

PTO Form 1960 (Rev 9/2007)

OMB No. xxx-xxxx (Exp. x/xxxx)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77106782
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 102
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p><u>REQUEST FOR RECONSIDERATION</u></p> <p><u>AMENDMENT AND RESPONSE TO SECOND OFFICE ACTION</u></p> <p><u>MAILED OCTOBER 4, 2007</u></p> <p>The following request for reconsideration, amendment and remarks are in response to the second Office action mailed October 4, 2007.</p> <p style="text-align: center;"><b><u>AMENDMENT</u></b></p> <p>Please make the following designation of record:</p> <p>Applicant is the owner of U.S. Trademark Registration No. 3,095,731 and U.S. Trademark Registration No. 3,264,316.</p> <p style="text-align: center;"><b><u>RESPONSE</u></b></p> <p>Applicant, through its attorneys submits this Request for Reconsideration of the Examining Attorney's final refusal of registration of the subject mark on the ground that that mark allegedly so closely resembles the mark shown in U.S. Registration No. 2,697,973 as to be likely, when used on the identified goods, to cause confusion, or to cause mistake, or to deceive.</p> <p><b>I. <u>Prior Registration</u></b></p> <p>Applicant has amended its application to include the claim of ownership as indicated herein.</p> <p><b>II. <u>Likelihood of Confusion</u></b></p>	

In the first Office Action, the Examining Attorney refused registration of Applicant's mark under Section 2(d) of the Trademark Act on the ground that Applicant's mark, SPOR T BEANS, so closely resembles the mark shown in U.S. Registration No. 2,697,973 as to be likely, when used on the identified goods, to cause confusion, or to cause mistake, or to deceive. In the second Office Action, the Examining Attorney continued, and made Final, the refusal to register Applicant's mark under Section 2(d).

Applicant renews and reiterates the arguments advanced in its responses to the first Office Action. Based on those arguments and the additional arguments set forth below, Applicant's mark does not so closely resemble the mark shown in U.S. Registration No. 2,697,973 as to be likely, when used on the identified goods, to cause confusion, or to cause mistake, or to deceive. Accordingly, Applicant requests that the refusal to register under Section 2(d) be withdrawn.

A. Applicable Legal Standard

In order for a mark to be refused registration under Section 2(d), it must so resemble a registered mark that it is likely, when applied to the goods, to cause confusion, mistake or to deceive the potential customer as to the source of the goods. TMEP § 1207.01.

B. No Doubt Exists as to Likelihood of Confusion

Applicant avers that there is no likelihood of confusion between Applicant's mark and the mark shown in U.S. Registration No. 2,697,973. The Examining Attorney has stated that "any doubt as to the existence of likelihood of confusion must be resolved in favor of the registrant," citing *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988) and *Lone Star Mfg. Co. v. Bill Beasley, Inc.*, 498 F.2d 906, 182 USPQ 368 (C.C.P.A. 1974).

The marks considered in *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988), were "bigg's" and "Biggs" shown with an oval border, marks that are virtually identical in appearance and sound and which are therefore easily confused. The fact that the court entertained any doubt as to the likelihood of confusion with such strikingly similar marks suggests that there can be no doubt that Applicant's mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT, are not confusingly similar, as they are strikingly different in appearance and sound.

The marks considered in *Lone Star Mfg. Co. v. Bill Beasley, Inc.*, 498 F.2d 906, 182 USPQ 368 (C.C.P.A. 1974), were relatively dissimilar in sound and appearance, but there was evidence of actual confusion and the court found that the marks were "similarly suggestive of the nature of the goods ... , ... convey to prospective purchasers the same idea, same mental reaction, and same meaning." *Lone Star Mfg. Co. v. Bill Beasley, Inc.*, 182 USPQ at 370 (C.C.P.A. 1974). Applicant's mark, SPORT BEANS, is arbitrary or fanciful as applied to clothing, whereas the cited mark, BEANSPORT, is at least suggestive and may be viewed as at least partially descriptive of sport clothing made by L. L. Bean. SPORT BEANS connotes sporty, or sporting, beans. In addition to clothing, the Applicant makes a jelly bean product called SPORT BEANS. BEANSPORT connotes something sporty or sporting made by L. L. Bean. As a general rule, in English adjectives come before the nouns that they modify. Applicant's mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT, are not similarly suggestive of the nature of the goods and the marks do not convey the same idea, same mental reaction or the same meaning.

C. The Marks are Dissimilar in Sound, Appearance, Meaning and Connotation

The Examining Attorney has stated that Applicant's mark and the mark shown in U.S. Registration No. 2,697,973 are similar in sound, appearance, meaning and connotation, but has not compared the marks in sound, appearance, meaning or connotation. Applicant asserts that the marks are dissimilar in sound, appearance, meaning and connotation and, consequently, there is no likelihood of confusion between them. In support of Applicant's assertion, Applicant attaches hereto, as Exhibit 2, the declaration of Laurel Sutton, Linguistics and Project Director of Catchword brand name development.

D. Transposition of Elements Has Created Dissimilar Commercial Impressions and Meaning

Applicant avers that the transposition and separation of the elements SPOR T and BEAN, and the pluralization of BEAN to BEANS, creates a mark, SPORT BEANS, that makes a dissimilar commercial impression and conveys a different meaning than the mark BEANSPORT. The Examining Attorney has stated that these differences do not change the overall commercial impression, citing *In re Wine Society of America Inc.*, 12 USPQ2d 1139 (TTAB 1989), *In re Nationwide Indus. Inc.*, 6 USPQ2d 1882 (TTAB 1988), and *In re General Tire & Rubber Co.*, 213 USPQ 870 (TTAB 1982).

*In re Wine Society of America Inc.*, 12 USPQ2d 1139 (TTAB 1989), addresses two marks in which the dominant elements are descriptive phrases, "THE WINE SOCIETY OF AMERICA" and "AMERICAN WINE SOCIETY 1967", which have virtually identical meanings, despite the transposition of elements. *In re Nationwide Indus. Inc.*, 6 USPQ2d 1882 (TTAB 1988), addresses two marks, RUST BUSTER and BUST RUST, which are both highly descriptive and have virtually identical meanings, despite the transposition of elements. *In re General Tire & Rubber Co.*, 213 USPQ 870 (TTAB 1982), also addresses two marks, SPRINT STEEL RADIAL and RADIAL SPRINT, which are both highly descriptive and have virtually identical meanings, despite the transposition of elements. As noted above, SPORT BEANS connotes sporty, or sporting, beans. BEANSPORT connotes something sporty or sporting made by L. L. Bean. Applicant's mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT, do not convey similar meanings.

