

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 76/103,448  
Published In The Official Gazette of May 22, 2001  
and April 24, 2001, Respectively

Mark: HYPERSONIC

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

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**BOX TTAB  
NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513**

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07-09-2004  
U.S. Patent & TMOtc/TM Mail Rcpt Dt. #22

**Applicant's Memorandum in Opposition to  
Opposer's Second Summary Judgment Motion**

Applicant Paramount Parks Inc. ("Paramount") submits this memorandum of law in opposition to Opposer Central Mfg. Co.'s ("Central") second motion for summary judgment, filed June 7, 2004, and its seventh motion in the past three months.

On March 9, 2004, the Board denied Opposer's motion for summary judgment filed on October 15, 2002. Since then, Opposer has filed: (1) a motion for reconsideration of the Board's March 9, 2004 Order (pending); (2) a motion to amend its Notice of Opposition

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(pending); (3) a motion to compel depositions of key officers of Paramount's parent company (denied by the interlocutory attorney); (4) a motion to withdraw its motion to compel based on a misrepresentation of Paramount's objections (denied by the interlocutory attorney); (5) an "objection" to Paramount's request to have Opposer's motion to compel decided by telephonic conference (denied by the interlocutory attorney); (6) a motion to extend the discovery deadline based on a health condition suffered by Opposer's principal, Leo Stoller (subsequently withdrawn<sup>1</sup>); and (7) the instant summary judgment motion.

During this same time period, Paramount endeavored to keep discovery on track and to conclude discovery by the June 11, 2004 deadline set by the Board (the discovery period in this proceeding opened on September 27, 2001, but has been suspended on several occasions by potentially dispositive motions filed by Central). As set forth in the accompanying declaration of Lacy H. Koonce, III, Paramount now has taken the deposition of Mr. Stoller and, at the same time and place, took the deposition of a third-party fact witness, Raymond Weber. Koonce Aff't, ¶ 3. After numerous demands by Paramount, Central finally produced approximately 165 pages of documents in response to Paramount's document requests, served November 5, 2001, of which 155 pages consist of a purported "customer list". *Id.*

Central still has not responded to numerous demands for documents and information made at Mr. Stoller's deposition, despite repeated requests therefor. Koonce Aff't, ¶ 6. Paramount also has requested that Central supplement its written responses to interrogatories

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<sup>1</sup> Opposer asked Paramount to stipulate to an extension of time, stating that Mr. Stoller had suffered a minor heart attack and thus Central could not respond to outstanding discovery requests within the required time period. Paramount agreed to such an extension but – given the long delay in concluding discovery in this proceeding and the numerous outstanding requests for discovery made of Opposer – asked that Opposer provide a statement as to Mr. Stoller's medical condition that could be annexed to the stipulation. Upon receiving this request, Opposer instead filed a motion for an extension of time and (mis)represented to the Board that Paramount had refused to agree to an extension. Opposer then proceeded to

because of clear deficiencies therein, but Central has refused to do so. *Id.*, ¶ 7. Paramount, by contrast, has produced over 2000 pages of documents as part of a supplemental document discovery in view of its ongoing discovery obligations, in addition to the voluminous documents it produced in the fall of 2001. Paramount has also produced confidential documents previously withheld, in light of the protective order imposed by the Board. *Id.*, ¶¶ 3-4.

Now, on an incomplete evidentiary record, Central moves yet again for summary judgment and to dismiss Paramount's counterclaim for abandonment on what it terms "numerous grounds", but it argues only that Paramount's mark is confusingly similar to Central's mark; that Central has priority of use and continuous use on similar, competitive and related goods; and that there has been a single instance of alleged actual confusion. The entirety of Central's evidence consists of wholly unspecified portions of the deposition transcripts of Leo Stoller and Raymond Weber (a close friend of Stoller) along with: a "Hypersonic Brand Sales and Advertising Report" containing alleged sales figures for which Central admittedly has no backup or further substantiation; a list of businesses to which Central allegedly markets its products but for which it has no proof of such marketing whatsoever; and Hypersonic catalog and sales quote sheets with no backup or proof that they have ever been used for any purpose. *See Opp. Memo*, pp. 3-4.

In denying Opposer's earlier summary judgment motion, the Board stated:

In view of the facts that (1) applicant has filed a counterclaim to cancel opposer's pleaded registration based on a claim of abandonment and (2) there are no documents in support of opposer's motion for summary judgment establishing that opposer has ever used its pleaded HYPERSONIC mark in commerce, a genuine issue of material fact exists as to whether opposer has standing to maintain this proceeding. In addition, at minimum, genuine issues exist as to whether the goods at issue are related in a

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draft and file the instant summary judgment motion, in which it purports to withdraw its request for an extension of the discovery period, without explanation. *See Koonce Aff'l*, ¶¶ 8-9.

manner that would cause prospective purchasers to have a mistaken belief that they come from the same source, and as to whether applicant's intended use of the mark on the goods would constitute use in commerce.

Order of March 9, 2004, pp. 6-7. The Board noted further that “[t]he fact that we have identified only a few genuine issues of material fact as sufficient bases for denying the motion for summary judgment should not be construed as a finding that these are necessarily the only issues that remain for trial.” *Id.* at 7 n.9. Opposer has provided no documentary proof that it has used the HYPERSONIC mark, and the unsupported deposition testimony of Stoller is insufficient to carry Opposer’s burden for summary judgment purposes. Paramount’s independent investigation of Opposer’s claim that it uses the HYPERSONIC mark has revealed no such use. Opposer also has failed to point to any evidence supporting the other allegations of its Opposition, such as likelihood of confusion, and in particular whether the goods are related in such a way that prospective purchasers would believe that they come from the same source. We address the Opposer’s failure to meet its burden of proof on this motion in brief below.

#### **ARGUMENT**

On a motion for summary judgment, it is the movant’s burden to demonstrate the absence of a genuine issue of material fact as to any of the necessary elements of movant’s claim. *Cincinnati Ins. Co. v. Flanders Elec. Motor Serv., Inc.*, 40 F.3d 146, 150 (7<sup>th</sup> Cir. 1995). Summary judgment is improper where the evidence is such that a reasonable finder of fact could return a verdict for the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Further, “the evidence must be viewed in a light most favorable to the non-movant, and all justifiable inferences are to be drawn in the non-movant’s favor.” *Lloyd’s Food Products Inc.*

*v. Eli's Inc.*, 987 F.2d 766 (Fed. Cir. 1993). In this case, Central bears the burden of showing that there are no issues of fact precluding summary judgment on its claims of priority of use and likelihood of confusion. It also bears the burden of demonstrating that there is no factual basis for Paramount's counterclaim for cancellation (that is, that based on the record evidence, Paramount cannot prove that Central has abandoned its HYPERSONIC mark). See *Celotex Corp. v. Catrett*, 477 U.S. 317, 323(1986) (movant entitled to judgment as a matter of law because "nonmoving party has failed to make a sufficient showing on an essential element of [its] case with respect to which [it]has the burden of proof."). Contrary to Central's assertion that its purported evidence of use of the HYPERSONIC mark is "unrefuted", there are disputed issues of fact with respect to each and every element of Central's claims of priority and continuity of use, and with respect to Paramount's counterclaim for cancellation by reason of abandonment.

Central's evidence of use of the HYPERSONIC trademark is wholly illusory. The only shreds of evidence of use consist of self-serving and unsubstantiated statements by Central's president, Leo Stoller, and a personal friend of Stoller, Raymond Weber, who also claims to be an occasional customer of Central. Weber Tr., pp. 25-26, 39. Even if Weber were a credible witness – which he is not – his testimony of a handful of purchases of supposed Hypersonic products within the state of Illinois does not prove use of the mark in interstate commerce sufficient to justify summary judgment in Central's favor. Central's evidence of likelihood of confusion fares no better, as the only factor that remotely favors Central is the fact that the marks themselves are identical – but the record evidence demonstrates that they are not used on similar products (either as used, or as described in their respective application or registration) and are not sold in similar trade channels. Moreover, Central's mark is not famous, there are a number of

identical marks on the Register in the marketplace, and there is no substantiated evidence of actual confusion. Finally, the same dearth of evidence of use of the HYPERSONIC mark by Central precludes summary judgment on Paramount's counterclaim for cancellation, as there is a clear issue of fact as to whether Central has discontinued use of its mark (indeed, if it ever made any use in the first instance).

A case involving one of Leo Stoller's other companies (S Industries) and another trademark (STEALTH) is on point. In *S Industries Inc. v. Stone Age Equipment Inc.*, 49 U.S.P.Q.2d 1071 (N.D. Ill. 1998), the Court analyzed cross-motions for summary judgment on the issues of seniority of use and likelihood of confusion. S Industries presented the following evidence of use: (1) Stoller's "unsupported assertions" that his companies began using the mark in 1984 or 1985; (2) 1986 invoices for sales of shoes which did not indicate what mark the shoes bore; (3) an internal strategy memorandum discussing expanding the STEALTH mark to other products (not mentioning shoes); (4) a 1988 catalog showing two "Stealth" shoes where the font of the STEALTH label was misaligned; (5) "inter-Stoller-company license agreements"; (6) "two affidavits from former Stoller company customers – both of whom surface in other S Industries trademark infringement lawsuits – stating in a conclusory manner that they purchased 'STEALTH brand' shoes"; (7) proof furnished to a potential licensor purportedly showing use of STEALTH on shoes (including an invoice for sale of an unbranded shoe, and copies of catalog pages); (8) a license agreement with a third party (Puma); (9) evidence relating to Puma's planned marketing of a "PUMA Stealth" shoe; (10) a cease and desist letter to defendant; and (11) three third-party licensing agreements. *Id.*, at 1079-80. Addressing this evidence, the Court stated that the record "demonstrates a striking absence of proof supporting these claims – most notably, SI's failure to

produce any evidence permitting a reasonable jury to find that a STEALTH shoe ever existed, much less reached the public – frequent misrepresentations of the evidence and unsupported legal arguments.” *Id.*, at 1073.

The evidence presented by Central on the instant motion falls far short even of the meager proof presented by S Industries in the above case (and certain categories of evidence are remarkably similar thereto). In the *S Industries* case, the Court held that “[n]one of these items would permit a reasonable jury to find that the Stoller companies or their licensees made continuous, bona fide commercial use of the STEALTH mark on athletic shoes or boots prior to [defendant]’s use.” *Id.*, at 1080. The Court’s analysis with respect to certain of the evidence is instructive, and will be discussed where relevant below in connection with the record evidence in this proceeding.

Before turning to the evidence, it is worth noting as a general matter what evidence has *not* been proffered, and why. Paramount remains unaware of any actual use of Central’s mark, despite due investigation (including a telephonic survey of some of Central’s alleged customers, as discussed below). Koonce Aff’t, ¶¶ 15-16. Without question, evidence as to Central’s use of the HYPERSONIC mark, if any, would be within Central’s possession and control. Yet rather than providing purchase orders, invoices, ledgers, or the like which Paramount might cross-examine to determine whether Central’s claims of use of its mark are valid, Central has produced “evidence” almost entirely in the form of deposition testimony and undated computer print-outs that cannot be independently verified. Central simply cannot refuse to produce evidence substantiating its testimony and then assert that because it has testified as to its use, there are no issues of fact on point. As the Court noted in *S Industries Inc. v. Stone Age*

*Equipment Inc., supra*, in granting summary judgment against S Industries:

It is apparent that Stoller's declaration is merely a self-serving document without factual support in the record; as such, it cannot create a fact issue to withstand summary judgment. . . . Stoller's deposition testimony likewise fails to create an issue of fact as to prior use because it is internally inconsistent, flatly contradicted by documentary and physical evidence, and uncorroborated. Stoller insisted at his deposition that his companies have been selling shoes with the STEALTH mark since 1984. He could not locate any documents to support this . . . .

In light of this evidence, we cannot parse anything together from Stoller's testimony that does more than suggest 'some metaphysical doubt as to the material facts' . . . as opposed to creating a genuine issue of fact for a jury. Stoller's deposition testimony is thus no more probative than his conclusory, self-serving declaration, and cannot defeat summary judgment [for defendant].

49 U.S.P.Q.2d at 1082 (citations omitted). At a bare minimum, Paramount is entitled to have the finder of fact determine the credibility of the unsubstantiated testimony in light of Central's claims of extensive, continuous and profitable use of the HYPERSONIC mark.

Beginning with documentary proof, Central points to exhibits annexed to the depositions of Leo Stoller and Raymond Weber, some of which were not produced in discovery. Koonce Aff't, ¶ 10. The first of these exhibits is a "Sales & Advertising Report", which purportedly shows total sales and advertising costs for products sold under the HYPERSONIC mark from 1988 to 2003; the aggregate sales for that period are listed as over \$385,000, and the aggregate advertising costs are listed as over \$55,000.<sup>2</sup> Stoller Tr., Ex. 1. This single-page document is the *only* piece of evidence proffered by Central with respect to its revenues and advertising expenditures; Central has not produced any backup for the numbers in this summary

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<sup>2</sup> This exhibit and certain other of the documents produced by Central in discovery were designated as "Confidential" pursuant to the protective order in this proceeding; however, Central submitted all of the exhibits to the Stoller and Weber depositions in support of its summary judgment motion and did not file them under seal, and thus references to

report, despite requests from Paramount for such backup (Koonce Decl, ¶ 11), and has admitted that it has no such information in its possession (Stoller Tr. pp. 40-41). Central also has not produced any corporate tax returns.<sup>3</sup> *Id.*, pp. 30-32.

When questioned about the Sales & Advertising Report, Central's president, Stoller first testified that his father prepared the report but has since passed away; however, although his father passed away in November 2003, the "Sales & Advertising Report" shows sales for the entirety of 2003, suggesting it was prepared in 2004.<sup>4</sup> *Id.*, pp. 33-36. Stoller also testified that he does not know how the report was prepared or what underlying information was consulted in preparing it, and that the underlying information is unavailable because all purchase orders generated even after his father's death have continued to be sent to his father's house, and he has not made any effort to have the mail forwarded to him. *Id.* That a business allegedly producing this amount of annual revenue retains no records of sales other than in the aggregate is legally suspect, to say nothing of the fact that its cavalier attitude towards document retention has continued *after* the initiation of the pending opposition proceeding in which its continuing use of the mark is a crucial factor.

In fact, time and again, when asked about business records, Stoller indicated that Central does not have any in its possession, *including records for sales, advertising and other alleged uses of the mark that Stoller testified have occurred during the three years since this*

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those exhibits are not redacted in this memorandum.

<sup>3</sup> Stoller also admitted at his deposition that Central does not charge a sales tax on its sales. Stoller Tr., pp. 55, 105.

<sup>4</sup> Notably, in *S Industries Inc. v. Stone Age Equipment Inc.*, *supra*, when faced with plaintiff's failure to produce shoe specimens, corroborative documents or the last names of its employees the Court stated: "Stoller's excuse is that his father and brother ousted him from the business between 1990-1994, during which time he had no access to the documents that allegedly support his testimony. He testified that by the time he regained control, his brother and father had disposed of the documents. . . . Although the record supports his removal from control, it is no excuse for the lack of proof. Stoller brought the lawsuit; he has the burden of locating and turning over adequate proof to sustain it." 49 U.S.P.Q.2d at 1082 n.22. Here, where Stoller's father was working for Central, all records in his possession have been

*opposition was commenced.* Indeed, Central did not retain those records even in light of Paramount's document requests served on Central in the fall of 2001, which specifically called for the production of such records. Koonce Aff't, ¶ 3. Incredibly, when asked why Central has not retained its records, Stoller's excuse was that he has filed over 50 TTAB oppositions since the instant proceeding was filed:

- Q And when did you commence this opposition?  
A This was commenced in – well, I'll see – in August 16, 2001.  
Q It was actually commenced earlier than that, but that's when you filed the Notice of Opposition?  
A That's the Notice of Opposition.  
Q And didn't you think it was important to retain whatever proof you had, if any, with respect to use or licensing of this mark given the fact that you were going to file an opposition against someone else's use of the mark which you claim is confusing?  
A I do. I think it was very important. Unfortunately, what's this, 2004, five years have gone by and a lot of things have happened. I filed maybe 200 oppositions since that time and that particular file is, you know –  
Q You filed 200 oppositions since the time you filed this opposition?  
A Well, maybe not 200, but maybe about more like 50.

Stoller Tr., pp. 114-15. This failure to retain such documents – assuming the documents ever existed – would be a flagrant violation of Central's discovery obligations, which severely prejudices Paramount by making it impossible to evaluate Central's purported use of the HYPERSONIC mark. *See Supreme Oil Company v. Lico Brands, Inc.*, 39 U.S.P.Q.2D (BNA) 1695, (T.T.A.B. 1996) (imposing sanctions for willful destruction of evidence, the Board noted that “[b]y destroying virtually all documentation of petitioner's use of its . . . mark prior to 1993, petitioner has effectively precluded respondent from challenging petitioner's claim of prior use.

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under Central's control and accessible at all times, which Stoller concedes. Stoller Tr., pp. 98-99.

That is, petitioner's action of destroying its records deprives respondent of its right to evaluate the evidence.”) In light of Central’s spoliation of critical evidence, the Board is entitled to draw every adverse inference against Central. *See Felice v. Long Island R.R. Co.*, 426 F.2d 192 (2d Cir. 1970).

