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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF THE COMMISSIONER FOR TRADEMARKS



06-23-2003

U.S. Patent & TMOtc/TM-Mail Rcpt Dt. #58

IN RE:

TRADEMARK REG NO. 2,715,102 (APP. NO. 76/278,840)

REGISTRANT: CARROLL HALL SHELBY TRUST

MARK: AUTOMOBILE-NAMELY THE CONFIGURATION OF A RACING CAR

DATE OF REGISTRATION: MAY 13, 2003

FOR: AUTOMOBILE; NAMELY A RACING CAR

REQUEST FOR DENIAL OF EXTENSIONS OF TIME TO OPPOSE BY
SUPERFORMANCE INTERNATIONAL, INC

FACTUAL BACKGROUND

I am the attorney representing the registrant of the above indicated trademark registration and prosecuted the application on which this registration was granted. A copy of the registration certificate identified as Exhibit "A" is enclosed. Carroll Shelby is the sole trustee of Registrant.

Carroll Shelby is a well known figure in the automotive industry and the racing car which is covered by the above indicated registration is well known throughout the world. A summary of the biography of Mr. Shelby is enclosed as Exhibit "B" and an article indicating the recognition and significance of the racing car of this application is enclosed as Exhibit "C." The racing car of this registration is very expensive and in high demand by collectors.

Superformance International Inc. is importing replicas of the racing car of this registration in direct infringement of trademark registration no. 2,715,102, and it is essential to the Registrant to protect its rights in this mark that registration no. 2,715,102 be maintained in force. On June 18, 2003 I received a notice from the Trademark Trial and Appeal Board indicating that Superformance International Inc had filed three requests for Extensions of Time to Oppose Registrant's trademark application, running from March 20, 2003 to June 18, 2003. Neither Applicant nor its Attorney had any knowledge of these requests prior to the notice of June 18, 2003. These extension requests were based solely on the contention that additional time was needed to review the published mark and determine whether a formal Opposition was necessary. As the registration was granted despite these extension requests, the application file of the registration is apparently being transferred to the Office of the Commissioner for Trademarks to determine whether or not the registration will be withdrawn.

REASONS WHY THE REGISTRATION SHOULD NOT BE WITHDRAWN

1. A showing of good cause for granting an extension beyond thirty days was not shown as required under TMEP section 1503.04. The only reason given for requesting the extension was that additional time was needed to review the published mark to determine whether a formal Opposition was necessary. It is hardly reasonable to assume that ninety days was needed to review the published mark! It is believed that the only purpose of the extensions was to delay the granting of the registration in view of the

infringement of the trademark by the “Opposer.” As the goods involved are very expensive and sold in small volume, delaying of the granting of the registration would delay the registration of the trademark with Customs and enable the importation of a significant number of infringing products.

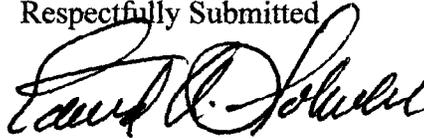
2. If it saw fit, Superformance could file a Cancellation Action which obviates the need for withdrawal of the registration this would be a more equitable solution to this matter in that it would not hamper Registrant in its immediate enforcement of its trademark rights while still giving Superformance a defensive position.

3. As provided in the Trademark Rules (T.M.R.P 2.102.c) any extension beyond 120 days from the date of publication will not be granted except in three circumstances: 1. a written consent of stipulation---no such consent has been granted; 2. a showing that Applicant (Registrant) has consented to the request----no such consent has been granted. 3. A showing of extraordinary circumstances---no such showing has been made. It is noted here that a Cancellation Action can always be filed. A copy of a request for further extension nor an Opposition filing has not been received.

In summary, the equities of the situation call for not withdrawing the present registration. The “Opposer” has given no good cause for the continued extensions and it appears that this is nothing more than a stalling tactic to prevent Registrant from effectively enforcing its trademark rights against a blatant infringer. It appears that Superformance is planning to import one or more infringing cars in the immediate future and such delaying tactics will severely hamper the enforcement of Registrant’s rights.

If there are any questions with regard to this matter, it would be appreciated if a phone call be made to Registrant's attorney.