Marks that contain transposed elements are not confusingly similar if they create different commercial impressions. In *McCallum-Legaz Fish Company, Inc. v. The Frozen Food Forum Inc.*, 118 USPQ 178 (Comm'r Pat. 1958), the court allowed the mark FROSTY SEAS to be registered for "a variety of frozen sea food products, including deviled crabs, fish sticks, fantail shrimp, skinless haddock, cod, flounder, ocean perch and ocean catfish". *McCallum-Legaz Fish Company, Inc. v. The Frozen Food Forum Inc.*, 118 USPQ at 179 (Comm'r Pat. 1958). The prior registration of the mark SEAFROST was for "frozen salmon and halibut, and for frozen whole halibut, whole salmon, and steaks and fillets therefrom." *McCallum-Legaz Fish Company, Inc. v. The Frozen Food Forum Inc.*, 118 USPQ at 179 (Comm'r Pat. 1958). The court noted:

Applicant's mark appears to be considerably more than a mere reversal of the terms "sea" and "frost" in that "FROSTY SEAS" stimulates an association with cold sea water, whereas "SEAFROST" stimulates an association with white frost crystals. Applicant's mark does not look like opposer's; it does not sound like opposer's; and it stimulates a quite different mental association than opposer's, thereby creating a different commercial impression. Under the circumstances of this case, it is concluded that there is no likelihood of purchaser confusion. *McCallum-Legaz Fish Company, Inc. v. The Frozen Food Forum Inc.*, 118 USPQ at 179 (Comm'r Pat. 1958).

In *In re Mavest, Inc.*, 130 USPQ 40 (TTAB 1961), the court allowed the mark SQUIRETOWN to be registered for "men's sport coats". *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961). The prior

registration of the mark TOWN SQUIRES was for "men's shoes". *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961). The court noted that, "[w]hile 'SQUIRETOWN' is a substantial transposition of the registered mark 'TOWN SQUIRES', it is clear that these marks create distinctly different commercial impressions." *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961). Furthermore, the court concluded that "whatever doubt that may exist as to likelihood of confusion in trade should be resolved in applicant's behalf". *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961).

In *In re Best Products Co., Inc.*, 231 USPQ 988 (TTAB 1986), the court allowed the mark BEST JEWELERS to be registered for "retail jewelry store services". *In re Best Products Co., Inc.*, 231 USPQ at 988 (TTAB 1986). The prior registration of the mark JEWELER'S BEST was for "men's and ladies' bracelets and watch bracelets, sold separately from the watches." *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). The court noted that "[t]here is no question that jewelry store services and jewelry are highly related goods and services from the standpoint of the likelihood of confusion issue." *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). However, the court also noted that "[t]he mark JEWELER'S BEST connotes a selection of jewelry reflecting a quality level perceived by the jeweler personally ... On the other hand, BEST JEWELRY consists of the house mark 'Best' coupled with the generic name of the services." *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). In BEST JEWELRY, "the house mark impression clearly dominates ... One reason, obviously, is that 'Best' is also a surname." *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). Similarly, the "BEAN" in "BEANSPORT" is the house mark and surname of L. L. Bean.

These cases are all closely analogous to the present situation, in which two marks with transposed elements (like SEAFROST and FROSTY SEAS, SQUIRETOWN and TOWN SQUIRES, and JEWELER'S BEST and BEST JEWELERS) make different commercial impressions because they convey different meanings with those transposed elements, and despite their application to related goods and services. SPORT BEANS connotes sporty, or sporting, beans. BEANSPORT connotes something sporty or sporting made by L. L. Bean. Applicant's mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT, do not convey similar meanings and hence create different commercial impressions.

#### E. Different Channels of Trade

One of the factors factors addressed by the court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), is channels of trade. L. L. Bean, the owner of U.S. Registration No. 2,697,973 for BEANSPORT, has always sold its products directly to consumers through its L. L. Bean stores, its L. L. Bean catalog, and its Web site at [www.llbean.com](http://www.llbean.com) (see Exhibit 3). Registrant's BEANSPORT goods can only be purchased directly from L. L. Bean. Any and all purchasers know the source of the goods. Applicant's SPORT BEANS goods cannot be purchased from L. L. Bean, either directly or indirectly. Consequently, there can be no confusion as to the source of either goods.

#### F. No Actual Confusion

One of the factors factors addressed by the court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), is actual confusion. The absence of actual confusion suggests that there is no likelihood of confusion. Applicant knows of no actual confusion between Applicant's mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT. In support of Applicant's claim of no actual confusion, Applicant attaches hereto, as Exhibit 1, the declaration of Robert M. Simpson, Jr., President & COO of Applicant.

**CONCLUSION**

In light of the above, there is no likelihood of confusion between Applicant's mark SPORT BEANS and the mark BEANSPORT shown in U.S. Registration No. 2,697,973 because the marks are very different in appearance, sound, connotation, meaning and commercial impression. Furthermore, the goods move in different channels of trade and, despite three years of concurrent use, there has been no actual confusion on the part of consumers.

The Examining Attorney has not cited any other bar to the registration of this application. In light of the information and arguments set forth above and in response to the first Office Action, Applicant respectfully submits that the application is now in condition to be passed to publication. If the Examining Attorney has any further questions or comments, the Examining Attorney is requested to contact the undersigned at the number below.

Respectfully submitted,

LAW OFFICES OF JAMES R. CYPHER

Nicolas S. Gold

405 14<sup>th</sup> Street, Suite 1607

Oakland, CA 94612

(510) 832-4111

**EVIDENCE SECTION****EVIDENCE FILE NAME(S)**

<b>ORIGINAL PDF FILE</b>	<a href="http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003_001/evi_6319517641-210526870_._JBCC_1212_Exhibit_1_April_08.pdf">http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003_001/evi_6319517641-210526870_._JBCC_1212_Exhibit_1_April_08.pdf</a>
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<b>DESCRIPTION OF EVIDENCE FILE</b>	Evidence in the nature of Exhibit 1: the declaration of Robert M. Simpson, Jr., President & COO of Applicant has been attached; Exhibit 2: the declaration of Laurel Sutton, Linguistics and Project Director of Catchword brand name development has been attached; Exhibit 3: 4/1/2008 printout of company background information at <a href="http://www.llbean.com/customerService/aboutLLBean/background.html">http://www.llbean.com/customerService/aboutLLBean/background.html</a> has been attached.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Nicolas S. Gold/
<b>SIGNATORY'S NAME</b>	Nicolas S. Gold
<b>SIGNATORY'S POSITION</b>	Attorney of record
<b>DATE SIGNED</b>	04/04/2008
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Apr 04 21:21:17 EDT 2008
<b>TEAS STAMP</b>	USPTO/RFR-63.195.176.41-2 0080404212117331999-77106 782-420599045291f15b2ad55

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80404210526870709

PTO Form 1960 (Rev 9/2007)

OMB No. xxxx-xxxx (Exp. x/xxxx)

**Request for Reconsideration after Final Action**

**To the Commissioner for Trademarks:**

Application serial no. **77106782** has been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

REQUEST FOR RECONSIDERATION

AMENDMENT AND RESPONSE TO SECOND OFFICE ACTION

MAILED OCTOBER 4, 2007

The following request for reconsideration, amendment and remarks are in response to the second Office action mailed October 4, 2007.

AMENDMENT

Please make the following designation of record:

Applicant is the owner of U.S. Trademark Registration No. 3,095,731 and U.S. Trademark Registration No. 3,264,316.

RESPONSE

Applicant, through its attorneys submits this Request for Reconsideration of the Examining Attorney's final refusal of registration of the subject mark on the ground that that mark allegedly so closely resembles the mark shown in U.S. Registration No. 2,697,973 as to be likely, when used on the identified goods, to cause confusion, or to cause mistake, or to deceive.

**I. Prior Registration**

Applicant has amended its application to include the claim of ownership as indicated herein.