Despite the fact that he is involved in “every aspect” of Central’s business (Stoller Tr., pp.38-39), Stoller testified that he has no personal knowledge whatsoever of his company’s sales or advertising expenditures (*Id.*, pp. 33-42). With respect to sales of goods, he also was unable to testify as to the underlying cost of the goods sold, the names of all of the manufacturers who provided the goods which Central re-brands with its trademark, or even the most recent annual volume of goods purchased from the manufacturers whose names he could remember (*Id.*, pp. 23-33). Although he stated that Central generates purchase orders for the goods it buys from such manufacturers, Central has not produced any purchase orders. *Id.*, pp 25-28. He also stated that he has not been able to locate any invoices for the alleged sales of Hypersonic products.<sup>5</sup> *Id.*, pp. 100-01. Stoller testified that Central’s sales are principally by mail order (*Id.*, pp. 106-07), and that Central occasionally gets product returns (*Id.*, pp. 117-18), but Central has not produced any UPS, FedEx or other mail receipts, nor any records of returns (*Id.*, p.116). Stoller testified that customers can use Mastercard and Visa to pay for purchases, but that Central has no records of any credit card sales. *Id.*, p. 132.

With respect to Stoller’s friend Raymond Weber, Weber conveniently testified to

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<sup>5</sup> In *S Industries Inc. v. Stone Age Equipment Inc.*, *supra*, S Industries produced invoices, but the Court found that they were insufficient as evidence of use because they contained no indication that the shoes were branded with the STEALTH mark; the Court further noted that even if the invoices contained such a reference, they would not constitute use because invoices standing alone “cannot demonstrate trademark use.” 49 U.S.P.Q2d at 1081 (citations omitted).

both past purchases of HYPERSONIC products from Central, and to his purported “confusion”<sup>6</sup> when he came across a mention of Paramount’s Hypersonic roller coaster on the Internet.<sup>7</sup> Weber Tr., pp. 1-22. Just like Stoller, Weber could not point to any documentary proof of his alleged purchases, and professed to no longer have the items themselves in his possession, or to not be sure of where they are now located. *Id.*, pp. 27, 29, 32. Weber also conceded that he had testified on Stoller’s behalf in two prior proceedings, with respect to different marks. *Id.*, pp. 34-35. Given his relationship with Stoller and his prior testimony, Weber’s deposition testimony must be given little credence. *See S Industries Inc. v. Stone Age Equipment Inc.*, 49 U.S.P.Q.2d at 1083-84 (noting almost identical infirmities in the testimony of two witnesses for Stoller). Just as in the *S Industries* case, even if Weber’s testimony were credible, it would not establish trademark use by Central, because the sales were de minimus. 49 U.S.P.Q.2d at 1083. Here, those sales are even less relevant, because they all occurred within the state of Illinois, and thus do not constitute a use in interstate commerce.

Stoller was also unable to state Central’s profits in 2003 (Stoller Tr. p. 54), or its profits on sale of products bearing the HYPERSONIC mark in any year (*Id.*, pp.54-55). Nor could he recall what dollar volume of HYPERSONIC goods Central had on hand in its purported

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<sup>6</sup> Stoller also testified as to several telephone calls he received in which the caller allegedly expressed confusion as to the HYPERSONIC mark; in typical fashion, Stoller did not retain any notes of such calls. Stoller Tr., pp. 148-49. Not only is such evidence inadmissible hearsay, *see S Industries Inc. v. Stone Age Equipment Inc.*, 49 U.S.P.Q.2d at 1089-90, it is inherently unbelievable: Stoller claims that these unidentified callers “were requesting information as to where the park was, where this roller coaster was. They were -- the contents of the conversation was if they could buy Hypersonic sports goods -- sporting goods, if they were also sold at the park.” Stoller Tr., p. 148. Stoller also could not place the calls in time, stating that Central first became aware of Paramount’s mark because of these calls and then, when shown a conflicting statement in the Notice of Opposition, recanting his earlier testimony. *Id.*, pp. 15-52.

<sup>7</sup> Even if his testimony were believable, Weber’s alleged confusion cannot constitute “actual confusion” with the marks that are subject of this Opposition because the Internet article contained only a reference to Paramount’s theme park and roller coaster, not to Paramount’s souvenir products sold under the HYPERSONIC mark. Paramount does have a registered design mark No. 76138159 for “Entertainment Services, Namely, an Amusement Park Ride and Attraction” – a mark that Central has not challenged – but the two word marks challenged in this Opposition are in different International Classes altogether, and are used in connection with the souvenir goods.

retail store<sup>8</sup> (*Id.*, pp. 62-63). He testified that Central sold 10,000 HYPERSONIC T-Shirts beginning in the 1980s and continuing through 2002, but Central has not produced any samples, and Stoller testified that he cannot locate any purchase orders or shipping records of such sales. *Id.*, p. 97. Stoller also testified that Central has sold HYPERSONIC hats, but again Central has not produced any evidence thereof, and his testimony on point is typical of his evasiveness with respect to Central's proof of sales and/or use generally:

Q Do you have any documentary evidence that reflects that you used the Hypersonic mark on hats?

A Yes, I do.

Q What --

A But I don't have it in my possession. I haven't been able to locate it. I have pictures of the hats.

Q When I ask you -- pictures of the hats?

A Yeah, the pictures of the hats.

Q Where are the pictures of the hats? Why weren't those produced in discovery?

A Because I didn't -- I didn't have any.

Q Where are they located?

A I can't -- I don't have any in my possession that I've been able to locate. I have thousands of -- not thousands, tens of thousands of documents. I've gone through those looking for them, and I haven't been able to find them. I will continue to investigate, and if I can find them, I will give them to you.

Q Pictures of people wearing the hats is not proof of sale of the hats.

A Well --

Q Do you have any documents that reflect the actual purchase of a hat bearing the Hypersonic mark? Not in a hang tag --

A Invoices, would that --

Q Yes. Do you have any invoices?

A I will attempt to find those invoices.

Q Where would those invoices be?

A They would have been in my father's house, but I will attempt to get them for you.

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<sup>8</sup> Stoller only supplied the address of this supposed retail store pursuant to the protective order, because he claimed he did not want anyone harassing his employees or coming to his store. Stoller Tr., p. 14. He also purported not to remember the last names of any of his employees. *Id.*, pp. 15-16.

*Id.*, pp. 99-100.

With respect to advertising, he testified that other than printing and distributing his sales quote sheets and catalog pages, Central has advertised in *World Tennis* magazine, but he could not recall the date, the amount paid, or the means of payment, and does not have any records of that advertisement. *Id.*, pp. 78-80. He also testified vaguely about purported co-op advertising, but again admitted that Central has no records of that alleged advertising. *Id.*, pp. 81-83.

The second piece of documentary proof that Central has produced is a series of catalog sheets and sales quote sheets for Hypersonic products. Weber Tr., Exs. 2-7. The sales quote sheets are blank forms with a list of "Hypersonic Sports Equipment" ranging from tennis rackets to pool tables; each form is identical except for copyright attribution lines at the bottom of each page reflecting different years, beginning with 1988 and continuing every two years through 2003. *Id.* The list of items, and the prices at which they are purportedly sold, has remained exactly the same since 1988. *Id.*; see Stoller Tr., pp. 59-60. The catalog sheets consist of a picture of various products, some with the word "HYPERSONIC" apparently superimposed upon the picture. See Weber Ex. 2 (golf ball picture); see also Stoller Tr. pp. 158-60 (inconsistent testimony about whether picture is of a golf ball where trademark affixed to the ball, or picture of a golf ball where trademark superimposed on picture). The Court in *S Industries Inc. v. Stone Age Equipment Inc.* examined similar catalog sheets, finding numerous inconsistencies and evidence of manipulation of the pictures and text, and noting that Stoller's "convoluted explanation . . . just barely saves Stoller from a finding that he submitted fabricated evidence in a federal court proceeding." 49 U.S.P.Q.2d at 1080-81. Regardless, the Court held that the single

catalog proffered was not evidence that the shoes “were the subject of continuous, bona fide commercial use,” in part because the existence of a catalog does not demonstrate that the products sold in that catalog entered the stream of commerce. *Id.*, at 1081.

Strikingly, Central has not produced any physical samples of any products listed on these catalog or quote sheets. Koonce Aff’t, ¶ 12. Nor has it produced any evidence demonstrating that these catalog and quote sheets have ever been sent to customers, other than the testimony of Stoller’s friend Raymond Weber that he received such sheets in Chicago, sent by Stoller from Chicago. Weber Tr., pp. 11-18. Central has not produced any copies of completed quote sheets, or purchase orders generated by the quote sheets. Stoller testified that he believes Central sells products other than the ones listed on the sales quote sheets, but could not remember what types of products (Stoller Tr. pp. 56-58), and could not produce documentary records thereof (*Id.*, pp. 58-59). Stoller testified that Central once “had some T-shirt catalog sheets that I looked for promoting the Hypersonic mark on T-shirts, catalog shirts”, but admitted that he has not been able to find any catalog sheets for those T-shirts. *Id.*, p. 97. Also included in each of the exhibits containing quote sheets and catalog sheets is a single blank order form for “HYPERSONIC Safety Goggles”. Weber Tr., Exs. 2-7. Stoller testified that Central has sold such goggles,<sup>9</sup> as well as binoculars and telescopes, but had no further proof of such sales. Stoller Tr., p. 127.

The third piece of purported documentary evidence proffered by Central is an alphabetical list of businesses with addresses in Wyoming, Kansas, North Dakota, South Dakota, Colorado, Montana, Minnesota, Wisconsin, Iowa, Nebraska, Missouri, Utah to which Central

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<sup>9</sup>In fact, Stoller testified that these goggles have been endorsed by two industry trade organizations, the American Sports Association and the US Hardware Industry Association. Stoller Tr., 127-29. The organizations, however, are merely

allegedly mailed promotional materials,. Stoller Tr., Ex. 2. Although originally calling it a list of “customers”, upon further questioning Stoller conceded it was merely a mailing list:

- Q [asked to identify document]
- A This is a list of customers of the Hypersonic brand, an account list.
- Q Is it your testimony that you have sold Hypersonic product to every customer on this list?
- A I believe so, yes, and also directed advertising --
- Q I didn't ask that question, Mr. Stoller. Please try to refrain and answer my questions. Is it your testimony that you have sold product branded Hypersonic to each and every company and/or individual listed on what has been marked on Plaintiff's Exhibit 2?
- A Plaintiff's Exhibit 2 is about – this is about five to seven thousand accounts and I can't actually, as I sit here, identify that each and every one has purchased. But what this list is is this is our customer list that we advertise to and many of which are actual customers of our Hypersonic brand products. But I cannot attest under oath that 7,000 names, each of which we've sold to, because I don't have a personal recollection of 7,000 individual purchasers.
- Q Do you have any documents in your possession which would reflect the sale of Hypersonic product to any one of whatever number of companies are listed in Stoller Exhibit 2?
- A I have pulled this off of my computer as my direct marketing promotional list, but I don't have any individual invoices in my possession.
- \* \* \* \* \*
- Q What did you go into in order to generate it?
- A I had a data bank of my customers for Hypersonic products.
- Q Customers?
- A Customers, yes.
- Q I thought you said before that it wasn't --
- A Customer list.
- Q -- it was a list of people to whom you sent advertising materials.
- A I characterized it as a customer list.
- Q Okay. Regardless of how you characterized it, you know, it is a list of people to whom you circulate promotional material, is that correct?

A Hypersonic advertising materials and we send -- I send that literature to, right.

Stoller Tr., pp. 43-46. Central has not produced any documentary evidence that any materials actually have been mailed to this list of businesses at any time, and thus the list cannot constitute evidence of trademark use.

Paramount has undertaken an independent investigation of Central's claim that the above list consists of business to which Central has marketed or sold its products. As set forth in the accompanying Koonce Affidavit, Paramount conducted an informal telephonic survey of a random sampling of 205 businesses listed on Central's purported customer (or mailing) list. Koonce Aff't, ¶ 15. Of those businesses, 81 appear to be either no longer in existence or are operating under a different name or address. *Id.*, ¶ 16. Of the remainder, 35 businesses were willing or available to be interviewed, and ***none of those businesses had ever heard of Central Mfg. Co. or its HYPERSONIC products, nor had they purchased or sold any such products.*** *Id.* While the sample universe was small, this informal survey suggests two things: First, Central's purported customer list cannot be current, because a large percentage (nearly 40% in the sample surveyed) no longer operate either under the same name or at the same address as listed; and second, even the businesses that still exist do not receive products, or even mailings, from Central.

Stoller's testimony does little if anything to bolster Central's three shreds of documentary evidence. Stoller testified that Central has entered into several license agreements with other companies, but once again, Central has not provided any copies of the purported licenses, and the testimony is wholly uncorroborated and highly questionable. *See S Industries Inc. v. Stone Age Equipment Inc.*, 49 U.S.P.Q.2d at 1082 (discounting written inter-company

licenses that referenced use of products in “attached catalog”, where no catalog attached). The first was a purported nonexclusive license to a company named STR (Stoller Tr., p. 110), which Stoller stated variously was either a 4- or 5-year license (*Id.*, p. 113) that generated \$10,000 per year in royalties to Central (*Id.*, pp. 113-14). Central has not produced a copy of that license, representative samples of products sold under that license, or records of the royalties (Koonce Aff’t, ¶ 17); Stoller stated that he does not “keep track” of royalties generated by his licensees (Stoller Tr., pp. 111, 113-14). What little information Paramount has been able to glean about STR indicates that this company is run by Stoller’s son, Mark. Koonce Aff’t, ¶ 17. Although Stoller claims that this license did not expire until 2002, Central did not bother to keep records, as discussed above, because Stoller has filed over 50 TTAB oppositions since that time. Stoller Tr., p. 115. Stoller initially testified that there were no other HYPERSONIC licenses (*Id.*, p. 123), but then later claimed another non-exclusive license with another company owned by Stoller, USA Sports Co. (*Id.*, p. 142-44). Paramount has requested a copy of this license as well, but it has not been produced. *Id.*, p. 142-44; Koonce Aff’t, ¶ 18. Later Stoller “remembered” two other “intercompany licenses between Central and Stealth Industries and Sentra Industries” (both Stoller companies); once again, despite Paramount’s request, Central has not provided a copy of those licenses. Stoller Tr., p. 145; Koonce Aff’t, ¶ 18.

Even assuming some use of this trademark, whether by Central or one of Stoller’s other companies under license, there is still conflicting evidence in the record as to Central’s standing to bring this Opposition, as noted by the Board in its decision on the earlier summary judgment motion:

We further note that the declaration in support of opposer's motion for summary judgment states that Leo Stoller, not opposer,

is the owner of the pleaded registration relied upon as a basis for the Section 2(d) claim. Such declaration also raises a genuine issue of material fact as to opposer's standing to maintain this proceeding. Although opposer contends that it has adequately pleaded its standing, an adequate pleading of one's standing does not establish that there are no disputed issues related to standing and that opposer is entitled to judgment as a matter of law.

Order of March 9, 2004, p. 7 n.8. Although Stoller has now submitted a conflicting declaration stating that he is president of Central, and that the Registrant is Central Mfg. Co. (*see also* Stoller Tr., pp. 89-91 (Stoller testifying that Central is the Opposer)), the declaration does not explain the different facts stated in Stoller's earlier declaration, and it is unclear which of Stoller's sworn statements is accurate.<sup>10</sup> Thus there are still disputed issues related to standing.

In addition to these open questions of standing and use, Opposer has not established that there is no material issue of fact on several other elements critical to Central's claim of likelihood of confusion. Central has presented no proof on its motion other than the descriptions in each party's respective registration or applications, an allegation of actual confusion based on unspecified portions of the Weber deposition, and an unsupported statement that "Opposer has unrebutted evidence which established that it used the mark HYPERSONIC on identical and/or closely related goods of the Applicant." Addressing the relevant factors from *In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 1361 (C.C.P. 1973), Paramount concedes that its marks and Central's mark are facially identical, as they consist of the word HYPERSONIC in typed form. However, even assuming Central has any use to support *any* rights in its mark, Central's rights would be very weak, because there is an "utter absence of evidence that the public associates this mark with a particular source." *S Industries Inc. v. Stone Age Equipment Inc.*, 49

U.S.P.Q.2d at 1088.

In terms of the similarity or relatedness of the parties' respective goods, channels of trade and classes of consumers, Central's proof fails entirely. Paramount's applications are in International Classes 16 and 25, for certain types of clothing and certain types of paper goods and printed matter, respectively. Central's mark is registered in International Class 28, for specified types of sports equipment. On their face, these goods are dissimilar and would not likely travel in the same trade channels or reach the same consumers. Paramount's actual use is limited to souvenir items sold at its Kings Dominion theme park in Virginia, to park visitors from Virginia and a number of neighboring states.<sup>11</sup> Koonce Aff't, Ex. A, ¶¶ 5-8,. To date, the types of souvenir items sold by Paramount under the HYPERSONIC mark are, *inter alia*, glassware, pennants, pins, mugs, plastic bottles or thermoses, flashlights, die cuts, pencils, hats, t-shirts, and bumper stickers. Koonce Aff't, Ex. B. To the extent Central's documentary evidence is credible, it only lists HYPERSONIC sporting equipment, safety goggles, and sporting goods clothing. Weber Tr., Ex. 2; *see also* Weber Tr., pp. 9, 31-33 (testifying as to alleged purchase of track suit). At his deposition, Stoller testified that Central once sold HYPERSONIC hats and t-shirts, but admitted that Central does not have any corroborating evidence. Stoller Tr., pp. 96-100. Despite Central's attempt to show that it sells "closely related goods" by self-serving testimony about hats, t-shirts and track suits, since all of the physical and/or documentary evidence that might corroborate this testimony has been conveniently lost or destroyed, the appropriate presumption is that such evidence never existed in the first instance. At the very least, Central has

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<sup>10</sup> Central also has not produced the alleged assignment from the original registrant, S Industries, Inc., after repeated requests from Paramount. Koonce Aff't, ¶ 19, Ex. E.

