

**IN THE UNITED PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

CENTRAL MFG. CO.  
(a Delaware Corporation)  
P.O. Box 35189  
Chicago, IL 60707-0189

Opposition No: 91123765

Opposer,

Trademark: HYPERSONIC

vs.

PARAMOUNT PARKS, INC.  
8720 Red Oak Blvd.  
Charlotte, NC 28217

Applicant

Box TTAB/NO FEE

**MOTION TO COMPEL**

NOW COMES the Opposers and requests the Board to compel the attendance of the following three witnesses for discovery depositions<sup>1</sup>: **Mel Karmazin, Sumner M. Redstone and Richard J. Bressler**. These three deponents are employees of the parent company of the Applicant, Paramount Parks. The Opposer noticed the said depositions on April 2, 2004. See attached notices of deposition and correspondence to Applicant's counsel, marked as **Group Exhibit A**.

Applicant's counsel responded with its Objection to Notices of Deposition, dated April 2, 2004. See attached true and correct copy of said motion, marked as **Exhibit B**.

Opposer made a good faith effort to resolve the discovery dispute with a telephone conversation on April 5, 2004, with Applicant's counsel, Mr. Lance Koonce. Mr. Koonce responded with a letter dated April 5, 2004, attached hereto and marked as **Exhibit C**, confirming the he will not produce the said deponents.

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1. The Opposer served its notices of deposition on the Applicant by fax and regular mail. The Applicant interprets the Board Order of March 9, 2004, which required the parties to serve each other by Express Mailing. The Opposer interpreted this provision to mean that any documents served with the Board, should be served by the parties on each other by Express Mailing. In any event, the Applicant has timely received Opposer's said notices of deposition and has made its appropriate objections. For the record, the Opposer will re-serve the said notices via Express Mail with this pleading on the Applicant in order to avoid any appearance of the Opposer not complying with the Express Mailing requirement initiated by the Board in the Board's March 9, 2004 order.

The Opposer asserts that upon information and belief, the said deponents are necessary for Opposer to prove its case, as they have and/or should have knowledge of Paramount Parks' current trademark application. In addition, the Applicant has consistently communicated with Mallory D. Levitt, an employee of Viacom. It is the position of the Opposer that the Applicant was not the party that owned the mark at the time the said application was filed. The Opposer asserted in its motion for summary judgment that Applicant's failure to disclose its relationship with Viacom "is fatal to its application." The Board, in its decision of March 9, 2004, stated that "... Opposer has not met its burden of establishing that no genuine issue of material fact exists as to any of the grounds on which it bases its motion for summary judgment." The Board stated at page 6 in a footnote, "We note that opposer's grounds for its summary judgment motion that applicant is not the owner of the involved mark and that applicant has failed to disclose the nature of its relationship with Viacom, Inc., as well as all of opposer's grounds related to applicant's use of the mark are unpleaded and that applicant has objected on that basis. See TBMP Section 528.07. Accordingly, opposer may not obtain summary judgment on any of those grounds." The Opposer has filed with this pleading an Amended Notice of Opposition, curing the Applicant's objection to Opposer's grounds that relate to the nature of Applicant's relationship with Viacom, and all of Opposer's grounds related to Applicant's use of the mark. Consequently, the Opposer should be entitled to having the Board compel the said deponents to appear at their discovery depositions.

WHEREFORE, the Opposer prays that the Board grant its Motion to Compel.

By: Leo Stoller

Leo Stoller  
CENTRAL MFG. CO., Opposer  
Trademark & Licensing Dept.  
P.O. Box 35189  
Chicago, Illinois 60707-0189  
773-283-3880 FAX 708 453-0083

Date: April 8, 2004

**Certificate of Service**

I hereby certify that this *Motion to Compel* is being deposited with the U.S. Postal Service by **Express Mail**  
No: ER 854975740 US in an express mail envelope addressed to:

Lacy H. Koonce  
Lance Koonce  
DAVIS WRIGHT TREMAINE LLP  
1633 Broadway  
New York, NY 10019-6708



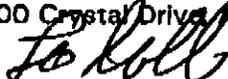
\_\_\_\_\_  
Leo Stoller

Date: April 8, 2004

**Certificate of Mailing**

I hereby certify that the foregoing *Motion to Compel* is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

TTAB/NO FEE  
Assistant Commissioner of Patents and Trademarks  
2900 Crystal Drive, Arlington, Virginia 22202-3513