**II. Likelihood of Confusion**

In the first Office Action, the Examining Attorney refused registration of Applicant's mark under Section 2(d) of the Trademark Act on the ground that Applicant's mark, SPOR T BEANS, so closely resembles the mark shown in U.S. Registration No. 2,697,973 as to be likely, when used on the identified goods, to cause confusion, or to cause mistake, or to deceive. In the second Office Action, the Examining Attorney continued, and made Final, the refusal to register Applicant's mark under Section 2(d).

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B. No Doubt Exists as to Likelihood of Confusion

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The Examining Attorney has stated that Applicant's mark and the mark shown in U.S. Registration No. 2,697,973 are similar in sound, appearance, meaning and connotation, but has not compared the marks in sound, appearance, meaning or connotation. Applicant asserts that the marks are dissimilar in sound, appearance, meaning and connotation and, consequently, there is no likelihood of confusion between them. In support of Applicant's assertion, Applicant attaches hereto, as Exhibit 2, the declaration of Laurel Sutton, Linguistics and Project Director of Catchword brand name development.

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In *In re Mavest, Inc.*, 130 USPQ 40 (TTAB 1961), the court allowed the mark SQUIRETOWN to be registered for "men's sport coats". *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961). The prior registration of the mark TOWN SQUIRES was for "men's shoes". *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961). The court noted that, "[w]hile 'SQUIRETOWN' is a substantial transposition of the registered mark 'TOWN SQUIRES', it is clear that these marks create distinctly different commercial

impressions.” *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961). Furthermore, the court concluded that “whatever doubt that may exist as to likelihood of confusion in trade should be resolved in applicant’s behalf”. *In re Mavest, Inc.*, 130 USPQ at 41 (TTAB 1961).

In *In re Best Products Co., Inc.*, 231 USPQ 988 (TTAB 1986), the court allowed the mark BEST JEWELERS to be registered for “retail jewelry store services”. *In re Best Products Co., Inc.*, 231 USPQ at 988 (TTAB 1986). The prior registration of the mark JEWELER’S BEST was for “men’s and ladies’ bracelets and watch bracelets, sold separately from the watches.” *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). The court noted that “[t]here is no question that jewelry store services and jewelry are highly related goods and services from the standpoint of the likelihood of confusion issue.” *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). However, the court also noted that “[t]he mark JEWELER’S BEST connotes a selection of jewelry reflecting a quality level perceived by the jeweler personally ... On the other hand, BEST JEWELRY consists of the house mark ‘Best’ coupled with the generic name of the services.” *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). In BEST JEWELRY, “the house mark impression clearly dominates ... One reason, obviously, is that ‘Best’ is also a surname.” *In re Best Products Co., Inc.*, 231 USPQ at 989 (TTAB 1986). Similarly, the “BEAN” in “BEANSPORT” is the house mark and surname of L. L. Bean.

These cases are all closely analogous to the present situation, in which two marks with transposed elements (like SEAFROST and FROSTY SEAS, SQUIRETOWN and TOWN SQUIRES, and JEWELER’S BEST and BEST JEWELERS) make different commercial impressions because they convey different meanings with those transposed elements, and despite their application to related goods and services. SPORT BEANS connotes sporty, or sporting, beans. BEANSPORT connotes something sporty or sporting made by L. L. Bean. Applicant’s mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT, do not convey similar meanings and hence create different commercial impressions.

#### E. Different Channels of Trade

One of the factors factors addressed by the court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), is channels of trade. L. L. Bean, the owner of U.S. Registration No. 2,697,973 for BEANSPORT, has always sold its products directly to consumers through its L. L. Bean stores, its L. L. Bean catalog, and its Web site at [www.lbean.com](http://www.lbean.com) (see Exhibit 3). Registrant’s BEANSPORT goods can only be purchased directly from L. L. Bean. Any and all purchasers know the source of the goods. Applicant’s SPORT BEANS goods cannot be purchased from L. L. Bean, either directly or indirectly. Consequently, there can be no confusion as to the source of either goods.

#### F. No Actual Confusion

One of the factors factors addressed by the court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), is actual confusion. The absence of actual confusion suggests that there is no likelihood of confusion. Applicant knows of no actual confusion between Applicant’s mark, SPORT BEANS, and the mark shown in U.S. Registration No. 2,697,973, BEANSPORT. In support of Applicant’s claim of no actual confusion, Applicant attaches hereto, as Exhibit 1, the declaration of Robert M. Simpson, Jr., President & COO of Applicant.

### CONCLUSION

In light of the above, there is no likelihood of confusion between Applicant’s mark SPORT BEANS and the mark BEANSPORT shown in U.S. Registration No. 2,697,973 because the marks are very different

in appearance, sound, connotation, meaning and commercial impression. Furthermore, the goods move in different channels of trade and, despite three years of concurrent use, there has been no actual confusion on the part of consumers.

The Examining Attorney has not cited any other bar to the registration of this application. In light of the information and arguments set forth above and in response to the first Office Action, Applicant respectfully submits that the application is now in condition to be passed to publication. If the Examining Attorney has any further questions or comments, the Examining Attorney is requested to contact the undersigned at the number below.

Respectfully submitted,

LAW OFFICES OF JAMES R. CYPHER

Nicolas S. Gold

405 14<sup>th</sup> Street, Suite 1607

Oakland, CA 94612

(510) 832-4111

**EVIDENCE**

Evidence in the nature of Evidence in the nature of Exhibit 1: the declaration of Robert M. Simpson, Jr., President & COO of Applicant has been attached; Exhibit 2: the declaration of Laurel Sutton, Linguistics and Project Director of Catchword brand name development has been attached; Exhibit 3: 4/1/2008 printout of company background information at <http://www.llbean.com/customerService/aboutLLBean/background.html> has been attached. has been attached.

**Original PDF file:**

[http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003\\_001/evi\\_6319517641-210526870\\_JBCC\\_1212\\_Exhibit\\_1\\_April\\_08.pdf](http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003_001/evi_6319517641-210526870_JBCC_1212_Exhibit_1_April_08.pdf)

**Converted PDF file(s)** (3 pages)

Evidence-1

Evidence-2

Evidence-3

**Original PDF file:**

[http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003\\_002/evi\\_6319517641-210526870\\_JBCC\\_121\\_Exhibit\\_2\\_April\\_08.pdf](http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003_002/evi_6319517641-210526870_JBCC_121_Exhibit_2_April_08.pdf)

**Converted PDF file(s)** (3 pages)

Evidence-1

Evidence-2

Evidence-3

**Original PDF file:**

[http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003\\_003/evi\\_6319517641-210526870\\_JBCC\\_1212\\_Exhibit\\_3\\_April\\_08.pdf](http://tgate/PDF/RFR/2008/04/04/20080404212117331999-77106782-003_003/evi_6319517641-210526870_JBCC_1212_Exhibit_3_April_08.pdf)

**Converted PDF file(s)** (11 pages)

Evidence-1

Evidence-2  
Evidence-3  
Evidence-4  
Evidence-5  
Evidence-6  
Evidence-7  
Evidence-8  
Evidence-9  
Evidence-10  
Evidence-11

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /Nicolas S. Gold/ Date: 04/04/2008

Signatory's Name: Nicolas S. Gold

Signatory's Position: Attorney of record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77106782

Internet Transmission Date: Fri Apr 04 21:21:17 EDT 2008

TEAS Stamp: USPTO/RFR-63.195.176.41-2008040421211733

1999-77106782-420599045291f15b2ad5549be5

06c9a411-N/A-N/A-20080404210526870709

**EXHIBIT 1**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Jelly Belly Candy Company  
Serial No. : 77/106,782  
5 Mark : SPORT BEANS  
Filed : February 13, 2007  
Examining Attorney : Howard Smiga  
Law Office : 102