<sup>11</sup> As set forth in Paramount's opposition to Central's earlier summary judgment motion, under applicable law Central's advertising outside in several states and its sales to visitors from states other than Virginia easily satisfy the requirement

not put forth credible evidence of any sales of goods “closely related” to the products sold by Paramount.

Not only are the goods sold under the respective marks different, but the channels of trade could not be more dissimilar. Paramount’s products are sold directly to end consumers: theme park guests, on the grounds of the theme park only. Koonce Aff’t, Ex. A, ¶¶ 11-13. As noted, Central purports to sell its products by mail order (Stoller Tr., pp. 106-07) or out of its retail store in Chicago (*Id.*, pp. 13-14) – however, as Stoller conceded, “95 percent of the goods I sell are for resale” (*Id.*, p. 106). At his deposition, Stoller attempted to rectify this lack of similar trade channels by stating that Central has sold its product to theme parks (not, however, to the Kings Dominion theme park); he could not, however, identify any such theme parks, and Central has not produced any evidence of such sales. *Id.*, pp. 102-03. With respect to consumers, it would be virtually impossible for the goods sold under Central’s and Paramount’s respective marks to be encountered by the same persons under circumstances that could give rise to the mistaken belief that they originate from or are in some way associated with the same source.<sup>12</sup> See Koonce Aff’t, Ex. A, ¶ 11 (describing consumers for Paramount’s HYPERSONIC products).

Stoller conceded that Central’s only grounds for contending that the products sold by Central and Paramount will compete is unsupported speculation that the customers will be in the same age group:

A Well, the basis for that statement is that the type of person or customer traditionally that would go to an amusement park and go on a ride, a young person, is normally the type of person that would buy my products, same – same customer. I mean, the same type of customer.

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of use in interstate commerce. Paramount Opp. Memo dated Apr. 11, 2003, at 13-16.

<sup>12</sup> Nor does Central’s alleged advertising target or reach the same consumers as Paramount’s advertising. Compare Stoller Tr., pp. 44-47, 71-72, 78-83 with Koonce Aff’t, Ex. B.

- Q Any other basis other than the fact that it's a young person that goes to a themepark. That's it, huh?
- A The people that traditionally go to theme parks, they would be the identical customers that would go to a sporting goods store and would buy our goods, too.
- Q Apart from that, is there any other basis for your statement that your goods are sold to the same class of consumers as my client's goods are or will be sold to?
- A That's my basis.

Stoller Tr., pp. 101-02.

Finally, Central has not presented or developed any evidence as to the fame of its mark, and given the difficulty Paramount has had in attempting to discover *any* use of the mark by Central, it is almost certain that Central cannot prove its mark is famous. Although Stoller testified that Central actively polices its alleged mark, he admitted that he had been unable to locate any cease and desist letters mailed to parties using allegedly infringing marks. *Id.*, pp. 52-53. He admitted that Central had never filed an infringement action relating to the HYPERSONIC mark. *Id.*, p. 52. Most surprisingly, he testified that he had never heard of other companies using a HYPERSONIC mark, even when asked about parties who have applied to register – and in some cases have registered – HYPERSONIC trademarks on the Principal Register during the past five years. Stoller Tr., p. 53; Koonce Aff't, ¶ 20, Ex. L.

### CONCLUSION

In short, despite Central's efforts to forestall meaningful discovery, the evidence that has come to light thus far strongly compels the conclusion that Central does not make use of its mark at all, and has abandoned it. On this motion, however, the relevant analysis is whether there are disputed issues of fact precluding summary judgment, and the same evidence demonstrates conclusively that Central has not met that burden with respect to the priority of its

use or with respect to its effort to dismiss Paramount's counterclaim. Central's failure to produce anything other than self-serving, summary documents with no supporting purchase orders, invoices, sample products, bank statements, ledgers, receipts, and the like, belies its claim of a thriving sales and licensing business generating tens of thousands of dollars per year: indeed, there is no evidence of a single sale of HYPERSONIC merchandise at any time since 1988 in the record, other than the equally self-serving testimony of Stoller and his friend Weber (who testified only to de minimus, intrastate purchases). Further, Central has not even begun to lay out a case relating to likelihood of confusion by Paramount, and what little evidence there is on point suggests that Central will not be able to succeed during the testimony phase, much less on summary judgment.

For the foregoing reasons, Opposer's motion should be denied.

**Dated:**        **New York, New York**  
                  **July 7, 2004**

**DAVIS WRIGHT TREMAINE LLP**

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

**Attorneys for Applicant Paramount Parks Inc.**



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July 9, 2004

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I, LACY H. KOONCE, III hereby certify that this correspondence is addressed to Assistant Commissioner for Trademarks BOX TTAB - NO FEE, 2900 Crystal Drive, Arlington, VA 22202-3513, and is being deposited with the United States Postal Service "Express Mail Delivery" to Addressee on July 9, 2004

  
Signature
July 9, 2004  
Date of Signature

Re: Opposition No.: 123,765  
 Opposer: Central Mfg. Co.  
 Applicant: Paramount Parks, Inc.  
 Mark: **HYPERSONIC**

Dear Sir/Madam:

On behalf of the Applicant, Paramount Parks, Inc., we enclose:

- 1) Transmittal Letter;
- 2) Applicant's Memorandum in Opposition to Opposer's Second Summary Judgment Motion; and
- 3) Affidavit of Lacy H. Koonce, III
- 4) Certificate of Service by Express Mail Label No. EV418683717 US; and
- 5) Certificate of Express Mail Label No. EV 418683725 US; and
- 6) Postcard receipt.

Kindly date-stamp and return the enclosed postcard and please call the undersigned if there are any questions or problems in connection with the enclosed. Thank you.

Yours truly,  
DAVIS WRIGHT TREMAINE LLP

Lacy H. Koonce, III

Encls.

cc: Mr. Leo Stoller  
Mallory Levitt, Esq.  
Marcia B. Paul, Esq.

07-09-2004



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

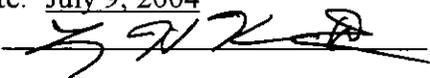
Opposition No.: 123,765  
Opposer: Central Mfg. Co.  
Applicant: Paramount Parks Inc.  
Mark: HYPERSONIC  
Serial No.: 76/103447 and 76/103448

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the attached Applicant's Memorandum in Opposition to Opposer's Second Summary Judgment Motion and Affidavit of Lacy H. Koonce, III (on behalf of Applicant, Paramount Parks Inc.) are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service, postage prepaid, under 37 CFR 1.10, in an envelope addressed to Opposer, Leo Stoller, Hypersonic Brand Products & Services & Central Mfg. Co., P.O. Box 35189, Chicago, IL 60707-0189, on the date indicated below.

Express Mail Label No.: EV 418683717 US

Mailing Date: July 9, 2004

Signature: A handwritten signature in black ink, appearing to be 'L. Stoller', written over a horizontal line.

**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><u>AFFIDAVIT</u></b>
	:	
	:	<b>Applicant.</b>

-----X

**STATE OF NEW YORK            )**  
**): SS.:**  
**COUNTY OF NEW YORK        )**

LACY H. KOONCE, III, being duly sworn, deposes and says:

1. I am associated with the firm of Davis Wright Tremaine LLP, counsel to Paramount Parks Inc. ("Paramount"), Applicant in the above-captioned opposition. I have personal knowledge of the matters set forth herein.

2. I submit this affidavit in opposition to Opposer Central Mfg. Co.'s ("Central") motion for summary judgment filed June 7, 2004.

3. Discovery in this proceeding commenced on September 27, 2001, and Paramount served its discovery requests on Central on November 5, 2001. Despite numerous delays, Paramount now has taken the deposition of Central by its president Leo Stoller, and deposed a third-party fact witness, Raymond Weber. After multiple demands by Paramount, Central finally produced approximately 165 pages of documents in response to Paramount's document requests, 155 pages of which consisted of a list of businesses, with addresses. This list was annexed to Central's summary judgment motion as Exhibit 2 to the Stoller deposition.

4. Paramount, by contrast, has recently produced over 2000 pages of documents as part of a supplemental document discovery in view of its ongoing discovery obligations, in addition to documents it produced back in the fall of 2001 when the discovery period first opened. Paramount has also produced confidential documents previously withheld, in light of the protective order imposed by the Board. Paramount's documents confirm the extensive and continuous use of its mark HYPERSONIC for souvenir products sold at its King's Dominion theme park in Virginia, to consumers from Virginia and neighboring states, as set forth in the Declaration of Lester Nail sworn to April 8, 2003 and submitted in opposition to Central's first motion for summary judgment, annexed hereto as Exhibit A. Paramount's documents also demonstrate extensive advertising and promotion under the HYPERSONIC mark to individuals and organizations in Virginia and neighboring states. Annexed hereto as Exhibit B is a cumulative sales chart of sales of HYPERSONIC products, and annexed hereto as Exhibit C is an advertising flowchart showing advertising for Paramount's theme

park. Both of these documents are designated highly confidential and filed under seal, pursuant to the protective order.

5. Central has not taken depositions of any witnesses for Paramount, and was barred by the Board from taking depositions of three high level executives of Paramount's parent company.

6. Paramount made requests for certain documents identified by Mr. Stoller at his deposition that had not been produced by Central, and has made several follow-up requests for those documents. Central has not responded to any of those requests. Copies of relevant portions of the transcript of Mr. Stoller's deposition are annexed hereto as Exhibit D (although portions of that deposition were designated as confidential, Central submitted the entirety of that deposition as an exhibit to its summary judgment papers but did not file it under seal; accordingly, the annexed excerpts are not filed under seal). Copies of written requests for documents are annexed hereto as Exhibit E, along with a response from Central.

7. Paramount also has requested that Central supplement its written responses to interrogatories because of clear deficiencies therein, but Central has to date refused to do so, as set forth in the correspondence annexed as Exhibit E.

8. Recently, I received a telephone call from Leo Stoller asking Paramount to stipulate to an extension of time for the close of discovery. Mr. Stoller stated that he had suffered a minor heart attack the previous week and thus that Central could not respond to outstanding discovery requests within the required time period. Mr. Stoller followed up with a letter making the same request. Paramount agreed to such an extension but – given the long delay in concluding

discovery in this proceeding and the numerous outstanding requests for discovery made of Central – asked that Central provide a statement as to Mr. Stoller’s medical condition that could be annexed to the stipulation. I conveyed this request to Mr. Stoller. Mr. Stoller’s letter and my response letter are annexed hereto as Exhibit F.

9. Upon receiving this request, Central instead filed a motion for an extension of time and misrepresented to the Board that Paramount had refused to agree to an extension. A copy of that motion is annexed hereto as Exhibit G. Central then proceeded to file the instant summary judgment motion, in which Central purports to withdraw its request for an extension of the discovery period, without explanation. Opp. S.J. Mot., p. 1 n.1.

10. In its motion, Central references several exhibits annexed to the depositions of Leo Stoller and Raymond Weber. Some of these exhibits were not produced in discovery, but only made available to Paramount at the time of the depositions.

11. The only piece of evidence proffered by Central with respect to its revenues and advertising expenditures is a single-page “Sales & Advertising Report”; Central has not produced any backup for the numbers in this summary report, despite requests from Paramount for such backup, as set forth in the deposition transcript of Mr. Stoller, annexed hereto as Exhibit D.

12. Central has not produced any physical samples of any products listed on its catalog or quote sheets. It also has not produced any documentary evidence demonstrating that these catalog and quote sheets have ever been sent to customers. Central has not produced any copies of completed quote sheets, or purchase orders generated by the quote sheets.

13. At his deposition, Stoller testified that certain HYPERSONIC goggles have

been endorsed by two industry trade organizations, the American Sports Association and the US Hardware Industry Association. Upon information and belief, these organizations are merely entities invented and controlled by Mr. Stoller. Annexed hereto as Exhibit H are print-outs of web pages from the websites from these organizations, along with source code and domain name registration information showing that Mr. Stoller is the owner of those websites. Upon information and belief, Mr. Stoller has a history of setting up business entities that exist only in Cyberspace. Annexed hereto as Exhibit I is an article regarding a lawsuit filed by the Illinois Attorney General against Mr. Stoller over a "website that illegally solicited donations for victims of the Sept. 11 terrorist attacks."

14. With respect to the list of businesses produced by Central, Central has not produced any documentary evidence that any HYPERSONIC materials actually have been mailed to this list of businesses, at any time, or that those businesses have ever purchased products from Central.

15. To determine whether any products have ever been sold to those businesses as claimed by Mr. Stoller, we have conducted a telephonic investigation of a small sample of those businesses. Under my direction, two temporary employees of this firm attempted to make telephone calls to 205 of the businesses on Central's list, listed on five successive pages of the list (the beginning point was selected randomly). The pages, which are unnumbered, begin with the listing "Outdoorsman He, 11<sup>th</sup> St & Hwy 53, International Falls, MN" and end with the listing "Pioneer Schwinn, 12741 Central Ave, Minneapolis, MN". This includes businesses in Wisconsin, Iowa, Missouri, Utah, Colorado, Montana, Kansas, Minnesota, South Dakota, Wyoming and Nebraska. As the list did not include telephone numbers, the interviewers used two standard on-line telephone

directories (AT&T and Yahoo! yellow pages) to attempt to locate the businesses. The interviewers followed a script in which he or she identified himself or herself, disclosed that the telephone call was being made in connection with litigation, and asked questions designed to elicit whether that business has ever purchased products from Central and whether it currently carries Central's products, and whether the business has ever purchased or currently carries HYPERSONIC products. Annexed hereto as Exhibit J is a copy of the "script" used by the interviewers in making these telephone calls, along with a copy of the list of businesses to which calls were placed or attempted to be placed.

16. The results of this survey were striking. Of the 205 businesses listed in the chosen sample, our interviewers were unable to locate 81 of those businesses. Upon information and belief, those businesses are no longer operating, at least under the same names or addresses. Of the remaining businesses for which telephone numbers could be located, in many cases the individual responsible for purchasing decisions was either unavailable or refused to talk to our interviewers. However, a total of 35 businesses agreed to answer the interviewers' questions. *Of those 35 businesses, to their best recollection, none had ever heard of Central Mfg. Co. or had purchased anything from Central, or had ever heard of, ordered or sold any products bearing Central's HYPERSONIC mark.* (One individual stated that his business received a catalog called "Central" but that the catalog was not for sporting goods; another individual stated that he might have heard of a brand of bullets sold under the name HYPERSONIC.)

17. At his deposition, Mr. Stoller identified a license from Central to a company known as STR. Central has not produced a copy of that license, representative samples of products

sold under that license, or records of the royalties. Upon information and belief, STR appears to be a company operated by Mr. Stoller's son, Mark Stoller. Annexed hereto as Exhibit K are copies of Internet print-outs in which Mark Stoller is named as the owner of STR.

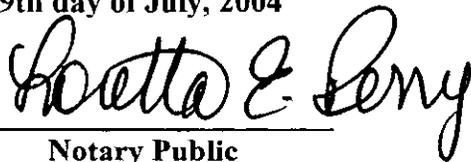
18. At his deposition, Mr. Stoller testified about a non-exclusive license with USA Sports Co., another company owned by Mr. Stoller, and two other "intercompany licenses" with Stealth Industries and Sentra Industries. Despite a request for copies of these licenses, Central has not produced them, as set forth in the correspondence annexed hereto as Exhibit E.

19. Paramount has requested a copy of the purported assignment of the HYPERSONIC mark to Central, as set forth in Exhibit E, but it has not yet been produced.

20. Mr. Stoller testified that Central was not aware of any other companies using HYPERSONIC trademarks. Annexed hereto as Exhibit L are copies of reports showing other applicants and registrants of HYPERSONIC marks.

  
LACY H. KOONCE, III

Sworn to before me this  
9th day of July, 2004

  
Notary Public

LORETTA E. PERRY  
NOTARY PUBLIC, State of New York  
No. 24-4931617  
Qualified in Kings County  
Commission Expires August 1, 2006

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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

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

-----X  
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

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.

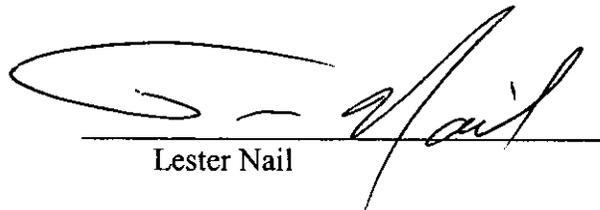
11. As it does with many of its most popular attractions, Paramount has created a variety of souvenir items to be sold in connection with the Hypersonic ride. These items include hats, t-shirts, sweatshirts, bumper stickers, photographs, and the like, and they are exclusively sold at merchandise outlets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

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.