\_\_\_\_\_  
Leo Stoller

Date: April 8, 2004

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**\*\* Fax Report \*\***

Date : Apr 02,04 12:39  
Location : 12124898340  
Pages : 07  
Result : OK

**EXHIBIT A**

# **HYPERSONIC**

*HYPERSONIC BRAND PRODUCTS AND SERVICES* SINCE 1981

Post Office Box 35189

Chicago, Illinois 60707-0189

VOICE 773/283-3880 • FAX 708/453-0083 • WEB PAGE: [www.rentamark.com](http://www.rentamark.com)

**VIA FAX & MAIL**

Lance Koonce  
DAVIS WRIGHT TREMAINE LLP.  
1633 Broadway  
New York, NY 10019-6708

**Re: Central Mfg. Co. v. Paramount Parks, Inc., Opp. No. 91123765  
Notices of Deposition**

Dear Mr. Koonce:

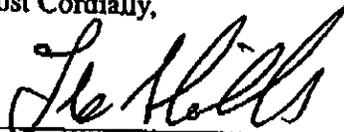
I will agree to an amendment of the standard protective order which includes the following provision:

"Persons obtaining access to stamped confidential documents under this order shall use the information only for preparation and trial of the instant TTAB proceeding, Opposition No. 91123765 (including appeals and retrials), and shall not use such information for any other purpose, including business, governmental, commercial, administrative, or judicial proceedings."

I received your Notice of Deposition scheduled for April 20, 2004, to take place in Chicago. I am not available on that date and I would suggest that the deposition be taken on April 21, 2004 in your offices, commencing at 8:00 a.m., New York time. I am also noticing the depositions of Mel Karmazin, Sumner M. Redstone and Richard J. Bressler. This way, we can take care of all the depositions on April 21, 2004, in your offices.

Please advise by return fax if the Applicant will produce its witnesses pursuant to Opposer's notices for April 21, 2004.

Most Cordially,

  
Leo Stoller, President

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**IN THE UNITED PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

CENTRAL MFG. CO.  
(a Delaware Corporation)  
P O Box 35189  
Chicago, IL 60707-0189

Opposition No: 123,765

Opposer,

Trademark: HYPERSONIC

vs.

PARAMOUNT PARKS, INC.  
8720 Red Oak Blvd.  
Charlotte, NC 28217

Applicant

Box TTAB/NO FEE

**NOTICE OF DEPOSITION**

Please take Notice that Opposer will take the deposition upon oral examination, of the President of VIACOM, INC., Mel Karmazin, before a Notary Public or other office authorized by law to administer oaths. The deposition will be held at the offices of *Davis Wright Tremaine, LLP, 1633 Broadway, New York, New York, 10019* on **April 21, 2004** commencing at **11:00 a.m.**, or such other date, time and place as mutually agreed upon by counsel. The testimony will be stenographically recorded. You are invited to attend and cross-examine.

By: \_\_\_\_\_



Leo Stoller  
CENTRAL MFG. CO., Opposer  
Trademark & Licensing Dept.  
P.O. Box 35189  
Chicago, Illinois 60707-0189  
773-283-3880 FAX 708 453-0083

Date: April 2, 2004

**Certificate of Service**

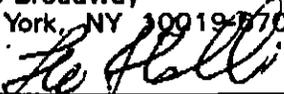
I hereby certify that this *Notice of Deposition* is being deposited with the U.S. Postal Service by first class mail in an envelope addressed to:

\_\_\_\_\_  
Leo Stoller  
Date: April 2, 2004

**Certificate of Service**

I hereby certify that this *Notice of Deposition* is being deposited with the U.S. Postal Service by **Express Mail** No: **ER 854976740 US** in an express mail envelope addressed to:

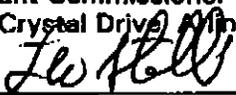
Lacy H. Koonce  
Lance Koonce  
DAVIS WRIGHT TREMAINE LLP.  
1633 Broadway  
New York, NY 10019-8708

  
\_\_\_\_\_  
Leo Stoller  
Date: April 8, 2004

**Certificate of Mailing**

I hereby certify that the foregoing *Notice of Deposition* is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

TTAB/NO FEE  
Assistant Commissioner of Patents and Trademarks  
2900 Crystal Drive, Arlington, Virginia 22202-3513

  
\_\_\_\_\_  
Leo Stoller  
Date: 4-8-04

D:\MARKS32\PARAM.DEP

**IN THE UNITED PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

**CENTRAL MFG. CO.**  
(a Delaware Corporation)  
P O Box 35189  
Chicago, IL 60707-0189

Opposition No: 123,765

Opposer,

Trademark: **HYPERSONIC**

vs.