10 **DECLARATION OF NO ACTUAL CONFUSION**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

15

Dear Sir:

I, Robert M. Simpson, Jr., do declare as follows:

- 20 1. I am President & COO of Jelly Belly Candy Company ("Jelly Belly"), and am authorized to make this declaration on its behalf.
2. If called upon and sworn as a witness, I could and would competently testify as set forth below.
3. Jelly Belly has used the mark SPORT BEANS in connection with  
25 clothing, particularly t-shirts, since at least as early as June 30, 2005.
4. Jelly Belly's SPORT BEANS clothing has been sold in Jelly Belly company stores in Sacramento, Roseville, Fairfield, Vacaville and Gilroy, California, and in Pleasant Prairie, Wisconsin as well as on the Internet at [www.jellybelly.com](http://www.jellybelly.com).
5. Jelly Belly has used the mark SPORT BEANS in connection with jelly  
30 beans since at least as early as July 8, 2005.

6. Jelly Belly's SPORT BEANS jelly beans are sold in stores such as Walgreen's, Target, Albertsons, Longs Drugs, Kroger, Peters and Rite Aid.

7. Jelly Belly's SPORT BEANS jelly beans have been sold in all 50 states, as well as the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.

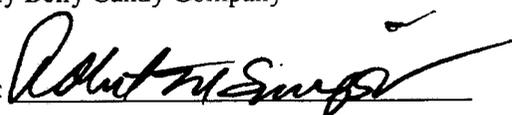
5 8. I know of no instance of actual confusion on the part of a consumer, or any other party, involving Jelly Belly's SPORT BEANS products, including both clothing and candy, and L. L. Bean's BEANSPORT products.

10 I declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

15

Jelly Belly Candy Company

Dated: 4-3-08

By: 

Name: Robert M. Simpson, Jr.

Title: President & COO

20

**EXHIBIT 2**

## DECLARATION OF LAUREL SUTTON

I, Laurel Sutton, am one of three principles in Catchword, a brand name development company. Catchword is a dedicated naming firm that has created hundreds  
5 of company names, product names, naming architectures, and taglines. Catchword has named companies, products, and services in a broad range of industries including consumer goods, technology, pharmaceuticals and healthcare, biotechnology, financial services, and retail. I have been a partner and project director since the company's founding in 1998. I was a double-major in Linguistics and English at Rutgers University,  
10 where I was a Douglass Scholar, and I am currently pursuing a PhD in Linguistics at UC Berkeley.

Catchword's naming process typically begins with interviews with a client team, a review of background materials, a competitive audit, and name strategy development. The process then progresses to the development of creative parameters, exploration of  
15 key metaphors, vocabulary, and concepts, and extensive creative name development. The final steps include preliminary availability screening, including trademarks, shortlisting and presentation development, collaborative name review with the client, stepped-up evaluations of preferred name candidates, global linguistic and cultural screening, name-validation research with target market, and final recommendations.

I have compared Application Serial No. 77,106,782 (for the mark SPORT BEANS for "clothing for sports for men, women and children, namely shorts, pants, t-shirts, sleeveless shirts, shirts with collars, tank tops, tankinis; training and warm-up suits, rain proof and wind-resistant jackets, skirts and skirt/short combinations, sweaters, underwear, socks, sweatbands, bathing suits, hats, caps, and visors; cycling apparel,  
25 namely booties, caps, gloves, headbands, jackets, jerseys, muffs, shirts, pants, socks, shorts, tights, leg and arm warmers and trousers" in International Class 025) to Registration No. 2,697,973 (for the mark BEANSPORT for "Women's swimsuits and fitness wear, namely, shorts, pants, tops, skirts, tankinis, tank tops and capris" in International Class 025). In my opinion, Application Serial No. 77,106,782 for the mark  
30 SPORT BEANS and Registration No. 2,697,973 for the mark BEANSPORT are dissimilar in appearance, sound, commercial impression, meaning and connotation.

Based on my experience, I would not refrain from presenting, or recommending, the mark SPORT BEANS for sport clothing because preliminary availability screening revealed Registration No. 2,697,973 for the mark BEANSPORT. The marks are so dissimilar that there is no likelihood, and little possibility, of confusion. Consumers are unlikely to believe that the goods they identify come from the same source.

The marks are dissimilar in appearance. SPORT BEANS is clearly two separate words, whereas BEANSPORT is a singular compound of a surname and a word. The marks are dissimilar in sound. SPORT BEANS is clearly voiced as two separate words. BEANS is plural in SPORT BEANS, whereas BEAN is singular in BEANSPORT. The vowel sounds Ō and Ē of SPORT BEANS are reversed in BEANSPORT. The marks are dissimilar in connotation and meaning. SPORT BEANS means a sporting, or sporty, bean, and is arbitrary and fanciful when applied to clothing. The connotation of SPORT BEANS is fun, youthful, and unrestrained. BEANSPORT means something sporty, or sporting, that comes from L. L. Bean. The connotation is sober and restrained. The commercial impressions of the marks are dissimilar for all of the foregoing reasons.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Signed at Oakland, California on April 3, 2008



Laurel Sutton, Linguistics/Project Director  
Catchword brand name development

**EXHIBIT 3**

**L.L.Bean**Shopping Bag [Shop](#)[Explore the Outdoors](#)[Gifts and Services](#)[My Account](#)**HOME**[Log In](#)[Satisfaction Guaranteed](#)[800-441-5713](#)**QUICKSHOP OR SEARCH**Item # or keyword  

Quickshop multiple items

**DEPARTMENTS**

Men's  
 Women's  
 Kids'  
 Footwear  
 Outdoor Gear & Apparel  
 Luggage & Travel  
 Home & Outdoor Living  
 Gift Cards

**CUSTOMER SERVICE**

Contact Us  
 Your Privacy  
 About Security

**ABOUT L.L.BEAN**

Employment  
**Company Information**  
 News  
**Background**  
 Quality and Testing  
 Environment  
 Paper Procurement  
 Labor Rights  
 Charitable Giving  
 Partners

**HELP DESK**

Recall Notices  
 Customer Alert  
 Shopping Information  
 My Account  
 Shipping & Delivery  
 Tracking Your Order  
 Return & Exchange Information  
 Monogramming & Engraving  
 Catalog Requests & Information  
 International

**NEED HELP?**

Help Desk  
 Email Us  
 Live Help  
 800-441-5713 (US/Can.)  
 International Help

**ABOUT L.L.BEAN**

Satisfaction Guaranteed  
 Employment

**About L.L.Bean**

L.L.Bean is proud of its heritage and commitment to customer satisfaction. We are pleased to present the following background information about our company. Please note that L.L.Bean is a privately held, family-owned company. We do not release financial and operational information beyond what you will find here and we do not produce an annual report.