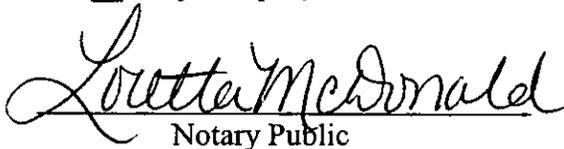
12. The products described above are typically manufactured in Maryland and Florida (the Hypersonic trademarks are affixed at that time), and later shipped to the park in Virginia.

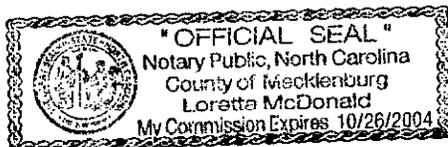
13. On March 24, 2001, Kings Dominion officially opened for the 2001 season. Prior to that time, several "unofficial" events took place in the park, and souvenir items were available for sale at those events. Paramount also advertised the Hypersonic ride extensively in Virginia and in other states prior 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 8<sup>th</sup> day of April, 2003

  
Notary Public





**EXHIBIT B FILED SEPARATELY UNDER SEAL**

1  
2

**EXHIBIT C FILED SEPARATELY UNDER SEAL**

10

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

**CONFIDENTIAL**

4	CENTRAL MFG., CO.,	)	
		)	
5	Opposer,	)	
		)	
6	vs.	)	Opposition No.
		)	123,765
7	PARAMOUNT PARKS, INC.,	)	
		)	
8	Applicant.	)	

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The deposition of LEO STOLLER, before Lisa H. Breiter, CSR, RPR, CRR and Notary Public, pursuant to the provisions of the Federal Code of Civil Procedure pertaining to the taking of depositions at Suite 400, 134 North LaSalle Street, Chicago, Illinois, at 1:28 p.m. on the 21st day of April 2004.

1 in my possession that are responsive to your  
2 request.

3 Q With respect to advertising costs, do  
4 you have any documents in your possession --  
5 let's do this first.

6 Do you have any documents in your  
7 possession which would support or back up any of  
8 the advertising costs set forth on what's been  
9 marked as Stoller Exhibit 1?

10 A I don't have any other documents in my  
11 possession that are responsive to that request.

12 Q But that wasn't my question.

13 A Your answer.

14 Q To my question.

15 A Uh-huh.

16 Q Do you know of the current existence  
17 and whereabouts of any documents that would  
18 support those numbers, referring to the  
19 advertising costs?

20 A No, but my investigation continues.

21 Q I assume that if you discover  
22 something, you will duly let us know?

23 A And we will supplement the record  
24 accordingly.

1 much involved in every aspect of Central's  
2 business?

3 A Yes.

4 Q You said that the general ledger had  
5 been maintained by your father and it is no  
6 longer in your possession, is that correct?

7 A That's correct.

8 Q What books and records, if any, does  
9 Central have at present?

10 A I don't have any other than -- I don't  
11 have any books and records in my possession right  
12 now other than --

13 Q Do you have a checkbook?

14 A I have a checkbook.

15 Q How far back does your checkbook stub  
16 -- do your checkbook stubs go?

17 A I don't know. I don't know.

18 Q Do you retain copies of purchase orders  
19 that you receive from customers?

20 A I think my dad did, yes.

21 Q Do you have access to those purchase  
22 orders?

23 A No.

24 Q Who maintains those purchase orders

1 now?

2 A Well, my father had maintained those,  
3 and right now I don't have any others in my  
4 possession.

5 Q So is it correct that you have not  
6 received any purchase orders for any products  
7 since November, I believe you said, of 2003?

8 A No, it's just I don't have those in my  
9 possession. They were sent to his house where he  
10 maintained the records.

11 Q After November of 2003?

12 A Yes.

13 Q Did you make any effort to get the mail  
14 forwarded to you?

15 A No, I didn't make any effort.

16 Q Who is responsible for -- again, I  
17 don't want to pry where I don't need to pry, but  
18 who was responsible for the disposal of the  
19 records and property at your father's house after  
20 his death?

21 A Overzealous relatives. They wanted to  
22 clean out everything.

23 Q So is it correct that since the time of  
24 your father's death, you have not shipped any

1 the trademark office other than this one with  
2 respect to the Hypersonic mark?

3 A I don't think we have.

4 MS. PAUL: Off the record.

5 (Discussion held off the record.)

6 BY MS. PAUL:

7 Q Have you ever written a cease and  
8 desist letter to anyone other than my client with  
9 regard to the Hypersonic mark?

10 A I think I've done that.

11 Q Do you have copies of those letters?

12 A I could look for you and see. I have a  
13 -- I thought I looked and couldn't find any, but  
14 I could continue my investigation. I believe we  
15 have sent one or two maybe, but if I --

16 Q Do you know to whom you sent those?

17 A I can check my records. I made an  
18 investigation for my production for you, and I  
19 wasn't able to locate them, but I have a list and  
20 I did notice that -- I have thousands of files,  
21 like you, and I have a list and I thought I saw  
22 two or three entities that we sent letters to for  
23 a -- C & D's against Hypersonic people, but I  
24 haven't been able to locate those. Do you want

1 copies of those, is that what you're saying?

2 Q Yes. They were called for by our  
3 document request.

4 A I know, I couldn't find those, but I'll  
5 make an extra effort to see if I can locate  
6 those.

7 Q Did you ever hear of a company called  
8 VR1?

9 A VR1?

10 Q Uh-huh.

11 A No, I'm not familiar with that.

12 Q Are you aware that they used the mark  
13 Hypersonic?

14 A No. If I was, I would have engaged  
15 them in some facet.

16 Q Regardless of for what they used the  
17 mark?

18 A It would depend, but probably, yes.

19 Q How about American Technologies  
20 Corporation, did you ever hear of them?

21 A No, I haven't.

22 Q Are you aware of the fact that they use  
23 the mark Hypersonic?

24 A No.

1 goods; but this is primarily our product line  
2 that we are featuring right now, but we have sold  
3 other goods.

4 Q And do you have any proof that you have  
5 sold other goods to customers for a price  
6 certain, documentary proof?

7 A Other than these?

8 Q Other than these.

9 A Other than what has been presented. I  
10 will look in my records, but I haven't been able  
11 to find any at this time.

12 Q Do you have any documentary proof of  
13 specific sales of any of the items set forth in  
14 Exhibits 2 through 7?

15 A They were invoices and those goods are  
16 represented by these sales figures under Stoller  
17 Exhibit 1.

18 Q So the only document that you have  
19 showing sales of any of the goods listed in  
20 Exhibits 2 through 7 is the one-page summary  
21 invoice which has been marked as Exhibit 1, is  
22 that correct?

23 A That's correct.

24 Q Okay. Mr. Stoller, do you play tennis?

1 A Which one?

2 Q There's more than one on this list?  
3 I'm looking 11 lines down SKU -- or whatever that  
4 is -- 06-28202. What's in a golf club set?

5 A This particular golf club set would  
6 come with three clubs. This is a three-club set.

7 Q Do you have other golf club sets on  
8 this list?

9 A I don't know. I have a lot of goods on  
10 here, but on that particular one, there's only  
11 three clubs in that particular package. That's a  
12 starter kit.

13 Q Do you have any ads for your golf club  
14 kits?

15 A I'm sure I promoted them.

16 Q I said do you have copies of any ads  
17 for your golf club kits?

18 A Yes, I could look. Yes, I have  
19 promoted them.

20 Q You keep saying you could look. All of  
21 this information was information which was asked  
22 for in the documents.

23 A I have produced everything that I have  
24 in my possession that are responsive to your

1 requests. Now you're asking me if I have other  
2 things in my possession that I have not produced,  
3 and I'm saying to you that I will make a further  
4 investigation to see if I have any other  
5 documents that were responsive that I can locate  
6 in my possession, and if I can, I will produce  
7 those for you. But.

8 I have produced everything that I have  
9 in my possession that are responsive to your  
10 requests. My investigation continues, and if I  
11 can find additional documents that are  
12 responsive, I will produce those.

13 Q Do you currently have any products on  
14 hand?

15 A Yes.

16 Q Where do you warehouse them?

17 A Pardon me?

18 Q Where do you keep them?

19 A I keep them in my store.

20 Q And you said your store was much  
21 smaller?

22 A Yes.

23 Q How many square feet is it?

24 A 1600.

1 Q What dollar volume of goods do you have  
2 on hand, cost of goods basis?

3 A I have no idea.

4 Q Talking \$1,000?

5 A I can't speculate.

6 Q Less than \$1,000?

7 A I cannot speculate on that.

8 Q Do you have goods on hand that -- well,  
9 withdraw that.

10 When you import goods from Chen  
11 Distributing, do they come with the brand on  
12 them?

13 A Some do, some don't.

14 Q The goods that you currently have on  
15 hand, are those branded goods?

16 A Some are, some aren't.

17 Q What percentage are and what percentage  
18 are not?

19 A I can't speculate on that. I don't  
20 know.

21 Q Are any of the goods you have on hand  
22 Hypersonic goods?

23 A I have not done a current inventory as  
24 of this moment, but I think I do have some

1 Hypersonic goods.

2 Q Well, Mr. Stoller, you were supposed to  
3 produce samples of products sold under the  
4 Hypersonic mark and you did not pursuant to the  
5 document request.

6 A Okay, I produced them.

7 Q If you say and you've now testified  
8 under oath that you have products in your  
9 possession that have the Hypersonic mark, then I  
10 suggest that those need to be produced forthwith.

11 A I am telling you again and I am going  
12 to say this now and forevermore. Everything that  
13 was responsive to your request that I had in my  
14 possession I have produced, okay? Everything.

15 Now, if there are other things such as  
16 you're now asking me for that I have not  
17 produced, I will make a further investigation.  
18 But I have produced, so the record is clear,  
19 everything that I have that was responsive to  
20 your request. That's what I've given you.

21 In terms of finding other documents or  
22 goods, whatever else that may have been  
23 responsive that I have not produced, it was  
24 because I couldn't locate it, but my

1 investigation continues.

2 Q When you import goods that are not  
3 branded, by what process do they become branded?  
4 And do you understand by branded, I mean that a  
5 trademark or a logo gets affixed to the product  
6 or the hang tag or the packaging.

7 A Right.

8 Q When you import or buy goods that are  
9 not branded, how do you go about branding them?

10 A By either attaching a label to the  
11 packaging or a hang tag to the goods, if they're  
12 not branded, if they don't come already branded.

13 Q Oh, I see. So the goods that do not  
14 come branded do not get sold with the brand on  
15 the product except in the case of packaging or  
16 hang tags, is that correct?

17 A The goods that we import unbranded, the  
18 brand is attached either by a hang tag or it's  
19 attached to the exterior packaging.

20 Q But not to the product itself, if it  
21 comes without a logo --

22 A If it comes without a logo -- say, for  
23 example, we will buy racquets, tennis racquets  
24 without a brand on them and we can sell them

1           A     I had some T-shirt catalog sheets that  
2     I looked for promoting the Hypersonic mark on  
3     T-shirts, catalog shirts.

4           Q     Have you produced any?

5           A     No, I haven't produced those.

6           Q     Do you have any in your possession?

7           A     I thought I did and I will investigate  
8     further. I haven't been able to produce them  
9     yet, but I have a recollection of making up  
10    catalog sheets promoting Hypersonic T-shirts with  
11    the brand Hypersonic on the T-shirts, and these  
12    were marketed with our tennis racquets so a  
13    person could have a brand tennis racquet  
14    Hypersonic and T-shirt Hypersonic.

15          Q     Did anybody ever buy one?

16          A     Oh, yes.

17          Q     How many did you sell?

18          A     10,000 T-shirts.

19          Q     When did you sell them?

20          A     Through the '80s or '90s and we sold  
21    some up until 2002.

22          Q     Do you have any records that show --

23          A     I will --

24          Q     -- sale of any T-shirts?

1           A     Well, they're contained in these sales  
2 here.

3           Q     Do you have any purchase orders from  
4 customers or shipping records reflecting shipment  
5 of T-shirts bearing the Hypersonic mark to  
6 customers?

7           A     I have had those records and I told you  
8 that my father was in charge of those records,  
9 and I will make an attempt to go into his  
10 location where they were previously maintained  
11 and see if I could find them. I couldn't locate  
12 those --

13          Q     I thought all of the records from your  
14 father's previous location were disposed of.

15          A     A lot of his office records have been  
16 thrown out and I've been over there and most of  
17 those were disposed of. Everything there was  
18 thrown out except there might be some boxes -- I  
19 mean, he had a lot of boxes and he lived there.  
20 He was 84 when he passed away. But in the  
21 locations in which I looked, they weren't there.

22          Q     The house is still accessible to you;  
23 it has not been sold to anyone else?

24          A     Right, it's accessible and I looked,

1 but I haven't been able -- a lot of the documents  
2 have been thrown out, but I will make a further  
3 investigation and I will supplement my discovery  
4 if I come across something for you.

5 Q Do you have any documentary evidence  
6 that reflects that you used the Hypersonic mark  
7 on hats?

8 A Yes, I do.

9 Q What --

10 A But I don't have it in my possession.  
11 I haven't been able to locate it. I have  
12 pictures of the hats.

13 Q When I ask you -- pictures of the hats?

14 A Yeah, the pictures of the hats.

15 Q Where are the pictures of the hats?  
16 Why weren't those produced in discovery?

17 A Because I didn't -- I didn't have any.

18 Q Where are they located?

19 A I can't -- I don't have any in my  
20 possession that I've been able to locate. I have  
21 thousands of -- not thousands, tens of thousands  
22 of documents. I've gone through those looking  
23 for them, and I haven't been able to find them.  
24 I will continue to investigate, and if I can find

1       them, I will give them to you.

2           Q     Pictures of people wearing the hats is  
3       not proof of sale of the hats.

4           A     Well --

5           Q     Do you have any documents that reflect  
6       the actual purchase of a hat bearing the  
7       Hypersonic mark? Not in a hang tag --

8           A     Invoices, would that --

9           Q     Yes. Do you have any invoices?

10          A     I will attempt to find those invoices.

11          Q     Where would those invoices be?

12          A     They would have been in my father's  
13       house, but I will attempt to get them for you.

14          Q     Okay. Do you have invoices for any of  
15       the other products that you say you have sold  
16       under the Hypersonic mark?

17          A     I have invoices or had invoices for all  
18       the figures on Exhibit 1 about --

19          Q     But you don't have them anymore, is  
20       that correct?

21          A     I have not been able to locate them in  
22       my possession, but I had those invoices and they  
23       were in his possession, and I will continue to  
24       investigate and I will produce the relevant

1 documents, if I can locate them for you.

2 Q In your notice of opposition -- feel  
3 free to look at it if you would like -- paragraph  
4 3. Do you still have that in front of you?

5 A Uh-huh.

6 Q Do you have the notice of opposition,  
7 the original one, yes?

8 A Uh-huh.

9 Q In paragraph 3, you say that you sell  
10 goods under the Hypersonic mark to the same  
11 classes of trade and customers as my client uses  
12 the Hypersonic mark, is that correct?

13 A That's correct.

14 Q What's the basis for that statement?

15 A Well, the basis for that statement is  
16 that the type of person or customer traditionally  
17 that would go to an amusement park and go on a  
18 ride, a young person, is normally the type of  
19 person that would buy my products, same -- same  
20 customer. I mean, the same type of customer.

21 Q Any other basis other than the fact  
22 that it's a young person that goes to a theme  
23 park. That's it, huh?

24 A The people that traditionally go to

1 theme parks, they would be the identical  
2 customers that would go to a sporting goods store  
3 and would buy our goods, too.

4 Q Apart from that, is there any other  
5 basis for your statement that your goods are sold  
6 to the same class of consumers as my client's  
7 goods are or will be sold to?

8 A That's my basis.

9 Q Okay. Are any of your products of any  
10 kind under the Hypersonic mark sold in amusement  
11 parks to your knowledge?

12 A I have sold products to amusement  
13 parks.

14 Q What amusement park?

15 A There's several in Indiana that I have  
16 sold to.

17 Q Hypersonic products?

18 A Yes, Hypersonic products.

19 Q What Hypersonic products have you sold  
20 to what amusement parks?

21 A I will get -- I will try to find that  
22 list, okay.

23 Q Where would that list be?

24 A As I said, that list would probably be

1 in my father's house.

2 Q So now all of a sudden, you know, we're  
3 learning that there are documents in your  
4 father's house, they weren't all destroyed and  
5 you haven't been --

6 A I will say I will look. All the  
7 documents I have tried to acquire from my  
8 father's in the normal places that they were  
9 kept, after his demise a lot of them were thrown  
10 out.

11 And I went there and I couldn't find  
12 anything that was responsive to your requests in  
13 my location, so I went to his location, and a lot  
14 of the personal effects and documents and papers  
15 have been disposed of.

16 Q When did you sell -- what products with  
17 the Hypersonic mark did you sell to theme parks  
18 or amusement parks in Indiana? What products?

19 A Indiana.

20 Q I said Indiana.

21 A I sold some T-shirts, I sold some caps,  
22 I sold some coffee mugs, some touristy items,  
23 inexpensive items.

24 Q Which theme park in Indiana did you

1 sell it to?

2 A Several actually, a couple. I don't  
3 have their names off the top of my head, but I  
4 will see if I can find that for you.

