer's registration for Opposer's Mark is valid and subsisting. A true and correct copy of the Opposer's registration certificate is attached hereto as Exhibit A.

4. Opposer uses Opposer's Mark in connection with cleaning cloths for camera lenses and cloths for cleaning to identify them as originating from Opposer. Opposer and its predecessors in have used Opposer's Mark in connection with these goods since at least as early as March 2012, and has developed substantial goodwill and consumer recognition through extensive advertising and widespread sales with respect to the MAGICFIBER mark. Attached hereto as Exhibit B are screenshots showing Opposer's current use of the MAGICFIBER mark in connection with these goods.
5. Opposer's Mark is inherently distinctive and therefore should be afforded the strongest protection.
6. Opposer has widely advertised and promoted goods under Opposer's Mark in interstate commerce in the United States.
7. Opposer's Mark, through long use and extensive marketing and advertising has become widely recognized, and widely and favorably known, and is therefore of significant value to Opposer.
8. On information and belief, Applicant is a California corporation having an address of 6 Roosevelt Drive, Coto de Caza, CA 92679.
9. On May 9, 2022, Applicant filed an intent-to-use application, Serial No. 97/402,208, to register the mark MAGIC CLEANING CLOTH for "cleaning cloth" in International Class 21. A true and correct copy of the Opposed Application is attached as Exhibit C.
10. The Opposed Application was published in the Official Gazette on April 18, 2023. *See True*

and correct copies of TSDR printouts showing the publication date of April 18, 2023, and the Official Gazette Publication at **Exhibit D**.

11. The filing date of Opposer's Mark pre-dates Applicant's filing date of May 9, 2022. Further, Opposer's Mark was first used in commerce by Opposer in March 2012, over a decade before Applicant filed the opposed application on May 9, 2022 on an intent to use basis. Finally, Opposer's common law rights in Opposer's MAGICFIBER mark predate Applicant's intent-to-use application filing date.

COUNT I
LIKELIHOOD OF CONFUSION

12. Opposer re-alleges and incorporates herein by reference the allegations in paragraphs 1 through 11 of this Notice of Opposition.
13. There is no issue as to priority. The Opposed Application was filed on May 9, 2022 on an intent-to-use basis. Opposer and its predecessors have been using Opposer's Mark since at least as early as March 2012. Moreover, the filing date for the application covering Opposer's Mark predates the filing date of the MAGIC CLEANING CLOTH application.
14. The mark shown in the Opposed Application is confusingly similar in sight, sound, connotation, and commercial impression as Opposer's Mark. Specifically, Applicant's MAGIC CLEANING CLOTH mark and Opposer's Mark includes MAGIC-formative marks as the dominant portion of the marks. The Applicant's MAGIC CLEANING CLOTH mark includes the additional terms "CLEANING CLOTH," but they are descriptive of Applicant's goods. The descriptive nature of the words "CLEANING CLOTH" is evidenced by them being disclaimed in the Opposed Application. *See* a true and correct copy of TSDR printout showing the March 3, 2023 Examiner's Amendment of the Opposed Application at **Exhibit E**.

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