**Company Heritage**

95th Anniversary Interactive Timeline  
 Beginnings: 1912 to 1959  
 A Time of Growth: 1960 to 1999  
 2000 to Today  
 Leadership Transition

**Company Leadership**

Leon Leonwood Bean  
 Leon A. Gorman  
 Christopher J. McCormick

**L.L.Bean Today: Corporate Information**

Sales  
 Products  
 Operations  
 Corporate Citizenship

**Social Responsibility**

[Environment](#)  
[Paper Procurement](#)  
[Labor Rights](#)  
[Charitable Giving](#)

**Conservation**

[Partners](#)

**Company Heritage****Beginnings: 1912 to 1959**

In 1911, an avid outdoorsman named Leon Leonwood (L.L.) Bean returned from a hunting trip with cold, damp feet and a revolutionary idea. L.L. enlisted a local cobbler to stitch leather uppers to workmen's rubber boots, creating a comfortable, functional boot for exploring the Maine woods. This innovative boot - the Maine Hunting Shoe - changed outdoor footwear forever and began one of the most successful family-run businesses in the country.

L.L. began his business by working out of the basement of his brother's apparel shop. In 1912, he obtained a mailing list of nonresident Maine hunting license holders and prepared a three-page flyer that boldly proclaimed, "You cannot expect success hunting deer or moose if your feet are not properly dressed. The Maine Hunting Shoe is designed by a hunter who has tramped the Maine woods for the last 18 years. We guarantee them to give perfect satisfaction in every way." The public could not resist the commonsense logic and genuine enthusiasm of his appeal.

One hundred orders came in for his new product. However, L.L. did not meet with immediate success. The rubber bottoms separated from the leather tops and 90 of those first 100 pairs were returned. Although it nearly put him out of business, L.L. kept his word and refunded the purchase price. He borrowed more money, corrected the problem and, with undiminished confidence, mailed more brochures. L.L. had learned the value of personally testing his products, of honest advertising based on firm convictions and of keeping the customer satisfied at any cost.

L.L.Bean, Inc. quickly established itself as a trusted source for reliable outdoor equipment and expert advice. The small company grew. Customers spread the word of L.L.Bean's quality and service. L.L. built on his success using all company profits for advertising. He was so

## Company Information

intent on building his mailing list; he eventually inspired Freeport resident and Maine writer John Gould to say, "If you drop in just to shake his hand, you get home to find his catalog in your mailbox."

L.L. focused on the essentials. Employees also understood that the business of L.L.Bean was to provide high-quality products backed by excellent service. As Leon Gorman, grandson of L.L. and company president from 1967 to 2001, has said, "Word-of-mouth advertising and customer satisfaction were critical to L.L.'s way of thinking. To hear that one of his products failed was a genuine shock to his system. That customer was a real person to L.L., and he'd put his trust in the L.L.Bean catalog."

When L.L. Bean started his company, his view of serving the customer was as revolutionary as his product. L.L. said, "A customer is the most important person ever in this office - in person or by mail." Whether seeking expert advice, purchasing goods, returning or exchanging anything from L.L.Bean, customers quickly learned L.L.Bean wasn't like other companies of the day. L.L. set the standard for customer service in 1912, and his service-based philosophy is a fundamental belief that resonates throughout the company today.

With automobiles increasing in popularity and becoming more affordable throughout the 1920s, more people visited Maine to enjoy some of the finest recreational areas in the nation. L.L. continued to attract hunting, camping and fly-fishing customers with his trusted advice and commonsense approach. In a 1927 catalog he said, "It is no longer necessary for you to experiment with dozens of flies to determine the few that will catch fish. We have done that experimenting for you."

Steady growth continued. By 1934, the company had increased its factory size to over 13,000 square feet. The simple flyer evolved into a 52-page catalog. The company generated over 70% of the volume for the Freeport Post Office. By 1937, sales surpassed the \$1,000,000 mark. Leon Gorman noted decades later, "The most important legacy of L.L.'s genius was the power of his personality. It transcended the buying and selling of products. His personal charisma based on down-home honesty, a true love for the outdoors, and a genuine enthusiasm for people, inspired all who worked for him and attracted a fanatic loyalty among his customers."

L.L. never missed an opportunity to improve service. While the bulk of sales were generated by the catalog, hunters and visitors frequently dropped by Freeport. A night bell allowed the late-night visitor to call a watchman or even L.L. himself. In 1951, L.L. opened the store 365 days a year, 24 hours a day proclaiming, "We have thrown away the keys to the place." To this day, there are no locks on the doors of the flagship store in Freeport.

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#### **A Time of Growth: 1960 to 1999**

As disposable incomes went up and the interstate highway system made travel easier, L.L.Bean aligned itself with the growing outdoor recreation market. The "Back to Nature" movement brought a boom in backpacking and camping that also brought more business to the L.L.Bean catalog and store.

Leon Gorman, L.L.'s grandson, joined the company in 1960. According to Leon, L.L. had "established an image that was as broad in its appeal and as enduring in its acceptance as any in marketing history." Despite this, significant challenges lay ahead. When he first came to work at L.L.Bean in 1961, the average employee age was 60, and sales had leveled off at around \$2 million.

In 1967, Leon Leonwood Bean passed away at the age of 94. Some of those closest to the company wondered if it could go on without L.L.'s strong influence. 50,000 letters of condolence from customers all over the country poured into Freeport, noting the accomplishments of the man TIME magazine once hailed as "The Merchant of the Maine Woods." The overwhelming public response helped bolster employees' determination to build on L.L.'s success.

Leon Gorman took over as company president in 1967 and led the company's transition into a modern, world-class organization. He

studied old catalogs, talked with long-time employees and vendors and immersed himself in learning about L.L.Bean products and markets. He formalized the company's customer service approach, revitalized its leadership and updated compensation policies. The old mailing list (of fewer than a million names) was converted to a computerized database. Manufacturing moved to an updated facility, located about a mile from the original building. A 110,000-square-foot distribution facility was built on nearby property in 1974, then expanded again in 1979 to a 310,000-square-foot facility with over a mile of conveyer belts.

Poised for success, Leon Gorman and L.L.Bean continued to find innovative ways to better serve the company's customer base. In 1976, the introduction of credit card services made it easier to shop. The 24-hour-a-day, 365-day-a-year service through both the catalog and store enabled an increasing number of catalog shoppers to connect with L.L.Bean. The first full-color catalog was published in 1979.

Rapid growth and expansion continued into the 1980s. In the early '80s, the company added fitness centers and walking trails to encourage employees to achieve and maintain good health. Employees also have the opportunity to enjoy active outdoor pursuits including fishing, kayaking, hiking and skiing at a group of Maine sporting camps that the company purchased in 1981.

In 1985, a toll-free phone number was added in response to the rise in the numbers of customers shopping by phone. Customer contact centers were added in 1985, 1988, 1997 and 2005, increasing the company's capacity to answer the millions of contacts received each year. As L.L.Bean celebrated its 75th anniversary in 1987, the company employed almost 2,000 year-round workers and another 1,000 during its peak season.

In 1988, L.L.Bean opened its first liquidation outlet in North Conway, New Hampshire, to more efficiently liquidate discontinued merchandise at a significant value to customers. More outlets are being added annually. Visit [L.L.Bean Outlets®](#) for locations.

In 1989, L.L.Bean Manufacturing moved into a new facility that incorporated ergonomically designed systems. Ergonomic workstations were also introduced into all other areas of the company.

Also in 1989, a 40,000-square-foot addition to the flagship store in Freeport, Maine, provided more room to display a growing number of tents, boats and other popular products. In 1992, the company expanded its international business presence to include a store in Japan. And in 1995, L.L.Bean began its expansion into the electronic commerce market by launching [lbean.com](#).