5 Q Where would you go to find that?

6 A As I said, I will go to my father's  
7 place and try to locate that list of amusement  
8 parks that have bought goods that are branded  
9 with Hypersonic.

10 Q Are there any amusement parks on your  
11 custom -- what you referred to as your customer  
12 list for Hypersonic products which has been  
13 marked as Stoller Exhibit 2 for identification?

14 A I don't know. There's 6,000 names  
15 here. I would have to go through each one.

16 Q Why don't you go through and tell me if  
17 there are any amusement parks on that list. Do  
18 you know for a fact there are 6,000 names there?

19 A I think there are.

20 Q I don't think so. You know what, why  
21 don't I withdraw the question. The document  
22 speaks for itself. We'll look it up.

23 From your store, you sell direct to  
24 customers, is that correct, your retail store?

- 1           A    Yes, I have.
- 2           Q    To whom?
- 3           A    To a company called STR Industries.
- 4           Q    Where is that company located?
- 5           A    In Cary, Illinois.
- 6           Q    And for what purpose did you license  
7   it?
- 8           A    To sell the goods listed on our  
9   application.
- 10          Q    All the goods listed on your  
11   application?
- 12          A    Uh-huh.
- 13          Q    Was it an exclusive license?
- 14          A    No.
- 15          Q    Is that company selling goods under the  
16   mark?
- 17          A    They sold goods under the mark until  
18   2002 and I believe the license has expired in  
19   2002. I don't believe they're selling any goods  
20   under the mark today.
- 21          Q    Do you have a copy of that license?
- 22          A    I couldn't find it, but I will make an  
23   effort to find that license for you.
- 24          Q    Is that yet another document that if it

1 exists, exists at your father's house?

2 A I don't believe that document -- he  
3 handled most of the accounting type of documents.  
4 This document --

5 Q Where would that document be?

6 A This document would have been in my  
7 office, but this -- the reason why I couldn't  
8 find their file is they or their license, I  
9 believe, went from '98 to 2002. I think it was a  
10 four-year license and it's no longer active.

11 It's discontinued -- I mean, the  
12 license, the trademark license expired in 2002.  
13 So I looked into the files of our licensees and I  
14 wasn't able to locate it. Maybe somebody put it  
15 in another location in the office so --

16 Q But you don't have it?

17 A I haven't been able to produce it, but  
18 I will make -- I will endeavor to look further  
19 and submit that to you.

20 Q What products did that company actually  
21 produce and sell under the Hypersonic mark?

22 A Well, I know for a fact they sold all  
23 the goods listed under our registration, and they  
24 were also licensed to sell soft goods under the

1           A     We ship parcel post, we ship, you know,  
2     Fed Ex, we ship, you know, all the different ways  
3     we are required to ship, right.

4           Q     Do you have any UPS receipts or Fed Ex  
5     receipts which would reflect the actual shipments  
6     of goods to customers under the Hypersonic mark?

7           A     None of those receipts would reflect  
8     that.

9           Q     Do you have those receipts?

10          A     I'm saying none of the receipts from  
11     Fed Ex or UPS would actually say who -- you know,  
12     what the brand was.

13          Q     Do you keep Fed Ex receipts and UPS  
14     receipts for your shipment of products?

15          A     I think some of those are maintained,  
16     but they don't reflect any of goods that are sold  
17     under those shipments.

18          Q     But you maintain them, is that correct?

19          A     I think we have some, right.

20          Q     For how far a period back?

21          A     I don't know.

22          Q     More than a year?

23          A     No.

24          Q     Less than a year?

1 A I have no idea.

2 Q Did you get anything in writing from  
3 the American Sports Association giving you  
4 permission to use in your advertisements the fact  
5 that they had endorsed your safety goggles?

6 A Yes.

7 MS. PAUL: I'd like to see a copy of  
8 whatever writing you have on that.

9 THE WITNESS: Uh-huh.

10 BY MS. PAUL:

11 Q I notice turning to page 4 of Weber  
12 Exhibit 5, I notice this is your order form,  
13 correct?

14 A Right.

15 Q I notice it says bulk rate U.S. postage  
16 paid, permit No. 3473, Chicago, Illinois.

17 A Uh-huh.

18 Q Do you hold -- you Central -- hold a  
19 bulk rate permit?

20 A We had one, yes.

21 Q Do you currently have one?

22 A I believe we do.

23 Q Is that the number of it?

24 A I don't have it memorized.

1 A No.

2 Q Does your wife work for the business?

3 A No.

4 Q Turning to interrogatory No. 13, have  
5 you now identified every licensee that has been  
6 granted a license to use the Hypersonic mark?

7 A I have licensed STR as an outside  
8 company.

9 Q Right.

10 A And I have licenses between --  
11 intercompany licenses between Central and Stealth  
12 Industries and Sentra Industries, intercompany  
13 licenses.

14 Q Then I call for the production --

15 A You want those?

16 Q -- of any of the intercompany licenses.

17 THE WITNESS: This is off the record.

18 (Discussion held off the record.)

19 BY MS. PAUL:

20 Q Do you own any other federally  
21 registered trademarks that include, in whole or  
22 in part, the word "Hypersonic" other than --

23 A This one?

24 Q -- this one?





# Davis Wright Tremaine LLP

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April 2, 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:

We write in connection with Central Mfg. Co.'s ("Central") responses to Paramount Parks Inc.'s ("Paramount") document requests and interrogatories, to address certain deficiencies contained therein, and to demand that Central either supplement its responses or notify Paramount immediately that it does not intend to supplement its responses so that Paramount may make an appropriate application to the Board. As you know, Paramount served these requests on Central on November 5, 2001; Central initially served responses in early September 2002, and upon objections from Paramount served revised responses to Paramount's interrogatories in late September 2002. Shortly thereafter, the Board suspended all activity in the proceeding, which suspension remained in place until recently.

In light of your recent deposition testimony on behalf of Central, which included testimony that differed substantially from the answers given by Central in its interrogatory and document responses, we must insist on supplementation of Central's written responses in order to have a clear record. Given the impending close of discovery, we require an immediate response to this request.

**With respect to Central's responses to Paramount's interrogatories:**

**General Objection No. 2: Please confirm that Central is not refusing to respond to, or to provide a full answer with respect to, any interrogatories on the basis of the attorney-client**



privilege.

Interrogatory No. 2: Central's answer is not responsive to the interrogatory, as it does not identify parent companies, subsidiaries, or affiliates (and the nature of each such entity's business). Please provide a full response.

Interrogatory No. 3: Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 5: Central has refused to answer on numerous grounds, none of which are valid, as the manufacture, production, supply, distribution and sale of products under the HYPERSONIC mark by Central's business entities is relevant to, *inter alia*, Paramount's counterclaim for abandonment. Please provide a full response.

Interrogatory No. 6: Central has refused to answer on numerous grounds, none of which are valid, as the assignment of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding. Please provide a full response.

Interrogatory No. 7: Central has refused to answer on numerous grounds, none of which are valid, as the assignment of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding, and documents currently held by Assignor may be relevant on numerous matters at issue in this proceeding. Please provide a full response.

Interrogatory No. 8: Central has refused to answer on numerous grounds, none of which are valid, as the assignment of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding, and Central's relationship with Rentamark is relevant to Central's claims that it actively licenses its HYPERSONIC mark. Please provide a full response.

Interrogatory No. 9: Central has refused to answer on numerous grounds, none of which are valid, as the assignment of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding, and Central's relationship with Rentamark is relevant to Central's claims that it actively licenses its HYPERSONIC mark. Please provide a full response.

Interrogatory No. 12: Central has refused to answer on numerous grounds, none of which are valid, as Assignor's decision to register the HYPERSONIC mark is relevant to, *inter alia*, Paramount's counterclaim for abandonment. Please provide a full response.

Interrogatory No. 13: Central has refused to answer on numerous grounds, none of which are valid, as the licensing of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 14: Central has refused to answer on numerous grounds, none of which are valid, as the licensing and use of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 15: Central has refused to answer on numerous grounds, none of which are valid, as the licensing and use of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 16: Central's answer is not fully responsive to the interrogatory, in that it states that it holds rights to "at least one HYPERSONIC federal registration"; please identify any other HYPERSONIC registrations, or confirm that Central only holds one registration. Please also identify any other trademarks in any HYPERSONIC family of marks.

Interrogatory No. 17: Central has refused to answer on numerous grounds, none of which are valid, as the advertising, promotion and marketing of products under the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 18: Central has refused to answer on numerous grounds, none of which are valid, as the advertising, promotion and marketing of products under the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 19: Central has refused to answer on numerous grounds, none of which are valid, as the advertising, promotion and marketing of products under the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 23: Central has refused to answer on numerous grounds, none of which are valid, as the use of the HYPERSONIC mark is relevant to, *inter alia*, Central's standing to bring this proceeding and Paramount's counterclaim for abandonment. Further, Central has



refused to answer on the basis of confidentiality. The Board has imposed a protective order in this proceeding, as modified by the parties; therefore, this refusal to answer is not justified. Please provide a full response.

Interrogatory No. 24: Central's answer is not responsive to the interrogatory, as it does not specify any of the information requested. Please provide a full response.

Interrogatory No. 25: Central's answer is not fully responsive to the interrogatory, as it does not address any third party's authorized use of the HYPERSONIC mark. Please provide a full response.

Interrogatory No. 24: Central's answer is not fully responsive to the interrogatory, as it does not set forth any specific incidents of confusion or inquiries regarding an association between Central's HYPERSONIC mark and Paramount's HYPERSONIC marks. Please provide a full response, including the specifics of each alleged telephone call.

**With respect to Central's responses to Paramount's document requests:**

General Objection No. 2: Please confirm that Central is not refusing to produce documents on the basis of the attorney-client privilege. To the extent Central is refusing to produce documents on this basis, please provide a privilege log listing any such documents withheld.

Document Request Nos. 12, 13, 17, and 21: To the extent Central objects on the basis of confidentiality, in light of the protective order imposed by the Board, Paramount requests that Central now provide responsive documents.

Document Request Nos. 25, 26: To the extent Central objects on the basis of that Paramount's request did not specify a time period, Paramount requests that Central produce all documents responsive to this request during the time period 1995 to the present.

Document Request No. 27: Central's answer merely refers to its interrogatory responses; however, the request seeks the production of all documents referred to in those interrogatory responses. Please produce responsive documents.

**Please provide Central's supplementary responses no later than the close of business Friday, May 21, or inform us in writing no later than that date that Central will not be supplementing its responses. We also remind you that there were a number of requests for further information or documents made at your deposition. Central has provided a small number of additional documents, but has not provided any of the other information. Please confirm that Central has now produced all documents responsive to Paramount's requests, and that it intends immediately to provide the additional information requested at your deposition. We remind you that your deposition is being held open until we receive all of the requested information.**

Leo Stoller  
May 14, 2004  
Page 5



Finally, on a separate matter, the court reporting service that recorded your deposition called us this week and said that you have indicated to her that the parties had struck a deal whereby we would make a copy of the transcript of your deposition and provide it to you. As you well know, we have no such arrangement, and I suggest that if you would like to obtain a copy of your deposition transcript, you should order it directly from the court reporting service.

Very Truly Yours

*Lance Koonce / msp*  
Lance Koonce

LK/lp  
Enclosure

Mallory D. Levitt, Esq.

# 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

VIA FAX

May 18, 2004

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

Re: Central Mfg. Co. v. Paramount Parks, Inc., Opp. No. 91123765

Dear Mr. Koonce:

We just received your letter which has two dates on it, April 2, 2004 and May 14, 2004, in reference to our discovery responses. The letter refers to your request to supplement our written interrogatories.

Generally, your client had the opportunity through the four hour deposition that I sat through to engage in further elaboration on any interrogatory responses that you felt were inadequate. Normally, what parties use discovery depositions for is to fully interrogate the party as to the answers that were previously submitted in written discovery requests. Your client's request to further elaborate on our interrogatory responses after you have already conducted a four hour deposition, is disingenuous at best and appears to be an attempt to set up a non-existent discovery dispute. The opposer has fully cooperated with the applicant in providing discovery responses and in the participation of a discovery deposition.

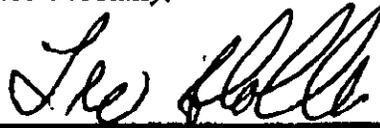
The opposer has presented all relevant information and all documents which are in its possession that are responsive to your written discovery requests. In view of the fact that there is a protective order entered in this proceeding, the opposer does not allege confidentiality grounds as a reason for not responding.

Notwithstanding any of the above, the opposer will review, with particularity your correspondence which covers two dates, April 2nd and May 14th, in order to see if the opposer has not fully responded.

As of this date, although we have ordered a copy of the Stoller deposition, we have not received it to be able to compare it with our interrogatory responses. We are looking forward to receiving a copy. If you have a copy and would like to have your secretary email us the file of the Stoller deposition, we could examine it more readily and get back to you. Our email address is leo@rentamark.com. Otherwise, we will have to wait until we receive our copy of the Stoller deposition.

At this time, we would like to suggest that the parties agree to at least a thirty (30) day extension of time of the discovery period. Discovery is rapidly closing in this case and it behooves the parties to enter into such an agreement. Let us know via fax if you would agree to same.

Most Cordially,



Leo Stoller, President

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LAWYERS



## Davis Wright Tremaine LLP

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

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

May 28, 2004

### VIA FACSIMILE AND 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:

We write in connection with Central Mfg. Co.'s ("Central") responses to Paramount Parks Inc.'s ("Paramount") document requests and interrogatories, and in response to your letter of May 18, 2004. Based on the comments in your letter, Central appears to be refusing outright to supplement its responses to Paramount's interrogatories, based on the dubious theory that the deposition of Opposer's president relieves Central of all obligation to fully and accurately respond to interrogatories. For example, testimony that, at the time of the deposition, you personally could not recall certain relevant facts does not relieve the corporation of its responsibility to investigate the facts and provide detailed responses to interrogatories. Further, the testimony at your deposition in some instances directly contradicted responses by Central to Paramount's interrogatories, and thus Central's continuing obligation under the federal rules to supplement its responses *mandates* an amendment, irrespective of any request from Paramount. Further, Paramount is entitled to continue your deposition to probe the basis for any supplemental responses.

In particular, Central has not provided sufficient information, either in its discovery responses or at your deposition, to a number of requests relating to Stealth Industries, Inc., which purportedly assigned the HYPERSONIC trademark to Central. We refer you to Interrogatory Nos. 6, 7, 8, 14, 15, 17, 19, 23, and 24 in this regard. It is imperative that Central produce the requested information on Stealth Industries, or notify Paramount that no such information will be forthcoming, so that Paramount may take appropriate action. Further, we note that even though Central has confirmed that it has not withheld documents on the grounds of confidentiality, your



letter did not respond to our requests with respect to Document Request Nos. 25, 26 and 27.

We also demand that Central produce documents identified at your deposition, which we requested be produced. In your letter, you stated that you would not be able to comply with these requests until you received a copy of your deposition transcript (which we understand you have not yet ordered), or until we paid for to have a copy of your transcript made and forwarded to you. Mr. Stoller, it is your responsibility to obtain a copy of the transcript should you wish to obtain it. However, in light of your objection, we will outline the outstanding requests:

- 1) Cease and desist letters to other parties allegedly using Central's HYPERSONIC mark;
- 2) Proof of endorsement from U.S. Hardware Industry Association for Central's optic products;
- 3) Written nonexclusive license between USA Sports Co. and Central to sell HYPERSONIC branded goods;
- 4) Intracompany licenses between Central, on the one hand, and Sentra Industries and Stealth Industries, on the other hand, with respect to HYPERSONIC goods;
- 5) Books and records of relating to advertising, promotion and sales of HYPERSONIC goods, kept at the home of Russell Stoller;
- 6) Copies of advertisements for HYPERSONIC golf club kits;
- 7) Physical samples of any HYPERSONIC goods;
- 8) Catalog sheets for HYPERSONIC t-shirts;
- 9) Pictures of HYPERSONIC hats;
- 10) List of amusement parks that have purchased HYPERSONIC goods; and
- 11) An exclusive license with STR Industries.

As you may recall, Paramount withheld a number of highly confidential documents from its document production pending the entry of an appropriate protective order. In light of the Board's imposition of such an order, and the parties' agreement amending that order to further limit the use of information in confidential documents, we are producing herewith those confidential documents, which bear Bates Nos. PP1000-1327. Additionally, pursuant to Paramount's continuing obligation to supplement its discovery, we are enclosing another set of documents responsive to Opposer's requests that have recently become available. This set of documents bears Bates Nos. PP1328-1492.

Leo Stoller  
May 28, 2004  
Page 3



Finally, you requested in your letter of May 18, 2004 that the parties agree to an extension of time to complete discovery. Given that the discovery period initially began in the fall of 2001, we do not believe that such an extension is necessary or appropriate.

Very Truly Yours,

  
Lance Koonce

LK/lp

cc: Mallory D. Levitt, Esq.

TOP  
25  
MORNING

# 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

VIA FAX

June 1, 2004

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

Re: Central Mfg. Co. v. Paramount Parks, Inc., Opp. No. 91123765

Dear Mr. Koonce:

It was a pleasure talking to you today.

