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

In The Matter of Application Serial Nos. 76/103,447 and 76/103448
Published In The Official Gazette of May 22, 2001
and April 24, 2001, Respectively

Mark: HYPERSONIC


04-11-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #99

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Central Mfg. Co., :
Opposer, : Opposition No. 123,765
- against- :
Paramount Parks Inc., : Affidavit
Applicant. :

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STATE OF NORTH CAROLINA)
: SS.:
COUNTY OF MECKLENBERG)

Lester Nail, being duly sworn, deposes and says:

1. I am Vice President, Associate General Counsel and Assistant Secretary of Paramount Parks Inc. ("Paramount"), Applicant in the above-captioned opposition. I have personal knowledge of the matters set forth herein, and have discussed with persons at Paramount and reviewed the files, regarding Paramount's use of the trademarks at issue in this opposition.

2. I submit this affidavit in support of Applicant's opposition to the motion of Opposer Central Mfg. Co. for summary judgment, and Applicant's cross-motions for dismissal and for sanctions.

3. Paramount, incorporated in the state of Delaware, is in the business of

managing and operating amusement parks throughout the United States, in Canada and in Spain.

4. Paramount registers trademarks in its own name, and uses those trademarks on its own goods and services.

5. Paramount operates an amusement park known as Paramount's Kings Dominion in Doswell, Virginia ("Kings Dominion"). Kings Dominion is located adjacent to Interstate 95 ("I-95"), the main north-south highway between Maine and Florida. For the millions of vacationers each year who travel along I-95 through Virginia, Kings Dominion is impossible to miss: the billboards on the highway announcing its presence, its replica of the Eiffel Tower and its large, animated sign are easily spotted from the highway.

6. Paramount advertises and promotes Kings Dominion and its attractions widely in Virginia and the nearby states of Maryland, North Carolina, District of Columbia, West Virginia, Pennsylvania, Delaware and New York. The park is less than an hour's drive from D.C., and even closer to parts of Maryland.

7. Paramount's advertising consists of print advertising in local and regional newspapers and magazines, television advertising on a variety of cable and broadcast stations, radio advertising on regional AM and FM stations, direct mailings to more than 3400 zip codes throughout the U.S., email blasts and on-line promotions, and retail "point-of-purchase" displays.

8. As the result of its location and its extensive advertising and promotion out-of-state, a significant percentage of visitors to Kings Dominion are from outside of Virginia. Paramount tracks this percentage as carefully as possible through its daily marketing research team, which creates a "Point of Origin" survey based on daily attendance. In 2002, Kings Dominion welcomed more than one million visitors from Virginia; 330,000 visitors from Maryland; 162,000

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visitors from North Carolina; 53,000 visitors from Pennsylvania; 40,000 visitors from New York; 35,000 visitors from D.C.; 25,000 visitors from West Virginia; 24,000 visitors from New Jersey; 9300 visitors from Delaware; 1300 visitors from Kentucky; and 91,000 visitors from other states.

9. For the 2001 season at Kings Dominion, the amusement park introduced a new thrill ride known as "Hypersonic XLC: Xtreme Launch Coaster", sometimes called simply "Hypersonic". The ride is a revolutionary type of roller coaster, and has received a tremendous amount of unsolicited press attention. The choice of the name HYPERSONIC was made jointly by three different divisions within Paramount: the Design and Entertainment Group, the Corporate marketing department, and the Kings Dominion marketing department. The three divisions jointly created an extensive list of potential terms, then narrowed the list down to several candidates, of which "HYPERSONIC" was one. The name "HYPERSONIC" was chosen from among the finalists because it was suggestive of speed and has military technology connotations, and because it was deemed trendy.

10. Paramount conceived of, applied for registration of, and uses a number of trademarks related to the Hypersonic ride. Paramount has used the term HYPERSONIC, alone or in combination with the phrase XLC: XTREME LAUNCH COASTER, in advertising and/or on goods related to the Hypersonic ride.

11. As it does with many of its most popular attractions, Paramount has created a variety of souvenir items to be sold in connection with the Hypersonic ride. These items include hats, t-shirts, sweatshirts, bumper stickers, photographs, and the like, and they are exclusively sold at merchandise outlets or vendors throughout the park. These items range from expensive products to inexpensive, impulse purchase products, and Paramount relies upon the positive feelings generated

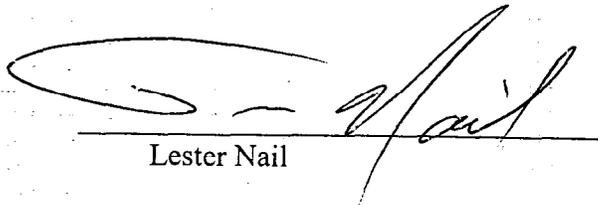
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by the Hypersonic ride and by the customer's overall experience in the park to promote sales of the products. A significant portion of the customers who purchase such souvenir items are children, teen-agers and young adults, who are relatively unsophisticated purchasers and more likely to make impulse purchase decisions.

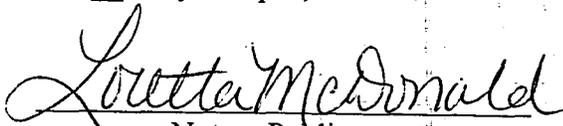
12. The products described above are typically manufactured in Maryland and Florida (the Hypersonic trademarks are affixed at that time), and later shipped to the park in Virginia.

13. On March 24, 2001, Kings Dominion officially opened for the 2001 season. Prior to that time, several "unofficial" events took place in the park, and souvenir items were available for sale at those events. Paramount also advertised the Hypersonic ride extensively in Virginia and in other states prior to March 17, 2001, as well as thereafter.

14. I understand that one of the issues in this opposition is whether consumers will be confused by Paramount's use of its HYPERSONIC marks, in light of Opposer's mark. I am not aware of any instances in which consumers have been confused by Paramount's use of its HYPERSONIC marks.


Lester Nail

Subscribed and sworn to before me
this 8th day of April, 2003


Loretta McDonald
Notary Public