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#### **2000 to Today**

In July 2000, L.L.Bean extended its retail store presence beyond Maine for the first time when it opened a store in McLean, Virginia. From 2001 to 2007 the company opened additional stores in Maryland, Pennsylvania, New Hampshire, Massachusetts, Connecticut and New York. L.L.Bean plans further retail expansion in the upcoming years. See [retail stores](#) for current store locations.

This period has also seen tremendous growth in L.L.Bean's e-commerce business, with online sales surpassing phone orders for the first time during the 2006 holiday season. L.L.Bean customers have enjoyed numerous improvements to [lbean.com](#) since its initial launch, including interactive shopping guides, 24-hour live customer service and advanced features such as order tracking, up-to-date product availability and customer order history. The site has been recognized with numerous industry awards for its ease of use, design excellence and outstanding customer service.

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#### **Leadership Transition**

In 2001, with the company's tremendous success as his legacy, Leon Gorman assumed the role of Chairman of the Board, passing the company leadership to the first non-family member ever to hold the position. He named Chris McCormick, who began with the company in

1983, president and chief executive officer.

Under Leon Gorman and Chris McCormick's leadership, L.L.Bean has emerged as an industry leader in brand management, customer loyalty and marketing database systems. Today, L.L.Bean is a well-recognized world leader in the mail order and retail industries, and has developed a multi-channel approach to maintaining the same high level of service for customers in the U.S. and abroad.

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#### **L.L.Bean Today: Corporate Information**

L.L.Bean, Inc. has been a trusted source for quality apparel, reliable outdoor equipment and expert advice since 1912. The company is headquartered in Freeport, Maine, just down the road from the original store. The company has grown from a one-man operation to a global organization with annual sales of over \$1.5 billion. In 2006, L.L.Bean employed over 4,300 people year-round. More than 11,000 people worked for L.L.Bean during the 2006 winter holiday season.

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#### **Sales**

##### **Direct Sales**

In 2006, L.L.Bean produced 62 catalogs which were distributed to customers in all 50 US states and more than 160 countries. In 2006, over 15 million customer contacts were received, with over 985,000 coming on the busiest week of the year. Over 81,000 L.L.Bean orders were placed online in a single day in December 2006.

The company Web site, llbean.com, is among the top-rated e-commerce sites in the industry. Customers can purchase thousands of products online, including sporting goods, home furnishings and casual and active clothing. In addition, customers can search for information on state, national and international parks, send email to Customer Service Representatives with questions about products, learn about the famous L.L.Bean Guarantee, find out about Outdoor Discovery Schools and get directions to the stores.

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##### **Business to Business Sales**

Since the late 1970s, L.L.Bean's [Direct to Business](#) division has served organizations, teams, clubs and companies of all sizes seeking high-quality products and L.L.Bean Gift Cards for use as premiums, incentives, outfitting and recognition programs.

L.L.Bean uses state-of-the-art equipment to customize products for its business customers, adding embroidery of logos and company names as well as monogramming, engraving and screen printing. L.L.Bean distributes nine Direct to Business catalogs each year, highlighting popular products and gift programs.

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##### **Products**

L.L.Bean products are recognized around the world for their practical design and high quality. Many items have been in the product line for several decades, such as the Field Coat, introduced in 1924 and the Chamois Shirt in 1928. Others include the Zipper Duffle Bags, appearing first in the 1930s, and the widely recognized Boat and Tote® Bag, introduced in 1944 as Bean's Ice Carrier. Today, over 18,000 items are stocked for the catalog, Web site and stores. Approximately 90% of the goods sold carry the L.L.Bean label.

The company devotes significant time and energy to product research, testing and development. This [process](#) includes lab tests, field testers and employee and customer feedback.

L.L.Bean operates its own independent test lab for scientific analysis of materials, construction and design. Prototypes for new products are tested, revised and retested in a continuous cycle until they meet customer requirements and L.L.Bean quality standards. Established

products continue to be tested to maintain their high level of performance and quality.

The company also brings new and innovative products into the marketplace through extensive interviews with customers and subsequent concept development meetings that help ensure the products being designed will meet specific customer requirements for outdoor clothing and gear. L.L.Bean product expertise is also reinforced by a group of 1,000 independent field testers – adults and kids – who help assure product quality and performance. The company uses a combination of expertise and testing to enhance existing products even though many are already considered "best in class" based on customer feedback and objective consumer ratings.

"We get out into the field as much as we can at L.L.Bean and do the same things that our customers are doing," explained company president Chris McCormick. "We use our own products so that we have a better idea of how they're performing. This practice helps us identify better with our customers' experiences and needs."

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## Operations

### Customer Service

While doing business today might differ from doing business in 1912, the philosophy of the company has not changed.

Leon Gorman, chairman of the board of L.L.Bean, stated, "A lot of people have fancy things to say about Customer Service, but it's just a day-in, day-out, ongoing, never-ending, persevering, compassionate kind of activity."

L.L.Bean president Chris McCormick remains firm in his commitment to providing superior service and excellent products. Each product is still guaranteed to provide 100% satisfaction. In Chris's words: "Superior customer service has always been and always will be the cornerstone of our brand and heritage and an attribute that differentiates us from the rest of the pack. It goes back to L.L.'s Golden Rule of treating customers like human beings."

In an increasingly competitive industry, L.L.Bean still stands out as the benchmark for customer service. Now a multi-channeled business, L.L.Bean continues to serve customers with knowledgeable employees who are highly customer-focused. Employees are trained to take the time each individual customer requires to feel valued - whether through the mail, on the phone, by fax, over the Internet or in the stores. Each employee's goal is to ensure customers a consistently superior service experience, no matter which channel they choose to shop. Every channel has been built on the L.L.Bean values of honesty, quality, dependability and a guarantee of 100% satisfaction.

L.L.Bean's Customer Satisfaction department operates out of four customer contact centers in Maine, 24 hours a day, 365 days a year. A fifth seasonal contact center in western Maine ensures customers' satisfaction during the busy holiday season. The company employed over 4,000 customer service representatives during the 2006 peak holiday season.

### Retail Stores

L.L.Bean's [retail stores](#) allow customers to experience the company's unsurpassed quality and knowledgeable service firsthand. The stores offer a great selection of quality products and the friendly, expert staff are always ready to help, whether you're looking for advice, help with easy returns - or even a quiet fly-fishing spot.

The 160,000-square-foot L.L.Bean flagship store is located in Freeport, Maine, on the original site where L.L. Bean opened his retail business in 1917. Open 24 hours a day, 365 days a year, the flagship store draws close to three million visitors each year. It features a trout pond in the middle of the store. Many customers visit the store to stock up on gear and apparel before exploring Maine's mountains, lakes and coastal regions. The flagship store has also become headquarters for L.L.Bean's popular Outdoor Discovery Schools and Walk-On Adventures, which help customers discover and enjoy a variety of outdoor activities.

Next door to the flagship store, the L.L.Bean Bike, Boat and Ski Store opened for business in May 2007. Our Freeport campus continues to grow, with the completion of the all-new L.L.Bean Hunting and Fishing Store in November 2007. At 33,000 square feet, it houses L.L.Bean's largest-ever selection of hunting and fishing gear. The seven-acre campus also includes an outdoor pond, waterfall, courtyard and Discovery Park, home to summer concerts and other exciting outdoor events.