Because of my sudden illness that was diagnosed last week, I am requesting an additional thirty (30) days to extend the discovery period in this case. You stated that you would have to check with your client. You also stated that normally under the conditions that I discussed with you, you would have automatically agreed to a thirty day extension of the discovery period. In any

I have enclosed two extensions. One is an agreed extension and the other is a motion for an extension that is not stipulated to. If you will agree to the extension, please sign it and fax it back to me today. Otherwise, I will file the motion for a request for an extension that is not stipulated to tomorrow.

If you have any questions, please give me a call.

Most Cordially,



Leo Stoller, President

**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

Opposer,

vs.

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

Applicant

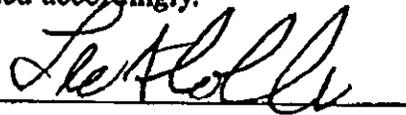
Box TTAB/NO FEE

Opposition No: 91123765

Trademark: HYPERSONIC

**AGREED REQUEST FOR AN EXTENSION OF TIME**

THE PARTIES have agreed that the discovery dates in this proceeding will be extended thirty (30) days and that trial dates will be extended accordingly.

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

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

Lance Koonce  
Attorney for Applicant  
DAVIS WRIGHT TREMAINE  
1633 Broadway  
New York, NY 10019-6708  
212-489-8230

Date: June 1, 2004

**Certificate of Service**

I hereby certify that this *Agreed Request for an Extension of Time* is being sent by **Express Mail No: ER 856126866** in an Express Mail envelope and being FAXED to:

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

---

Leo Stoller

Date: June 1, 2004

**Certificate of Mailing**

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

---

Leo Stoller

Date: \_\_\_\_\_

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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: 91123765

Opposer,

Trademark: **HYPERSONIC**

vs.

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

Applicant

Box TTAB/NO FEE

**REQUEST FOR AN EXTENSION OF TIME**

NOW COMES the Opposer, whose representative, LEO STOLLER, on May 29, 2004, was diagnosed with a serious health condition and was put on medication. The Opposer is requesting that the Board extend the discovery dates for an additional thirty (30) days and to re-set the trial dates accordingly. The Opposer needs the additional time because the Opposer's representative is seriously ill.

The representative of the Opposer has contacted Lance Koonce, counsel for the Applicant on June 1, 2004, in an attempt to get the consent of the Applicant. The Applicant's counsel did not agree to the extension. The Applicant will not be prejudiced by the Board granting the extension to the Opposer.

WHEREFORE, the Opposer prays that the Board enter an Order granting the Opposer an additional thirty (30) days from the date of the Board's Order extending the discovery period and re-setting the trial dates accordingly.

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: June 1, 2004

**Certificate of Service**

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

---

Leo Stoller  
Date: June 1, 2004

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2900 Crystal Drive, Arlington, Virginia 22202-3513

---

Leo Stoller  
Date: \_\_\_\_\_

D:\MARKS32\PARAMT8.EXT





## Davis Wright Tremaine LLP

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Lance Koonce  
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June 2, 2004

### VIA FACSIMILE

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

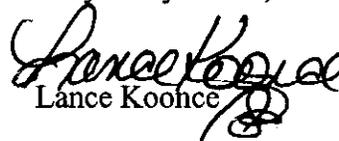
**Re: Central Mfg. Co. v. Paramount Parks Inc.,  
Trademark Trial and Appeal Board Opposition No. 91123765**

Dear Mr. Stoller:

We received your letter regarding an extension of time for the discovery period. As you know, I agreed during our telephone conversation yesterday to raise this issue with our client. As we also discussed, Paramount is very concerned about the exceedingly long duration of discovery in this proceeding, and would prefer not to extend the period any further. However, as you have stated that you had a mild heart attack just last week and are under doctor's orders not to engage in the type of activities that complying with Paramount's outstanding discovery demands would apparently entail, Paramount is willing to agree to a 30-day extension of the discovery period, provided that any stipulation to this effect include an attached statement by you setting forth the details of your illness and your doctor's instructions, for the record. If you would be so kind as to send a stipulation that includes such a statement, we will be happy to sign it on Paramount's behalf.

We hope that your condition improves.

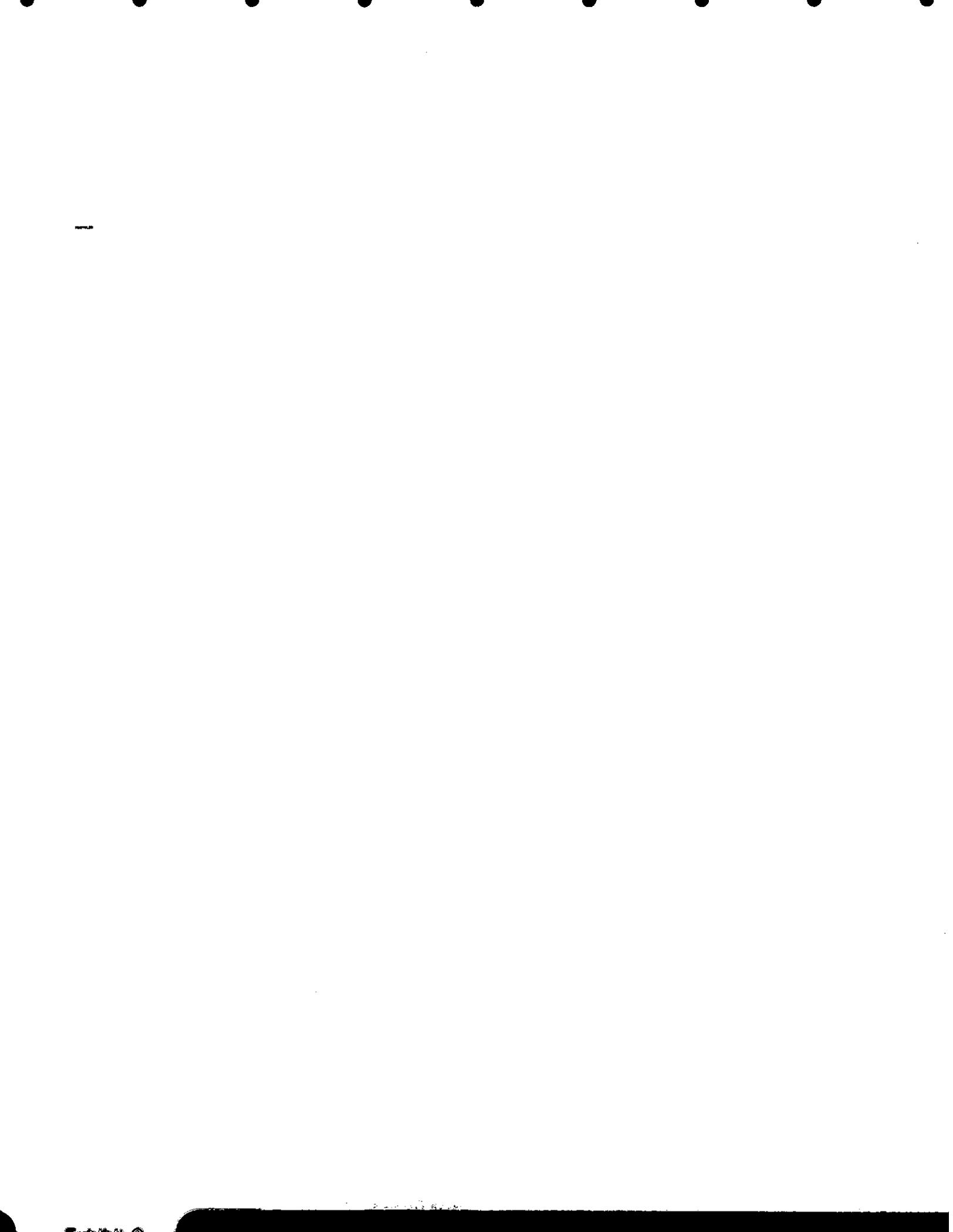
Very Truly Yours,

  
 Lance Koonce

LK/lp

Leo Stoller  
May 28, 2004  
Page 2

cc: Mallory D. Levitt, Esq.



LKX

**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

**REQUEST FOR AN EXTENSION OF TIME**

NOW COMES the Opposer, whose representative, LEO STOLLER, on May 29, 2004, was diagnosed with a serious health condition and was put on medication. The Opposer is requesting that the Board extend the discovery dates for an additional thirty (30) days and to re-set the trial dates accordingly. The Opposer needs the additional time because the Opposer's representative is seriously ill.

The representative of the Opposer has contacted Lance Koonce, counsel for the Applicant on June 1, 2004, in an attempt to get the consent of the Applicant. The Applicant's counsel did not agree to the extension. The Applicant will not be prejudiced by the Board granting the extension to the Opposer.

WHEREFORE, the Opposer prays that the Board enter an Order granting the Opposer an additional thirty (30) days from the date of the Board's Order extending the discovery period and re-setting the trial dates accordingly.

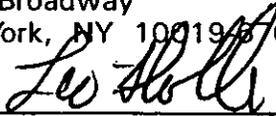
By:   
Leo Stoller  
CENTRAL MFG. CO., Opposer  
Trademark & Licensing Dept.  
P.O. Box 35189  
Chicago, Illinois 60707-0189  
773-283-3880 FAX 708 453-0083

Date: June 1, 2004

**Certificate of Service**

I hereby certify that this *Agreed Request for an Extension of Time* is being sent by **Express Mail No: ER 856126865** in an Express Mail envelope and being FAXED to:

Lacy H. Koonce  
Lance Koonce  
DAVIS WRIGHT TREMAINE LLP.  
1633 Broadway  
New York, NY 10019-0808



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

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



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

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Whois Server: [whois.bulkregister.com](http://whois.bulkregister.com)

Referral URL: <http://www.bulkregister.com>

Name Server: NS1.HIPER.NET

Name Server: NS2.HIPER.NET

Name Server: NS3.HIPER.NET

Status: ACTIVE

Updated Date: 10-nov-2003

Creation Date: 17-nov-2000

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NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

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[BulkRegister.com, Inc.](#)

[Capital Networks Pty.](#)

[Ltd.](#)

[Catalog.com, Inc.](#)

[China-channel.com](#)

[CommuniGal Comm.](#)

[Computer Data](#)

[Networks](#)

[CORE](#)

[Corporate Domains](#)

[Cronon AG](#)

[Cyberegistro.com](#)

[Cypack.com](#)

[Deutsche Telekom, AG](#)

[DirectI.com](#)

[DirectNIC](#)

[Dodora Unified Comm.](#)

po 35189  
chicago, IL 60707-0189  
US

Domain Name: ASSOCIATIONHARDWARE.COM

Administrative Contact:

Leo Stoller elam@technogist.com  
Association network management  
po 35189  
chicago, IL 60707-0189  
US  
Phone: 773-283-3880  
Fax:

Technical Contact:

Leo Stoller elam@technogist.com  
Association network management  
po 35189  
chicago, IL 60707-0189  
US  
Phone: 773-283-3880  
Fax:

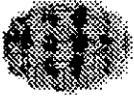
Record updated on 2003-11-10 06:45:39  
Record created on 2000-11-17  
Record expires on 2004-11-17  
Database last updated on 2004-06-16 18:05:46 EST

Domain servers in listed order:

NS1.HIPER.NET           209.189.124.107  
NS2.HIPER.NET           209.132.203.132  
NS3.HIPER.NET           66.114.252.12

Register your domain name at <http://www.bulkregister.com>

www. <input type="text"/>	<b>Search</b>
Searches shared database registry and queries appropriate registrar.	



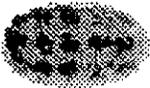
Home

For over 25 Year's, the U.S. Hardware Industry Assoc. has represented business entities within the American Hardware Industry and has faithfully served it's membership, and provided Consumer's with a National Directory of Certified professional's. USHIA is involved with the dissemination of information, research, product development, product endorsements and educational material's to the American Hardware Industry.

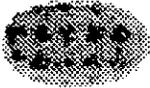


Benefits

Membership in the association is a guarantee of quality, and an assurance of professionalism, and standard's of excellence. Our members who posses additional Certification's are subjected to a rigorous screening process by The Association, thereby providing Credentials only to those Who have met the criteria of excellence required. A certification by the U.S. Hardware Industry Assoc. is a benchmark of quality, and a guarantee to consumers of the highest standard's in the Hardware industry.



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HOT LINKS





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There have been  visitors at our site since 5/1/2000.



[Webt](#)

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www.associationhardware[1]
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www.associationhardware[1]
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www.associationhardware[1]

LINKS"></A></TD>

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www.associationhardware[1]
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within the American Hardware Industry and has faithfully served it's membership,
and provided Consumer's with a National
Directory of Certified professional's.USHIA is involved with the dissemination of
information, research, product development, product endorsements and educational
material's to the American Hardware
Industry. </FONT><P ALIGN=LEFT>&nbsp;<P ALIGN=LEFT><FONT SIZE="+1">&nbsp;&nbsp;&nbsp;Membership
in the association is a guarantee of quality, and an assurance of professionalism,
and
standard's of excellence. Our members who
posses additional Certification's are subjected to a rigorous screening process by
The Association, thereby providing Credentials only to those who have met the
criteria of excellence required. A
certification by the U.S. Hardware Industry Assoc.&nbsp;   is a benchmark of quality,
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[Benefits</A>] [Join&nbsp;&nbsp;us</A>] [Travel&nbsp;&nbsp;with&nbsp;&nbsp;Us</A>]
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www.associationhardware[1]
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```



The U.S. Hardware Industry Association offers many benefits, along with providing it's members with up to date information about everthing associated with golf. We look forward to having you as a new member of the Association. In order to join , simply click on the imageof the gears below.



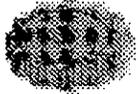
Home

If you need additional Information, Please click on the below, we'll be more than happy to answer all of your question's

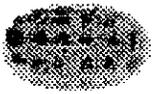


Benefits

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There have been  visitors at our site since 5/1/2000.



[Web](#)

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```

```
                                join[1]
onLoad="F_loadRollover(this,'HOT_LINKS_NRgearbuttonrollover.gif'" BORDER=0 ALT="HOT
LINKS"></A></TD>
```

```
</TR>
```

```
</TABLE>
```

```
</TD>
```

```
<TD></TD>
```

```
</TR>
```

```
<TR VALIGN=TOP ALIGN=LEFT>
```

```
<TD COLSPAN=6 HEIGHT=246></TD>
```

```
</TR>
```

```
<TR VALIGN=TOP ALIGN=LEFT>
```

```
<TD COLSPAN=3 HEIGHT=62></TD>
```

```
<TD WIDTH=100 COLSPAN=3 ALIGN=LEFT
```

```
VALIGN=TOP><A HREF="mailto:ushia@rentamark.com"><IMG ID="picture2" HEIGHT=62
WIDTH=100 SRC="../email.gif" BORDER=0></A></TD>
```

```
</TR>
```

```
</TABLE>
```

```
</TD>
```

```
<TD>
```

```
<TABLE BORDER=0 CELLSPACING=0 CELLPADDING=0
```

```
WIDTH=536>
```

```
<TR VALIGN=TOP ALIGN=LEFT>
```

```
<TD WIDTH=68 HEIGHT=16><IMG
```

```
SRC="../clearpixel.gif" WIDTH=68 HEIGHT=16 BORDER=0></TD>
```

```
<TD></TD>
```

```
</TR>
```

```
<TR VALIGN=TOP ALIGN=LEFT>
```

```
<TD HEIGHT=60></TD>
```

```
<TD WIDTH=468>
```

```
<APPLET ID="RotatingAdBanner1"
```

```
NAME="RotatingAdBanner1" CODE="DynamicBanner.class" CODEBASE=".." HEIGHT=60
WIDTH=468 ALT="Rotating Ad Banner">
```

```
<PARAM NAME="banner0"
```

```
VALUE="http://www.rentamark.com/images/banners/GTban.gif,http://www.nvsa.globaltrave
l.com/,Column">
```

```
<PARAM NAME="banner1"
```

```
VALUE="http://www.rentamark.com/images/banners/rmlg.gif,http://www.rentamark.com,Col
umn">
```

```
<PARAM NAME="banner2"
```

```
VALUE="http://www.rentamark.com/images/banners/membersol_468x60.gif,http://www.membe
rsol.com/partner.php?vendor=Stealth,Column">
```

```
<PARAM NAME="banner3"
```

```
VALUE="http://www.rentamark.com/images/banners/468x60_infolink_ANM.gif,http://www.in
folinkscreening.com/infolink/default.aspx?s=ANM,Column">
```

```
<PARAM NAME="banner4"
```

```
VALUE="http://www.rentamark.com/images/banners/stealth_vacuum.gif,http://www.builtinv
acuum.com/whybiv.html,Column">
```

```
<PARAM NAME="banner5"
```

```
VALUE="http://www.rentamark.com/images/banners/Affinity_2-16-00.gif,http://www.freig
htquote.com/default.asp?WCI=MemberLogin&Access=310411C00&PIN=7212000,Column"
>
```

```
<PARAM NAME="banner6"
```

```
VALUE="http://www.rentamark.com/images/banners/Akina_Banner.jpg,http://www.akinatour
s.com,Column">
```

```
<PARAM NAME="autoResize" VALUE="0">
```

```
<PARAM NAME="delay" VALUE="10">
```

```
</APPLET>
```

```
</TD>
```

```
</TR>
```

```
</TABLE>
```

```
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```