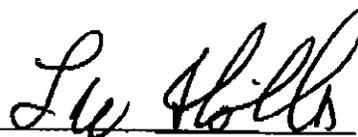
**PARAMOUNT PARKS, INC.**  
8720 Red Oak Blvd.  
Charlotte, NC 28217

Applicant

Box TTAB/NO FEE

**NOTICE OF DEPOSITION**

Please take Notice that Opposer will take the deposition upon oral examination, of the Chairman of VIACOM, INC., **Sumner M. Redstone**, before a Notary Public or other office authorized by law to administer oaths. The deposition will be held at the offices of *Davis Wright Tremaine, LLP, 1633 Broadway, New York, New York, 10019* on **April 21, 2004** commencing at **2:00 p.m.**, or such other date, time and place as mutually agreed upon by counsel. The testimony will be stenographically recorded. You are invited to attend and cross-examine.

By: 

**Leo Stoller**  
**CENTRAL MFG. CO., Opposer**  
**Trademark & Licensing Dept.**  
**P.O. Box 35189**  
**Chicago, Illinois 60707-0189**  
**773-283-3880 FAX 708 453-0083**

Date: April 2, 2004

**Certificate of Service**

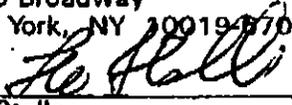
I hereby certify that this *Notice of Deposition* is being deposited with the U.S. Postal Service by first class mail in an envelope addressed to:

\_\_\_\_\_  
Leo Stoller  
Date: April 2, 2004

**Certificate of Service**

I hereby certify that this *Notice of Deposition* is being deposited with the U.S. Postal Service by **Express Mail No: ER 854975740 US** in an express mail envelope addressed to:

Lacy H. Koonce  
Lance Koonce  
DAVIS WRIGHT TREMAINE LLP.  
1633 Broadway  
New York, NY 10019-3708

  
\_\_\_\_\_  
Leo Stoller  
Date: April 8, 2004

**Certificate of Mailing**

I hereby certify that the foregoing *Notice of Deposition* is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

TTAB/NO FEE  
Assistant Commissioner of Patents and Trademarks  
2900 Crystal Drive, Arlington, Virginia 22202-3513

  
\_\_\_\_\_  
Leo Stoller  
Date: 4-8-04

D:\MARKS32\PARAM.DEP

**IN THE UNITED PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

CENTRAL MFG. CO.  
(a Delaware Corporation)  
P O Box 35189  
Chicago, IL 60707-0189

Opposition No: 123,765

Opposer,

Trademark: HYPERSONIC

vs.

PARAMOUNT PARKS, INC.  
8720 Red Oak Blvd.  
Charlotte, NC 28217

Applicant

Box TTAB/NO FEE

**NOTICE OF DEPOSITION**

Please take Notice that Opposer will take the deposition upon oral examination, of the Chief Financial Officer of VIACOM, INC., **Richard J. Bressler**, before a Notary Public or other office authorized by law to administer oaths. The deposition will be held at the offices of *Davis Wright Tremaine, LLP, 1633 Broadway, New York, New York, 10019* on **April 21, 2004** commencing at **4:00 p.m.**, or such other date, time and place as mutually agreed upon by counsel. The testimony will be stenographically recorded. You are invited to attend and cross-examine.

By: 

Leo Stoller  
CENTRAL MFG. CO., Opposer  
Trademark & Licensing Dept.  
P.O. Box 35189  
Chicago, Illinois 60707-0189  
773-283-3880 FAX 708 453-0083

Date: April 2, 2004

**Certificate of Service**

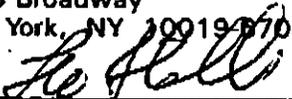
I hereby certify that this *Notice of Deposition* is being deposited with the U.S. Postal Service by first class mail in an envelope addressed to:

\_\_\_\_\_  
Leo Stoller  
Date: April 2, 2004

**Certificate of Service**

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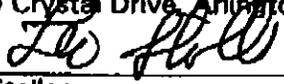
Lacy H. Koonce  
Lance Koonce  
DAVIS WRIGHT TREMAINE LLP.  
1633 Broadway  
New York, NY 10019-8708

  
\_\_\_\_\_  
Leo Stoller  
Date: April 8, 2004

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I hereby certify that the foregoing *Notice of Deposition* is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

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Assistant Commissioner of Patents and Trademarks  
2900 Crystal Drive, Arlington, Virginia 22202-3513

  
\_\_\_\_\_  
Leo Stoller  
Date: 4-8-04

D:\MARKS32\PARAM.DEP

**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**

-----X

<b>Central Mfg. Co.,</b>	:	
<b>Opposer,</b>	:	<b>Opposition No. 123,765</b>
<b>-against-</b>	:	
<b>Paramount Parks Inc.,</b>	:	
<b>Applicant.</b>	:	