L.L.Bean continues to demonstrate its commitment to its hometown of Freeport, Maine by supporting the development of a 118,000-square-foot retail center and parking structure in the village center. Plans are also being made to develop a 700-acre outdoor adventure center in Freeport. Company president Chris McCormick says "This concept... makes it easier for people to have more exposure to and instruction in outdoor activities. We want Freeport visitors to fully experience L.L.Bean – the trusted, authentic brand that inspires and enables them to enjoy the outdoors."

L.L.Bean also has several retail stores outside Maine, for a total of 12 stores in nine states as of November 2007 and new stores opening each year. All L.L.Bean stores offer the same customer advantages that are the hallmark of L.L.Bean: quality products, superior customer service and a link to outdoor enjoyment and education through L.L.Bean's Outdoor Discovery Schools and Walk-On Adventures.

L.L.Bean also has Outlets in locations throughout New England and the Mid-Atlantic region of the U.S. Outlets feature an ever-changing variety of apparel, outdoor gear, home goods and more – all at discount prices. These products include discontinued and slightly irregular items and overstocks.

#### **International Business**

L.L.Bean has a large and growing customer base in Canada. The first international retail store opened in Tokyo, Japan in 1992. L.L.Bean now operates retail and outlets in several cities in Japan and plans continued expansion. The company is currently exploring new markets in Asia.

#### **Outdoor Adventures**

As part of L.L.Bean's commitment to providing quality outdoor experiences to its customers, the L.L.Bean Outdoor Discovery Schools were founded in 1979. The Outdoor Discovery Schools are geared toward helping customers develop new skills, refine existing ones or simply enjoy the outdoors. In 2006, over 17,500 customers participated in L.L.Bean's Outdoor Discovery Schools adventures, in activities such as archery, paddling, fly-fishing, wingshooting, bike tours, outdoor photography, camping and more.

#### **Distribution**

In 2007, the ability to fill customer orders was improved with the expansion of the technologically advanced Order Fulfillment Centers in Freeport, Maine. Our fulfillment centers, with the capacity to store over ten million units of merchandise and to process an average of 50,000 customer orders a day, represents a familiar L.L.Bean goal: the best in customer service. In 2006, L.L.Bean shipped nearly 16 million packages – including over 200,000 on a single day.

#### **Manufacturing**

Continuing the tradition, L.L.Bean still manufactures old favorites such as Bean Boots by L.L.Bean® and the Boat and Tote® Bag, as well as newer items including fleece products and dog beds. The L.L.Bean manufacturing facilities, located in Brunswick and Lewiston, Maine, employ nearly 400 people. Over 400 products are manufactured at these facilities.

L.L.Bean is a leader in the manufacturing industry with regard to product quality, ergonomics and health and safety programs. The Brunswick facility has received the Margaret Chase Smith Quality Award for its commitment to quality. The L.L.Bean manufacturing division has been accepted into the Occupational Safety & Health Administration (OSHA) Voluntary Protection Program at the Merit Level for facility safety, including strong employee involvement and managements' ergonomic focus.

Company president Chris McCormick remains committed to preserving the company's manufacturing foundation. He said, "Manufacturing is where L.L.Bean started, and our people take great pride in continuing this tradition, using the finest materials along with years of experience in quality craftsmanship."

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### Corporate Citizenship

L.L.Bean's commitment to being a responsible corporate citizen is rooted in our [stakeholder concept](#) and our core values.

L.L.Bean is committed to [environmental stewardship](#). We sell products that enhance our customers' relationships with the outdoors and continually seek to minimize the adverse impacts that producing, marketing and distributing these products have on the environment. L.L.Bean conducts business in an environmentally responsible manner, using the best environmental practices within our industry. We encourage wise stewardship of natural resources and respect for the environment among all of our stakeholders.

L.L.Bean supports outdoor conservation and recreation and demonstrates its outdoor leadership by contributing to local, state, regional and national organizations that help to protect the environment and ensure access to recreational opportunities. In the last three years, the company has contributed nearly \$5.5 million to help promote these programs and develop partnerships that reflect the interests of our customers nationwide who are active stewards of the outdoors.

In particular, the company has a special interest in the Appalachian Trail. In addition to significant contributions to the Appalachian Trail Conservancy, the Maine Appalachian Trail Club and the Appalachian Mountain Club, L.L.Bean employees have volunteered over 34,000 hours in 27 years of maintaining an 18.5-mile section of the Appalachian Trail in Maine.

L.L.Bean has contributed significantly to other important partners in [conservation](#) whose missions include land acquisition and expansion of stewardship programs. Among those projects are The Trust for Public Land's Katahdin Lake Campaign in Maine; the donation of a nine-acre park/green space in Freeport, Maine; The Nature Conservancy's efforts to preserve for recreational and aesthetic value the St. John River in northern Maine as well as the Debsconeag Lakes in the Katahdin region; the Appalachian Mountain Club's development of the Highland Center, an environmentally innovative center for outdoor adventure, learning, and lodging in Crawford Notch, New Hampshire; the Student Conservation Association's initiatives to expand stewardship efforts for youth in our national parks; and protecting the air quality in Acadia National Park by supporting propane-powered buses through Friends of Acadia. These serve as examples of L.L.Bean's commitment to ensuring access to quality outdoor experiences.

In addition to local, state and national conservation groups, L.L.Bean is committed to supporting dozens of health and human service agencies, education partnerships, and culture and arts organizations within the communities where the majority of employees live and work. Please see L.L.Bean's [charitable giving guidelines](#) for more information.

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### Company Values

Much has changed since 1912, but some things remain the same. The values that the company's founder, L.L. Bean, was raised to believe in were simple and deeply engrained. Nature is something to be revered. Family ties are a priority. Being neighborly is a matter of course. And "do unto others" is not just a saying but a way of life. When L.L. launched his company, he believed so strongly in the Golden Rule that he made it the foundation of his business.

#### L.L.'s Golden Rule

"Sell good merchandise at a reasonable profit, treat your customers like human beings, and they will always come back for more." - Leon Leonwood Bean

L.L. understood the value of a satisfied customer. Along with L.L.'s Golden Rule, the 100% Satisfaction Guarantee has been in place since the first pair of Maine Hunting Shoes was sold in 1912.

**Guaranteed. You Have Our Word.**

Our products are guaranteed to give 100% satisfaction in every way. Return anything purchased from us at any time if it proves otherwise. We do not want you to have anything from L.L.Bean that is not completely satisfactory.

L.L.'s philosophy toward the value of a customer has also withstood the test of time. The following definition of a customer was a favorite of L.L.'s and is as critical to L.L.Bean's success today as it was during L.L.'s tenure:

**What is a Customer?**

A customer is the most important person ever in this company - in person or by mail.

A customer is not dependent on us, we are dependent on him.

A customer is not an interruption of our work, he is the purpose of it.

We are not doing a favor by serving him, he is doing us a favor by giving us the opportunity to do so.

A customer is not someone to argue or match wits with.

Nobody ever won an argument with a customer.

A customer is a person who brings us his wants. It is our job to handle them profitably to him, and to ourselves.

**The L.L.Bean Stakeholder Concept**

Leon Gorman clearly took his grandfather's lessons to heart. Early during his term as president, Leon introduced the "stakeholder concept." Leon felt strongly that as a values-based company, L.L.Bean should have as its purpose to add value to everyone who had a vested interest in the company. L.L.Bean's success depends on how well the company meets the objectives of its stakeholders. He described L.L.Bean's stakeholders as customers, employees, stockholders, vendors, communities and the natural environment.