Respectfully Submitted



DATE: 6/20/03

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Exh "A"

Int. Cl.: 12

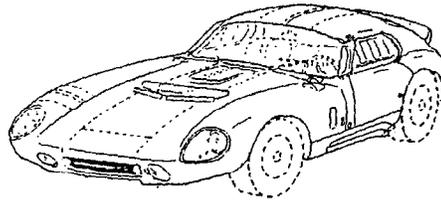
Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

Reg. No. 2,715,102

United States Patent and Trademark Office

Registered May 13, 2003

TRADEMARK
PRINCIPAL REGISTER



CARROLL HALL SHIELBY TRUST (TEXAS A
REVOCABLE TRUST)
11150 W. OLYMPIC BLVD, SUITE 1050
SUITE 1050
LOS ANGELES, CA 90064

CAR. THE DASHED PORTIONS OF THE CAR
SHOWN IN THE DRAWING ARE NOT PART OF
THE MARK BUT MERELY INTENDED TO SHOW
THE POSITION OF THE MARK.

FOR: AUTOMOBILE- NAMELY A RACING CAR,
IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

SEC. 2(F).

FIRST USE 1-15-1964; IN COMMERCE 1-15-1964.

SER. NO. 76-278,840, FILED 6-28-2001.

THE MARK CONSISTS OF AN AUTOMOBILE,
NAMELY THE CONFIGURATION OF A RACING

KHANH LE, EXAMINING ATTORNEY

Exh "A"



The Official **Carroll Shelby** Website

About **Carroll Shelby**

Welcome to the official website of Carroll Shelby, one of the automotive industry's great legends.

Carroll Shelby has had a long career as a driver, owner, team manager, manufacturer and consultant.

Early in his career, Carroll Shelby's accomplishments as a driver was breaking land speed records at Bonneville in 1954 for Austin Healey and winning the 24-hours of LeMans in 1959. When his health caused him to abandon his driving in 1960, Carroll got out of the driver's seat and turned his attention to design. He had a vision for the automobile industry and went for it. Carroll's vision has had a tremendous impact on the sports car world, with the greatest impact being the development of the Cobra and the Mustang.

Cars have not been Carroll Shelby's only achievements. In October 1991 he created the Carroll Shelby Children's Foundation™, dedicated to providing assistance for acute coronary and kidney care for indigent children. Among Shelby's other contributions have been with chili cookoffs, becoming Goodyear's West Coast racing tire distributor, and bringing the Tuli bull to the United States.

In 1992, Carroll Shelby was inducted in the Automotive Hall of Fame, and in recent years, Carroll Shelby is still making automotive history with the Shelby Series 1 sports car.

Carroll Shelby has clearly impacted the world of racing and automobile design. His influence will always have a place in automotive history.

Online

Audio  **[The Robb Report interviews Carroll Shelby June, 2002](#)**

Hear Robert Ross (Automotive Editor, Robb Report COLLECTION magazine) interview Carroll Shelby about cars, racing, heart transplants and chili.

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- Timeline
- As Others See Him
- Photo Gallery
- News/Press Releases
- Shelby and Chili
- The Tuli Bull
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- Contact Us
- Home

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EXH "C"

Spector Says He Still Owns Long-Lost Car

■ **Court:** Record producer believed his staff was caring for the rare 1964 Cobra, his attorney says.

By SCOTT MARTELLE
TIMES STAFF WRITER

4749A
SANTA ANA—A bizarre legal battle over a long-lost, \$4-million race car took yet another strange twist Tuesday when a lawyer for Phil Spector said that the pop music legend still owns the rare 1964 Cobra Daytona coupe.

