
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Peloton Cold Brew, LLC	:	
	:	No.
Plaintiff	:	
	:	
v.	:	
	:	
Peloton Interactive, Inc.	:	
	:	
	:	
Defendant	:	

COMPLAINT

Plaintiff Peloton Cold Brew, LLC (“Cold Brew”) herein asserts this action pursuant to 15 U.S.C.A. § 1071 (b) against Peloton Interactive, Inc. (“Interactive”) seeking a declaration that the Trademark owned by Cold Brew duly registered and approved by the United States Patent and Trademark Office shall remain lawfully enforceable and not cancelled averring in support thereof:

PARTIES

1. Plaintiff, Cold Brew is a Pennsylvania limited liability company with an address of 309 E. Marshal Street, West Chester PA 19380.
2. Defendant, Interactive is a corporation organized under the laws of the State of Delaware with a principal office located at 125 West 25th Street, 11th Floor, New York, NY 10001.

JURISDICTION AND VENUE

3. Jurisdiction and venue is proper in this court as pursuant to 28 U.S.C. §1331 as the issues raised are controlled by the laws of the United States.

4. Jurisdiction is proper pursuant to 15 U.S.C.A. § 1071 which permits a party aggrieved by a decision by the Trademark Trial and Appeal Board to seek relief *de novo* in a District Court.

5. Jurisdiction and venue are proper in the court as Interactive regularly conducts business in Pennsylvania and in the area encompassing the Eastern District of Pennsylvania

RELEVANT FACTS

6. Cold Brew was formed by avid cyclists.

7. Cold Brew is a marketer of cold brew coffee bean based beverages.

8. On June 28, 2017, Cold Brew filed Application No. 87509321 for the trademark “Peloton” for “Beverages made of coffee”.

9. On January 23, 2018, Cold Brew was granted U.S. Registration No. 5385686 by the USPTO.

10. Interactive did not object to or otherwise seek denial of the Registration.

11. Interactive offers sales of interactive software for use with sporting equipment that it markets.

12. On August 5, 2014, Interactive filed for a trademark for the mark “peloton” in connection with “computers and downloadable software.”

13. Registration was granted on a claim that the mark was first used in commerce on April 25, 2014.

14. Interactive has not developed or marketed any “coffee beverages” or any type of beverage.

15. Despite not having objected or taken any steps to oppose the Registration for Cold Brew's product, Interactive initiated cancellation proceedings of the Mark in the Trademark Trial and Appeal Board. On October 7, 2020.

16. Despite Interactive never offering evidence that it was entitled to cancellation on the merits, the Mark was cancelled as a discovery sanction.

17. Cold Brew brings this action to establish its lawful right to use of the Mark as it relates to beverages made of coffee as approved by USPTO.

Declaration of Cold Brew's Right to the Mark

18. Cold Brew incorporates by reference the averments contained in paragraphs 1 through 17 as if fully stated herein.

19. This court has jurisdiction under 15 U.S.C.A. § 1071 to review a determination of the Trademark Trial and Appeal Board cancelling a Mark and to accept new evidence.

20. Cold Brew's Mark is preemptively valid once registered. See e.g., *Flexible Steel Lacing Co. v. Conveyor Access, Inc.*, 955 F.3d 632 (7th Cir. 2020).

21. A party seeking the cancellation of a registered mark bears a heavy burden. See e.g., *Perry v. H.J. Heinz Co. Brands, L.L.C.*, 994 F.3d 466 (5th Cir. 2021).

22. Interactive did not object or otherwise oppose the registration of the Mark.

23. Interactive had actual knowledge of the Mark by at least May 2016.

24. Despite actual use of the Mark, Interactive took no action until October 2020 to oppose use of the Mark.

25. Interactive acquiesced in use of the Mark by Cold Brew.

26. Interactive has not met its burden of evidence establishing its right to cancellation.

27. Cold Brew seeks a declaration that it remains the lawful owner of the Mark Peloton as it relates to beverages made of coffee.

WHEREFORE, Plaintiff Peloton Cold Brew, LLC respectfully seeks a judgment declaring it the lawful owner of a valid United States Trademark for the Mark Peloton for beverages made of coffee as registered by the United States Patent and Trademark Office at No. 5385686.

Respectfully submitted,

ECKELL, SPARKS, LEVY, AUERBACH,
MONTE, SLOANE, MATTHEWS &
AUSLANDER, P.C.

Date: August 11, 2021

By: 
PATRICK T. HENIGAN, ESQUIRE