**Company Leadership**

**Leon Leonwood Bean  
(1872-1967)**

One of Wall Street Journal's Top-Ten-Entrepreneurs of the 20th century, L.L. Bean was an innovator in the mail-order catalog industry. Born Leon Leonwood Bean on October 13, 1872, in Greenwood, Maine, he was the fourth of six children born to Sarah Swett and Benjamin Warren Bean. L.L. learned to love the outdoors and gained a strong work ethic and family loyalty from his parents in rural Maine. In 1884, shortly after Leon's 12th birthday, his parents died within four days of each other. Orphaned, the three youngest Bean children went to live with friends of the family.

At 13, L.L. went on his first hunting trip. The pleasure he gained from his time in the woods would last a lifetime. Upon graduation from Kent's Hill Commercial College, he moved to Yarmouth and worked as a clerk in brother Otho's shoe store. Thus began his retail career. In 1895, Otho opened a second store in Freeport, Maine, called Bean Bros., and hired L.L. to manage it. In 1898, L.L. married Bertha Porter of Freeport and started a family. He fathered three children, Lester Carlton (1900-1967), Charles Warren (1901-1971), and Barbara (1907-1985).

Still an avid outdoorsman, L.L. would hunt and fish at every opportunity. At that time no adequate footwear was available to keep a hunter's feet dry and warm in the cold, wet woods of Maine. In 1911, L.L. asked a local cobbler to sew a rugged leather upper to a waterproof rubber bottom and the Maine Hunting Shoe® was born. L.L. became a pioneer of direct marketing by selling his new boot through the mail and through his retail store.

With the growing success of the Maine Hunting Shoe, L.L. Bean began to develop rugged, comfortable clothing to wear in the outdoors. Still

making time for hunting and fishing trips, L.L. told his customers he would not sell merchandise he had not used himself. This commitment reinforced to his customers that his store was a reliable resource for outdoor recreational gear. The fact that he was an outdoorsman who not only developed and tested his products but also guaranteed them to be 100% satisfactory in every way, established him as one of the most respected names in the business.

By the 1930s, L.L. Bean carried clothing and equipment for a variety of outdoor pursuits - hunting and fishing, camping, skiing, snowshoeing and hiking among them. His original flyer had become a catalog mailed twice a year, and he had established a million-dollar business.

During World War II, L.L. Bean was called to Washington to help the Pentagon develop and manufacture rugged products to support the troops in the field. With the growth of his business, his reputation for selling quality products at a good value became well known.

L.L. Bean ran his company until his death at the age of 94 on February 5, 1967. He attributed his long life and good health to the time he spent in the outdoors.

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**Leon A. Gorman  
Chairman of the Board, L.L.Bean, Inc.**

Leon A. Gorman was born in Nashua, New Hampshire, and was raised in Yarmouth, Maine. He graduated from Bowdoin College in 1956 and spent four years in the Navy before joining L.L.Bean, Inc. in 1960. He was appointed president of the company in 1967 following the death of his grandfather, L.L. Bean, who founded the company in 1912.

Soon after becoming president, Leon introduced the "stakeholder concept," which clearly linked L.L.Bean's success as a business to its important stakeholders such as customers, employees and the natural environment. In his 30 years as president, Leon Gorman led L.L.Bean from a 4.75-million-dollar catalog company to over-a-billion-dollar multi-channel enterprise. Leon firmly established L.L.Bean as a leader in the outdoors industry, offering high-quality equipment and apparel for outdoor-oriented customers that was backed by world-class service. In 2001, Leon Gorman was named chairman of the board, turning over his responsibilities as president and CEO to Christopher McCormick.

An outdoors enthusiast, Leon frequently tests the company's products on outdoor trips. Among the most notable was his ascent to Camp Three during the 1990 Mount Everest International Peace Climb, sponsored by L.L.Bean. Leon also enjoys his favorite outdoor pursuits closer to home including hiking the Camden Hills and Georges Highland Path in midcoast Maine, biking the carriage roads of Acadia National Park and grouse hunting and fly fishing in the northern part of the state.

Leon Gorman was inducted into the Direct Marketing Association Hall of Fame in 1992. Leon was a member of the 1997 Blue Ribbon Commission for the United States Postal Service, launched by the Postmaster General for addressing the future direction of the Postal Service. He was also a recipient of the USPS Partnership for Progress Award.

Leon has played a significant role in the conservation community through his leadership and contributions. Among the organizations he has been involved with are: Maine Audubon, Hurricane Island Outward Bound School, the Maine Chapter of The Nature Conservancy, the Appalachian Mountain Club and Land for Maine's Future. He and his wife, Lisa, have played a lead role in The Nature Conservancy's St. John River Project, the Appalachian Mountain Club's capital campaign and fundraising efforts by the Student Conservation Association. He also demonstrates his commitment to the community through involvement in various national and state civic organizations such as the Boy Scouts of America, Bowdoin College and the United Way.

Leon Gorman has been a leader in public policy discussions about Maine's economy through his involvement in state organizations and initiatives. In 1997, he received the Navigator Award for Entrepreneur of the Year from the Maine Chamber of Commerce and Business Alliance. In 2001, the Maine Chamber of Commerce awarded Leon

Gorman the Business Hall of Fame Award for compassion, courage and commitment in business leadership. Leon was selected to receive L.L.Bean's highest internal honor, the Bean's Best award, in 2001 to recognize his significant contributions to the company as a leader and mentor.

In 2006, Leon Gorman wrote a book about his four decades of experience as the leader of L.L.Bean entitled L.L.Bean: The Making of an American Icon. The book gives a behind the scenes look at L.L.Bean's history and culture.

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**Christopher J. McCormick  
President and CEO, L.L.Bean, Inc.**

Chris McCormick grew up in Bridgeport, Connecticut, one of six sons of an entrepreneurial father who ran, among other businesses, a commercial packaging company. Chris developed his interest in business early on and grew particularly fond of the family-owned aspect of his father's organization.

In 1977, after graduating from Fairfield University in Fairfield, Connecticut, he began his career in marketing and accepted a position as Media Buyer with Garden Way, Inc. He became Marketing Manager and remained with the company until 1983.

Chris was particularly drawn to L.L.Bean because it was a family-owned company bound by the principles of honesty, integrity, respect for people and a love of the outdoors. In 1983, he accepted the position of assistant advertising manager for the company. In the years that followed, he earned a succession of promotions. In May 2001, upon Leon Gorman's move to Chairman of the Board, he became the first non-family member to assume the title of President and CEO of L.L.Bean, Inc.

Under Chris McCormick's leadership, L.L.Bean has emerged as an industry leader in brand management, customer loyalty and marketing database systems.

In 2000, Chris completed Harvard Business School's Advanced Management Program.

Chris McCormick is active in industry organizations, including serving on the National Retail Federation's Board of Directors. He has served on the Direct Marketing Association's Board of Directors and the Mail Order Association of America and Postal Advisory boards. He has also represented the industry before the United States Congress.

Chris was a member of the campaign cabinet for the United Way of Greater Portland, and serves as a member of the board of directors for the Maine Chapter of The Nature Conservancy.

An avid outdoorsman, he takes every opportunity to test L.L.Bean equipment in the field. Among his favorite outdoor activities are hiking and biking with his family.

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