

ESTTA Tracking number: **ESTTA1285446**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<br>DORAL, FL 33166<br>UNITED STATES  |             |         |
| Attorney information | STEWART N. MESHER<br>K&L GATES LLP<br>2801 VIA FORTUNA, SUITE 650<br>AUSTIN, TX 78746<br>UNITED STATES<br>Primary email: atxtrademarks@klgates.com<br>Secondary email(s): stewart.mesher@klgates.com,<br>jenna.figueroa@klgates.com, ttablitigationdocket@klgates.com<br>5124826800 |             |         |
| Docket no.           | 260732940001  |             |         |

**Applicant information**

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application no.        | 97401953  | Publication date       | 04/18/2023 |
| Opposition filing date | 05/16/2023  | Opposition period ends | 05/18/2023 |
| Applicant              | Sunnybelle Inc.<br>6 ROOSEVELT DRIVE<br>COTO DE CAZA, CA 92679<br>UNITED STATES |                        |            |

**Goods/services affected by opposition**

|   |
|---|
| Class 021. First Use: None First Use In Commerce: None<br>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) |
|--------------------------------------|----------------------------|

**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<br>Cleaning cloths for camera lenses; Cloths for cleaning |

|             |  |
|-------------|--|
| Attachments | 2023.05.16 (2607329.40001) MAGIC SCRUB CLOTH Opposition w exhibits.pdf(2479482 bytes ) |
|-------------|--|

|           |                     |
|-----------|---------------------|
| 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.  
97/401,953 For the Mark: MAGIC SCRUB 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 SCRUB CLOTH, Trademark Application Serial No. 97/401,953 (“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. 97/401,953, to register the mark MAGIC SCRUB 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 SCRUB 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 SCRUB CLOTH mark and Opposer's Mark includes MAGIC-formative marks as the dominant portion of the marks. The Applicant's MAGIC SCRUB CLOTH mark includes the additional terms "SCRUB CLOTH," but they are descriptive of Applicant's goods. The descriptive nature of the words "SCRUB 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**.



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.