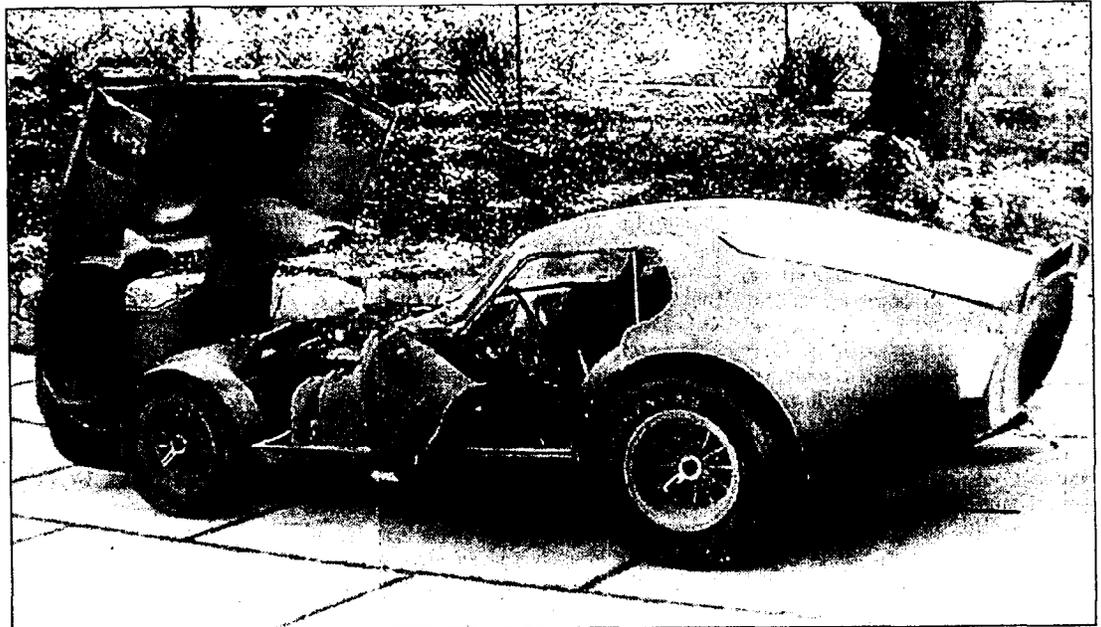
"Mr. Spector is the owner of the Cobra," Peter C. Sheridan, an attorney for Spector, said Tuesday in Orange County Superior Court. "He never gave it or sold it to anyone."

Sheridan declined further comment outside the court, referring questions to Spector attorney Robert Shapiro. Shapiro said in a telephone interview that he planned to file court papers arguing that Spector thought the car had been placed in storage on his behalf nearly 30 years ago, and was unaware that it had been sold.

Spector's claim came during what was to have been a routine court appearance in a civil lawsuit over the sale of the car. The key issue revolves around who owned the car after the suicide last year of Donna O'Hara, who had kept the legendary Cobra in storage for nearly 30 years.

Longtime family friend Kurt Goss of Anaheim said that O'Hara, who lived in La Habra, gave him the car a few days before she committed suicide Oct. 22 on a Fullerton horse trail.

But O'Hara's mother, Dorothy Brand of San Diego, argued that



The 1964 Cobra Daytona coupe was built by Carroll Shelby.

there is no proof O'Hara gave the car to Goss. O'Hara died without a will, and Brand argued that as her daughter's closest living relative, the car is hers.

So Brand sold it for \$3 million in January to a Montecito rare car dealer, who resold it days later to a Philadelphia collector for about \$4 million.

How O'Hara came to have the car remains murky.

The car, known as the CSX2287, was built in 1964 by racing legend Carroll Shelby. It set land speed records and was part of a fleet of six race cars that helped the Shelby American racing team become the first Americans to win a world racing title.

The CSX2287 was retired after the 1965 racing season and sold. That initial buyer sold it less than a year later to Spector.

Those involved in the case said that O'Hara's father, George Brand, was Spector's former bodyguard and that he bought the car for \$1,000 around 1970, when the reclusive music producer planned to scrap it rather than pay for expensive repairs.

Shapiro said Brand actually was Spector's house manager. He said Spector "neither sold nor gave" the car to Brand, but turned it over to him to place in storage.

Asked how someone could not realize one of his cars was missing for nearly three decades, Shapiro said that the CSX2287 was an investment and that Spector assumed his financial managers were taking care of such details as insurance and storage.

"Isn't that the definition of an heirloom?" Shapiro said. "This isn't a man who gets in his car ev-

ery morning and checks his oil pressure and drives it to work. He is the most prolific producer in the history of music and he's extremely focused on his work. He delegates most of these things to other people."

Spector helped shape the sounds of several generations of pop singers and groups, dating back to the late 1950s. His so-called "wall of sound" helped revolutionize pop music in the 1960s.

Shapiro said Spector hoped to have the court order either the car or the proceeds of its sale—about \$4 million—be turned over to him.

Brand was in court Tuesday but declined to comment, other than to say she was surprised by Spector's claim. "It just gets thicker and thicker," she said.