```
WIDTH=581>
```

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```

join[1]
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      <TD WIDTH=543><IMG SRC="../clearpixel.gif"
WIDTH=543 HEIGHT=1 BORDER=0></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD></TD>
      <TD WIDTH=543><P>The U.S. Hardware Industry
Association offers many benefits, along with providing it's members with up to date
information about everthing associated with golf. We look forward to having you
as a new member of the Association. In
order to join , simply click on the imageof the gears below.<BR><BR>If you need
additional Information, Please click on the below, we'll be more than happy to
answer all of your question's</TD>
    </TR>
  </TABLE>
<TABLE CELLPADDING=0 CELLSPACING=0 BORDER=0
WIDTH=411>
  <TR VALIGN=TOP ALIGN=LEFT>
    <TD>
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CELLPADDING=0 WIDTH=314>
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          <TD WIDTH=201 HEIGHT=89><IMG
SRC="../clearpixel.gif" WIDTH=201 HEIGHT=1 BORDER=0></TD>
          <TD WIDTH=113><IMG
SRC="../clearpixel.gif" WIDTH=113 HEIGHT=1 BORDER=0></TD>
        </TR>
        <TR VALIGN=TOP ALIGN=LEFT>
          <TD></TD>
          <TD WIDTH=113><P><A
href="http://www.rentamark.com/order.html">To Join click here</A></TD>
        </TR>
      </TABLE>
    </TD>
    <TD>
      <TABLE BORDER=0 CELLSPACING=0
CELLPADDING=0 WIDTH=97>
        <TR VALIGN=TOP ALIGN=LEFT>
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SRC="../clearpixel.gif" WIDTH=4 HEIGHT=1 BORDER=0></TD>
          <TD></TD>
        </TR>
        <TR VALIGN=TOP ALIGN=LEFT>
          <TD HEIGHT=70></TD>
          <TD WIDTH=93 ALIGN=LEFT
VALIGN=TOP><A href="http://www.rentamark.com/order.html"><IMG ID="Picture6"
HEIGHT=70 WIDTH=93 SRC="../gears.gif" BORDER=0></A></TD>
        </TR>
      </TABLE>
    </TD>
  </TABLE>
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CELLPADDING=0 WIDTH=324>
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          <TD WIDTH=194><IMG

```

```

                                join[1]
SRC="../../clearpixel.gif" WIDTH=194 HEIGHT=1 BORDER=0></TD>
                                </TR>
                                <TR VALIGN=TOP ALIGN=LEFT>
                                <TD></TD>
                                <TD WIDTH=194><P><A
                                HREF="http://www.rentamark.com/info.html">For more information Click here</A></TD>
                                </TR>
                                </TABLE>
                                </TD>
                                <TD>
                                <TABLE BORDER=0 CELSPACING=0
                                <TR VALIGN=TOP ALIGN=LEFT>
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                                <TD></TD>
                                </TR>
                                <TR VALIGN=TOP ALIGN=LEFT>
                                <TD HEIGHT=80></TD>
                                <TD WIDTH=80 ALIGN=LEFT
                                VALIGN=TOP><A HREF="http://www.rentamark.com/info.html"><IMG ID="Picture7" HEIGHT=80
                                WIDTH=80 SRC="../../nut.gif" BORDER=0></A></TD>
                                </TR>
                                </TABLE>
                                </TD>
                                </TR>
                                </TABLE>
                                <TABLE BORDER=0 CELSPACING=0 CELLPADDING=0>
                                <TR VALIGN=TOP ALIGN=LEFT>
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                                SRC="../../clearpixel.gif" WIDTH=48 HEIGHT=1 BORDER=0></TD>
                                <TD></TD>
                                </TR>
                                <TR VALIGN=TOP ALIGN=LEFT>
                                <TD></TD>
                                <TD NOWRAP> [<A
                                HREF="../../index.htm">Home</A>] [<A HREF="../../Benefits/benefits.html">Benefits</A>]
                                [<A HREF="../../Join/join.html">Join&nbsp;us</A>] [<A
                                HREF="../../Travel_with_Us/travel_with_us.html">Travel&nbsp;with&nbsp;Us</A>]
                                [<A
                                HREF="../../HOT_LINKS/hot_links.html">HOT&nbsp;LINKS</A>] </TD>
                                </TR>
                                </TABLE>
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                                <TD></TD>
                                </TR>
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                                <TD WIDTH=576>
                                <!--Counter Begin--><DIV
                                ALIGN=center><FONT COLOR=Black><B>There have been <IMG
                                SRC=http://www.rentamark.com/cgi-bin/Count.cgi?df=.aapitsa.index.htm.dat|md=7|pad=Y|
                                incr=Y|comma=N|sh=Y|negate=N|ft=5|frgb=960ac8|dd=fancy_digital_red> visitors at our
                                site since 5/1/2000.</B></FONT></DIV><BR><!--Counter End--></TD>
                                </TR>
                                </TABLE>
                                </TD>
                                </TR>
                                </TABLE>

```

join[1]

```
</TD>
<TD>
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WIDTH=17 HEIGHT=1 BORDER=0></TD>
      <TD WIDTH=14><IMG SRC="../clearpixel.gif" WIDTH=14
HEIGHT=1 BORDER=0></TD>
      <TD></TD>
      <TD WIDTH=17><IMG SRC="../clearpixel.gif" WIDTH=17
HEIGHT=1 BORDER=0></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD COLSPAN=2 HEIGHT=48></TD>
      <TD WIDTH=48 ALIGN=LEFT VALIGN=TOP><A
href="mailto:elam@technologist.com"><IMG ID="Picture16" HEIGHT=48 WIDTH=48
SRC="../hacker.gif" BORDER=0></A></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD COLSPAN=4 HEIGHT=3></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD></TD>
      <TD WIDTH=79 COLSPAN=3><P><A
href="mailto:elam@technologist.com">webmaster</A></TD>
    </TR>
  </TABLE>
</TD>
</TR>
</TABLE>
</FORM>
<EMBED SRC="../Entrtanr.mid" HEIGHT=2 WIDTH=2 AUTOSTART=TRUE HIDDEN=TRUE
LOOP=TRUE>
</BODY>
</HTML>
```

# Better-Whois.com

SEARCH ALL DOMAIN REGISTRARS

sportsassociation.net is

## Reserved

Registrar: BULKREGISTER, LLC.

Status: ACTIVE

Domain options / additional information: *(Click below to expand)*

+ if you own this domain...

+ if you are trying to register/buy this domain...

+ if you are researching this domain...

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information. Domain Name: SPORTSASSOCIATION.NET

Registrar: BULKREGISTER, LLC.

Whois Server: [whois.bulkregister.com](http://whois.bulkregister.com)

Referral URL: <http://www.bulkregister.com>

Name Server: NS1.HIPER.NET

Name Server: NS2.HIPER.NET

Name Server: NS3.HIPER.NET

Status: ACTIVE

Updated Date: 18-may-2004

Creation Date: 25-may-2000

Expiration Date: 25-may-2005

NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

Sponsored Link:

[Improve your Google ranking!](#) Planet Ocean's Search Engine Book teaches you how to boost your site to the top in as little as 5 days.

[[whois.bulkregister.com](http://whois.bulkregister.com)]

The data in BulkRegister, LLC WHOIS database is provided to you by BulkRegister, LLC for information purposes only, that is, to assist you in obtaining information about or related to a domain name registration record. BulkRegister, LLC makes this information available "as is", and does not guarantee its accuracy. By submitting a WHOIS query, you agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (1) allow, enable, or otherwise support the transmission of mass or bulk unsolicited, commercial advertising or solicitations via electronic mail, aka (SPAM). (2) enable high volume, automated, electronic processes that apply to BulkRegister, LLC (or its systems). The compilation, repackaging, dissemination or other use of this data is expressly prohibited without the prior written consent of BulkRegister, LLC. BulkRegister, LLC reserves the right to modify these terms at any time. By submitting this query, you agree to abide by these terms.

Association Network Management

[Home page](#)

[Link-to-Us](#)

[Contact Us](#)

### Featured Registrar

Register a domain name with [Register.com](#) for only \$20. Includes:

- Free 10-page web site
- Free web forwarding
- Free e-mail forwarding
- Free domain locking
- Name portfolio manager
- Dynamic DNS service

[Click here for discounted rate.](#)

### BB Domain Registrars

[Bizcn.com, Inc.](#)

[BookMyName SAS](#)

[BulkRegister.com, Inc.](#)

[Capital Networks Pty.](#)

[Ltd.](#)

[Catalog.com, Inc.](#)

[China-channel.com](#)

[CommuniGal Comm.](#)

[Computer Data](#)

[Networks](#)

[CORE](#)

[Corporate Domains](#)

[Cronon AG](#)

[Cyberregistro.com](#)

[Cypack.com](#)

[Deutsche Telekom, AG](#)

[DirectI.com](#)

[DirectNIC](#)

po box 35189  
chicago, IL 60707-0189  
US

Domain Name: SPORTSASSOCIATION.NET

Administrative Contact:

leo stoller elam@technologist.com  
Association Network Management  
po box 35189  
chicago, IL 60707-0189  
US  
Phone: 773-283-3880  
Fax:

Technical Contact:

leo stoller elam@technologist.com  
Association Network Management  
po box 35189  
chicago, IL 60707-0189  
US  
Phone: 773-283-3880  
Fax:

Record updated on 2004-05-18 06:39:50  
Record created on 2000-05-25  
Record expires on 2005-05-25  
Database last updated on 2004-07-08 10:22:01 EST

Domain servers in listed order:

NS1.HIPER.NET	209.189.124.107
NS2.HIPER.NET	209.132.203.132
NS3.HIPER.NET	66.114.252.12

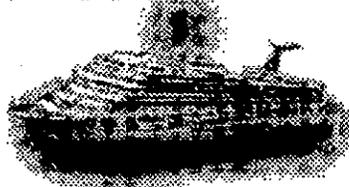
Register your domain name at <http://www.bulkregister.com>

www.	<input type="text"/>	<b>Search</b>
Searches shared database registry and queries appropriate registrar.		



## Association Benefits

### Win a Cruise



Email Login	Password	<input type="button" value="Login"/>
<input type="text"/>	<input type="text"/>	
New users sign up!		

Enter our  
**Community!**

Search	<input type="text" value="Sports"/>	<input type="button" value="Go"/>	<input type="text"/>	<input type="button" value="Pow"/>
--------	-------------------------------------	-----------------------------------	----------------------	------------------------------------

Home

Sports

Golf

Tennis

Sports News

Benefits

Travel with Us

HOT LINKS

## Membership Benefits

The Association provides it's member's with National Certification, accreditation and recognition. All member's receive a certificate suitable for display , recognizing membership in the association, and you will also be listed in our national Directory. In addition, the American Sports Association offers certification's in other area's based on education, experience, expertise, and knowledge of your chosen field. These additional certification's are available through a testing and screening process administered by the association, for a complete listing of Certifications available, please contact us.

These Certifications can enhance, and increase your business dramatically. In a world saturated by "so-called experts" , a Certification from the American Sports Association can provide you with the credibility you need to Increase you customer base, and provide verification of your expertise.

Additionally, our members are continually offered discount's through the association from nationally recognized vendor's , below are some examples of these added benefit's:

- [Discounts from Budget Rent-A-Car](#)
- [Huge Discounts on Cruise's & Getaways](#)
- Hertz rent-a-car - weekly discounts, and free car class upgrades.

- Great savings on books and publications
- Wireless, anywhere, Communication Services by Virtual Link
- Freightquote.com - discounts on shipping and freight.
- ECSCards - discounted rates on credit card processing for your business.
- Assistance in Collection Services.
- Discounts on prescriptions.
- Dental benefits discounts.
- Vision care discounts.
- Discounts on Hearing care.
- Travel discounts on Hotels, Airfares, cruises, and Dining.
- Discounts up to 70% off on Resort Condos.
- Theme park Discounts up to 50 % off.
- Movie Discounts, up to 40 % off.
- 1 free Trademark search for your business, from Rentamark.com.
- Free listing of your registered Trademark on Rentamark.com. and Much, Much, More, all from nationally known corporations.

[\[Home\]](#) [\[Sports\]](#) [\[Golf\]](#) [\[Tennis\]](#) [\[Sports News\]](#) [\[Benefits\]](#) [\[Travel with Us\]](#) [\[HOT LINKS\]](#)



WebMaster

## benefits[1]

```

<!DOCTYPE HTML PUBLIC "-//W3C//DTD HTML 3.2 FINAL//EN">
<HTML>
<HEAD>
<META HTTP-EQUIV="Content-Type" CONTENT="text/html; charset=ISO-8859-1">
<META NAME="Author" CONTENT="Danny Elam / Technology Now">
<META NAME="Generator" CONTENT="NetObjects Fusion 4.0.1 for windows">
<TITLE>Sportsassociation.net</TITLE>
<SCRIPT>
<!--
function F_loadRollover(){} function F_roll(){}
//-->
</SCRIPT>
<SCRIPT LANGUAGE="JavaScript1.2" SRC="../rollover.js"></SCRIPT>
</HEAD>
<BODY BACKGROUND="../SportsBackground.GIF" LINK="#CC0000" VLINK="#999999"
TEXT="#000000" TOPMARGIN=0 LEFTMARGIN=0 MARGINWIDTH=0 MARGINHEIGHT=0>
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BORDER=0></TD>
      <TD></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD HEIGHT=72></TD>
      <TD WIDTH=602><IMG ID="Banner1" HEIGHT=72 WIDTH=602
SRC="../Benefits_NSportsBanner.gif" BORDER=0 ALT="Association Benefits"></TD>
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BORDER=0></TD>
      <TD></TD>
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BORDER=0></TD>
      <TD></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD COLSPAN=5 HEIGHT=4></TD>
      <TD WIDTH=39 ROWSPAN=3 ALIGN=LEFT VALIGN=TOP><IMG ID="Picture6"
HEIGHT=68 WIDTH=39 SRC="../Tplayer.gif" BORDER=0></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD HEIGHT=27></TD>
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href="http://www.cruisecash1.com"><IMG ID="Picture9" HEIGHT=107 WIDTH=174
SRC="../wincruise.gif" BORDER=0></A></TD>
      <TD COLSPAN=3></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD HEIGHT=37></TD>
      <TD></TD>
      <TD WIDTH=468 ROWSPAN=2>
        <APPLET ID="RotatingAdBanner1" NAME="RotatingAdBanner1"
CODE="DynamicBanner.class" CODEBASE=".." HEIGHT=60 WIDTH=468 ALT="Rotating Ad
Banner">
          <PARAM NAME="banner0"
VALUE="../GTban.gif,http://www.asa.globaltravel.com,Fade">
          <PARAM NAME="banner1"
VALUE="../quest2.jpg,http://www.questprograms.com/asn/abg.home-266020,Fade">

```

```

                                benefits[1]
                                <PARAM NAME="banner2"
VALUE="../rmlg.gif,http://www.rentamark.com,Fade">
                                <PARAM NAME="banner3"
VALUE="../_budgets.gif,http://www.budget.com/partners/sportsassoc.html,Column">
                                <PARAM NAME="banner4"
VALUE="../golf2__1_.gif,http://www.skywebbiz.com/ctimkt/database,Column">
                                <PARAM NAME="banner5"
VALUE="../Affinity_2-16-00.gif,http://www.freightquote.com/default.asp?WCI=MemberLog
in&Access=310424C00&PIN=7212000,Column">
                                <PARAM NAME="banner6"
VALUE="../delmar.gif,http://ecatalog.thomsonlearning.com/161/1pext.dll?f=templates&a
mp;fn=maininfoframe.htm&global=g_&g_gpc=anm0301,Column">
                                <PARAM NAME="autoResize" VALUE="0">
                                <PARAM NAME="delay" VALUE="10">
                                </APPLET>
                                </TD>
                                <TD></TD>
                                </TR>
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                                <TD HEIGHT=23></TD>
                                <TD></TD>
                                <TD COLSPAN=2></TD>
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                                <TD></TD>
                                </TR>
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                                <TD HEIGHT=77></TD>
                                <TD WIDTH=236>
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                                <td height="16">
                                <table border="0" cellspacing="0" cellpadding="2" width="100%" height="100%">
                                <form name="login_form"
                                action="http://sportsassociation.mail.everyone.net/email/scripts/loginuser.pl"
                                method="post">
                                <tr bgcolor="#800000">
                                <td height="2" nowrap width="39%" align="left"> <font color="#FFFFFF"
                                face="Arial,Helvetica,sans-serif" size="2">Email
                                Login</font><br>
                                <input type="text" size="12" name="loginName" value="">
                                </td>
                                <td height="2" nowrap width="36%" align="left">
                                <font color="#FFFFFF" face="Arial,Helvetica,sans-serif"
                                size="2">Password</font><br>
                                <input type="password" size="12" name="user_pwd" value="">
                                </td>
                                <td height="2" nowrap width="25%" valign="bottom" align="left">
                                <input type="submit" name="login" value="Login">
                                </td>
                                </tr>
                                </table>
                                </td>
                                </tr>
                                </table>