-----X

**OBJECTIONS TO NOTICES OF DEPOSITION**

Applicant Paramount Parks, Inc., by its undersigned attorneys, objects to the Notices of Deposition of Mel Karmazin, Sumner Redstone and Richard Bressler, each dated April 2, 2004 and propounded by Opposer Central Mfg. Co. (collectively, the "Notices"), as follows:

1. The Notices were improperly served, as they were not served by Express Mail as required by the Order of the Trademark Trial and Appeal Board dated March 9, 2004.
2. The individuals noticed are not employees of Applicant.
3. The individuals noticed do not have knowledge relevant to the claim or defense of any party in this proceeding, and the depositions

**EXHIBIT B**

noticed by Opposer are not reasonably calculated to lead to the discovery of admissible evidence, but propounded solely for tactical advantage.

Dated: New York, New York  
April 2, 2004

DAVIS WRIGHT TREMAINE LLP

By:   
Lacy H. Koonce, III (LHK-8784)  
1633 Broadway  
New York, New York 10019  
(212) 603-6467

Attorneys for Applicant Paramount  
Parks, Inc.

TO:

Leo Stoller  
Central Manufacturing Co.  
P.O. Box 35189  
Chicago, IL 60707-0189

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
: ss.:  
COUNTY OF NEW YORK )

I, LORETTA E. PERRY, being sworn, say: I am not a party to the action, am over 18 years of age and reside in Kings County.

On April 2, 2004 I served the within OBJECTIONS TO NOTICES OF DEPOSITION by depositing a true and complete copy of same enclosed in a pre-paid United States Postal Service Express Mail Next Day Delivery Service wrapper in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to:

Leo Stoller  
Hypersonic Brand Products and Services  
And Central Manufacturing Co.  
P.O. Box 35189  
Chicago, IL 60707-0189

*Loretta E. Perry*  
LORETTA E. PERRY

Sworn to before me this  
2<sup>ND</sup> day of April, 2004

*Lacy H. Koonce III*  
Notary Public

LACY H. KOONCE III  
NOTARY PUBLIC, State of New York  
No. 02306029663  
Qualified in New York County  
Commission Expires August 23, 2007 5

LAWYERS



## Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

Lance Koonce  
Direct Dial: (212) 603-6467  
[lancekoonce@dwt.com](mailto:lancekoonce@dwt.com)

1633 BROADWAY  
NEW YORK, NY 10019-6708

TEL (212) 489-8230  
FAX (212) 489-8340  
[www.dwt.com](http://www.dwt.com)

April 5, 2004

### VIA EXPRESS MAIL

Mr. Leo Stoller  
Hypersonic Brand Products and Services  
and Central Manufacturing Co.  
P.O. Box 35189  
Chicago, IL 60707-0189

**Re: Central Mfg. Co. v. Paramount Parks Inc.,  
Trademark Trial and Appeal Board Opposition No. 91123765**

Dear Mr. Stoller:

This is to confirm the substance of our telephone conversation this afternoon. We have agreed that you will make available to us for inspection and copying those of Opposer's documents that are responsive to Applicant's document requests on Wednesday, April 14, 2004 at your offices in Chicago. I plan to arrive no later than 10:00 a.m. to inspect those documents.

You have agreed to endeavor to produce a copy set of relevant documents to us in New York on or before April 13, 2004, in light of the fact that, as a courtesy, we earlier produced documents responsive to Opposer's requests to you in Chicago. If you indeed produce documents to us on or before April 13, and if that production appears sufficiently responsive to Applicant's requests, we may cancel our trip to Chicago to review documents on-site. However, nothing herein shall constitute a waiver of Applicant's right to inspect and copy documents on-site should any production by Opposer be incomplete or otherwise insufficient.

You stated in our telephone conversation that in light of Applicant's objections to the depositions of Sumner Redstone, Mel Karmazin and Richard Bressler, you will not travel to New York for your deposition. Instead, the parties have agreed that Applicant will take your deposition on April 20, 2004 in Chicago, at the location originally specified in the Notice of Deposition served recently on Opposer (the offices of Joseph, Lichtenstein & Levinson, 134

### EXHIBIT C

144082v1 53212-6

Leo Stoller  
April 5, 2004  
Page 2

North LaSalle Street, Chicago, Illinois 60602). We agree to begin the deposition at 10:00 a.m.,  
per your request.



Very Truly Yours,

*Lance Koonce*  
Lance Koonce

LK/lp  
Mallory D. Levitt, Esq.

d