```

benefits[1]

```
<tr bgcolor="#800000">
  <td height="2" nowrap colspan="3" valign="middle" align="right">
    <p><font color="#FFFFFF" face="Arial,Helvetica,sans-serif"
size="1">New
      users</font> <a
href="http://sportsassociation.mail.everyone.net/email/scripts/useragreement.pl"><fo
nt color="#FFFFFF" face="Arial,Helvetica,sans-serif" size="1"><b>sign
up</b></a>!</font></p>
    </td>
  </tr>
</form>
</table>
</td>
</tr>
</table>
</TD>
  </TR>
</TABLE>
</TD>
<TD>
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HEIGHT=1 BORDER=0></TD>
      <TD></TD>
    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
      <TD HEIGHT=43></TD>
      <TD WIDTH=21><SCRIPT LANGUAGE='JavaScript1.2'
SRC='http://www.everyone.net/main/scripts/ContestJavaScript.pl?cid=C143066'
TYPE='text/javascript'></script>
</TD>
    </TR>
  </TABLE>
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benefits[1]

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Benefits</FONT><P><B><FONT COLOR="#000000" SIZE="+1" FACE="Times New

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Association provides it's member's with National Certification, accreditation and recognition. All member's receive a certificate suitable for display , recognizing membership in the association, and you will also be

listed in our national Directory. In addition, the American Sports Association offers certification's in other area's based on education, experience, expertise, and knowledge of your chosen field. These additional

certification's are available through a testing and screening process administered by the association, for a complete listing of Certifications available, please contact us. <P>These Certifications can enhance, and

increase your business dramatically. In a world saturated by &quot;so-called experts&quot; , a Certification from the American Sports Association can provide you with the credibility you need to Increase you customer

base, and provide verification of your expertise.</FONT></B></TD>

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Roman,Times,Times NewRoman">
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processing for your business.</LI>
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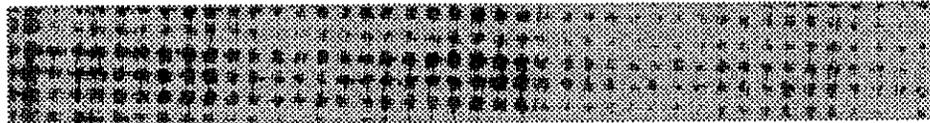
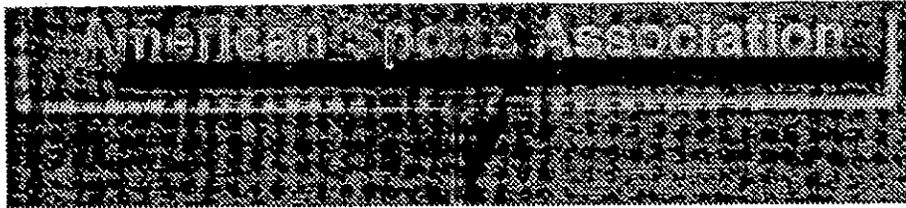
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Creative Travel



10/2004

Since 1975, the American Sports Association has represented business entities within the entire U.S. Sporting goods Industry. Our members are primarily business owners or managers of retail establishments, wholesale and Manufacturing Companies and other organizations related to the U.S. Sporting goods Industry.



10/2004

For over 25 Year's, the American Sports Association has faithfully served it's membership, and provided Consumer's with a National Directory of Certified professional's. Membership in the association is a guarantee of quality, and an assurance of professionalism, and standard's of excellence. Our members who posses additional Certification's are subjected to a rigorous screening process by the Association, thereby providing Credentials only to those Who have met the criteria of excellence required. A certification by the American Sports Association is a benchmark of quality, and a guarantee to consumers of the highest standard's in the Sports industry.



10/2004



10/2004



10/2004

<b>Click Here</b>		<b>Rate, Ship &amp; Track</b> Complete Online Services
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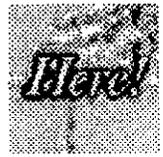
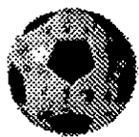


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Webmaster

There have been  visitors at our site since 5/1/2000.



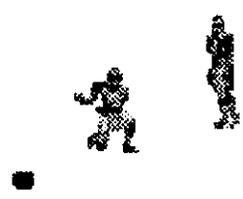
Creative Travel

The American Sports Association offers many benefits, along with providing it's members with up to date information about everthing associated with the U.S. Sporting Goods Industry. We look forward to having you as a new member of the Association. In order to join , simply click on the image below.

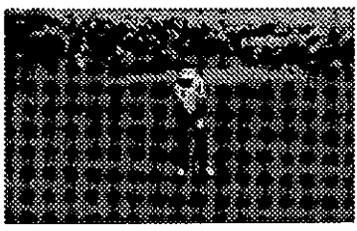


If you need additional information, Please click on the Imagebelow, we'll be more than happy to answer all of your question's.

To Join our Association, Click Here



If you need Additional Information, Click here





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Webmaster

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join[1]

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join[1]

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l.com/,Column">
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VALUE="http://www.rentamark.com/images/banners/rmlg.gif,http://www.rentamark.com,col
umn">
          <PARAM NAME="banner2"
VALUE="http://www.rentamark.com/images/banners/membersol_468x60.gif,http://www.membe
rsol.com/partner.php?vendor=Stealth,Column">
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              <PARAM NAME="banner4"
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VALUE="http://www.rentamark.com/images/banners/Affinity_2-16-00.gif,http://www.freig
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>
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SRC="..GTsml.gif" BORDER=0></A></TD>
                    <TD COLSPAN=3></TD>
                    <TD COLSPAN=2></TD>
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                  </TR>
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                    <TD COLSPAN=11 HEIGHT=10></TD>
                  </TR>
                  <TR VALIGN=TOP ALIGN=LEFT>
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join[1]

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ALT="Home"></A></TD>
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us"></A></TD>
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Offers"></A></TD>
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              <TR VALIGN=TOP ALIGN=LEFT>
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                                join[1]
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                                </TR>
                                <TR VALIGN=TOP ALIGN=LEFT>
                                <TD></TD>
                                <TD WIDTH=194><P><B><FONT COLOR="#000000"
SIZE="+1">If you need Additional Information, click here</FONT></B></TD>
                                </TR>
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                                </TR>
                                </TABLE>
                                </TD>
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                                </TR>
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join[1]

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            <TD></TD>
          </TR>
          <TR VALIGN=TOP ALIGN=LEFT>
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href="../index.htm">Home</A>] [<A href="../Benefits/benefits.html">Benefits</A>]
[<A href="../Join/join.html">Join&nbsp;us</A>] [<A
href="../offers/offers.html">Special&nbsp;offers</A>] [<A
href="../Travel_with_Us/travel_with_us.html">Travel&nbsp;with&nbsp;Us</A>] [<A
href="../Hot_Links/hot_links.html">Hot&nbsp;Links</A>] </TD>
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          </TR>
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          </TR>
          <TR VALIGN=TOP ALIGN=LEFT>
            <TD></TD>
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        </TABLE>
      </TD>
    </TR>
  </TABLE>
</TD>
<TD>
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    </TR>
    <TR VALIGN=TOP ALIGN=LEFT>
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join[1]

```
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incr=Y|comma=N|sh=Y|negate=N|ft=5|frgb=960ac8|dd=fancy_digital_red> visitors at our  
site since 5/1/2000.</B></FONT></DIV><BR><!--Counter End--></TD>  
</TR>  
</TABLE>  
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</FORM>  
<EMBED SRC="../../Koolthin.mid" HEIGHT=2 WIDTH=2 AUTOSTART=TRUE HIDDEN=TRUE  
LOOP=TRUE></embed>  
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</HTML>
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index[1]

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<HTML>
<HEAD>
<META HTTP-EQUIV="Content-Type" CONTENT="text/html; charset=ISO-8859-1">
<META NAME="Generator" CONTENT="NetObjects Fusion 4.0.1 for Windows">
<TITLE>American Sports Association</TITLE>
<META NAME="DESCRIPTION" CONTENT="Association of ?.">
<META NAME="KEYWORDS" CONTENT="Association, Group, membership, Benefits, cruises,
discounts, Savings, Certification">
<SCRIPT>
<!--
function F_loadRollover(){} function F_roll(){}
//-->
</SCRIPT>
<SCRIPT LANGUAGE="JavaScript1.2" SRC="./rollover.js"></SCRIPT>
</HEAD>
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    </TR>
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    <TR VALIGN=TOP ALIGN=LEFT>
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                                index[1]
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                                <TR VALIGN=TOP ALIGN=LEFT>
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VALUE="http://www.rentamark.com/images/banners/GTban.gif,http://www.nvsa.globaltrave
l.com/,Column">
                                <PARAM NAME="banner1"
VALUE="http://www.rentamark.com/images/banners/rmlg.gif,http://www.rentamark.com,Co
lumn">
                                <PARAM NAME="banner2"
VALUE="http://www.rentamark.com/images/banners/membersol_468x60.gif,http://www.membe
rsol.com/partner.php?vendor=Stealth,Column">
                                <PARAM NAME="banner3"
VALUE="http://www.rentamark.com/images/banners/468X60_infolink_ANM.gif,http://www.in
folinkscreening.com/infolink/default.aspx?s=ANM,Column">
                                <PARAM NAME="banner4"
VALUE="http://www.rentamark.com/images/banners/stealth_vacum.gif,http://www.builtinv
acuum.com/whybiv.html,Column">
                                <PARAM NAME="banner5"
VALUE="http://www.rentamark.com/images/banners/Affinity_2-16-00.gif,http://www.freig
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>
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s.com,Column">
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                                <TD COLSPAN=3></TD>
                                <TD COLSPAN=2></TD>
                                </TR>
                                <TR VALIGN=TOP ALIGN=LEFT>
                                <TD COLSPAN=3 HEIGHT=21></TD>
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                                </TR>
                                <TR VALIGN=TOP ALIGN=LEFT>
                                <TD></TD>
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                                <TD COLSPAN=5></TD>
                                </TR>
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index[1]

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HEIGHT=1 BORDER=0></TD>
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NAME="NavigationButton43" HEIGHT=72 WIDTH=72
SRC="./A_NStadiumButton.GIF"
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ALT="Home"></A></TD>
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us"></A></TD>
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Offers"></A></TD>
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ALT="Travel with us"></A></TD>
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href="./Hot_Links/hot_links.html" onMouseOver="F_roll('NavigationButton48',1)"
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index[1]

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<TR VALIGN=TOP ALIGN=LEFT>

<TD></TD>

COLOR="#FFFF33" SIZE="+1">Since 1975, the American Sports Association has represented business entities within the entire U.S. Sporting goods Industry. Our members are

primarily business owners or managers of retail establishments, wholesale and Manufacturing Companies and other organizations related to the U.S. Sporting goods Industry.</FONT><FONT

COLOR="#99FFFF"></FONT></B><FONT COLOR="#99FFFF">

</FONT><P ALIGN=LEFT><B><FONT COLOR="#FFFF33" SIZE="+1">For over 25 Year's, the American Sports Association has faithfully served it's membership, and provided Consumer's with a National Directory of Certified professional's. Membership in the association is a guarantee of quality, and an assurance of professionalism, and standard's of excellence. Our members who posses additional Certification's are subjected to a rigorous

screening process by the Association, thereby providing Credentials only to those who have met the criteria of excellence required. A certification by the American Sports Association&nbsp;is a benchmark of quality, and

a guarantee to consumers of the highest standard's in the sports industry.</FONT></B></TD>

</TR>

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<TR VALIGN=TOP ALIGN=LEFT>

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index[1]

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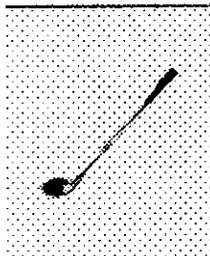
The National Veterinarian Service Association



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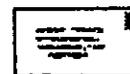
The American Sports Association



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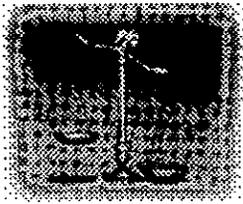
The National Association of Alternative Medicines



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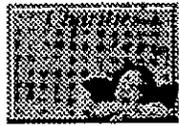
Americans for the enforcement of Attorney Ethics



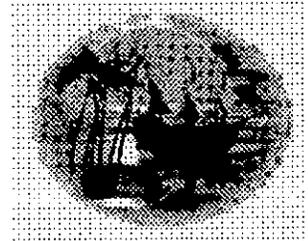
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11



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# River Forest Man Targeted In Charity Web Scheme

## Web Site Solicited Donations For 9/11 Victims

POSTED: 4:42 p.m. CDT July 31, 2002  
UPDATED: 5:09 p.m. CDT July 31, 2002

**CHICAGO --** Illinois Attorney General Jim Ryan filed a civil lawsuit Wednesday against a River Forest man who operated a Web site that illegally solicited donations for victims of the Sept. 11 terrorist attacks.

The suit, filed in Cook County Circuit Court, named Leo Stoller, of 1212 Lathrop Avenue in the west suburb, and the "Give A Gift Online" organization as defendants.

The complaint said Stoller created a Web site to solicit donations for more than 40 charities without the charities' consent and without actually sending any money to the organizations.

The site primarily sought contributions to charities that raise money to support relief efforts for victims of the Sept. 11 terrorist attacks in Washington, D.C., and New York City, according to the suit.

"Sept. 11 brought out the best of the American spirit; unfortunately, in a few instances, it brought out the worst in people," Ryan said during a news conference at the Thompson Center.

Ryan said his office learned about the alleged scheme after at least two of the charities listed on Stoller's Web site contacted the New York attorney general's office. The callers told officials that Stoller had not been authorized to solicit donations for those charities and had not sent any money to them.

The New York attorney general's office then contacted Ryan's office, which in turn contacted the remainder of the charities listed on the site, Ryan said.

Stoller, believed to be in his 50s, never registered with Ryan's office to solicit donations for charity, which is a requirement before anyone can ask for charitable contributions, Ryan said.

<http://www.nbc5.com/news/1587141/detail.html>

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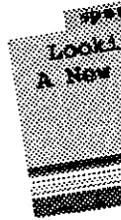
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During the investigation, Ryan's office also discovered a second Web site run by Stoller: a phony animal welfare charity site called American Conservation Society, which automatically linked visitors to the Give A Gift Online site, Ryan said.

The second charity "appears to exist only in cyberspace," Ryan added, and was never registered with Ryan's office.

Of the more than 40 charities listed on Give A Gift Online, at least 14 have contacted Ryan's office and informed officials that they have not had any contact with Stoller or the Web site, Ryan added.

Ryan said the case would be difficult to prove because most people do not follow up on donations after giving to charities, and most people who may have donated to Stoller's Web site probably did not realize it was illegitimate.

"People are very generous and of course they want to help the victims of Sept. 11," Ryan said. "We want this lawsuit to serve as a warning to any con artists that are out there that are even thinking about using the Sept. 11 tragedy for their own personal gain," he added.

As soon as Ryan's office began investigating the case, the two Web sites "disappeared," Ryan said.

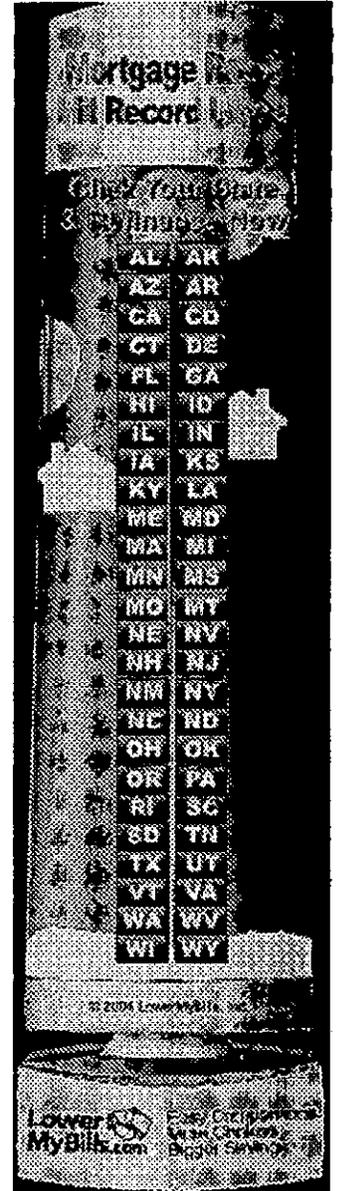
The suit seeks a full accounting of all assets, receipts, and payments from all money raised as a result of the scheme. It also seeks a \$2,000 penalty for each instance where Stoller solicited donations for a charity without the organization's consent and an injunction prohibiting Stoller from soliciting funds for charity in Illinois or from operating or controlling any Web site.

The suit also asked for unspecified punitive damages and a \$50,000 fine if the accounting showed Stoller spent more than \$1,000 of the funds he raised for personal use.

Stoller could not be reached for comment at his River Forest home Wednesday afternoon.

No court dates were immediately set for the suit.

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**SCRIPT FOR TELEPHONE CALLS TO CENTRAL MFG CO. "CUSTOMER LIST"**

1. Confirm that the business is same as name on list.
2. Ask to speak to the person responsible for making purchasing decisions with respect to sporting goods.
3. **"I'M CALLING ON BEHALF OF A LAW FIRM THAT REPRESENTS A DEFENDANT IN A TRADEMARK DISPUTE. YOUR BUSINESS HAS BEEN IDENTIFIED BY THE PLAINTIFF AS ONE TO WHOM PLAINTIFF HAS SOLD OR MAY HAVE SOLD PRODUCTS IN RECENT YEARS. CAN I ASK YOU A FEW SIMPLE QUESTIONS TO CONFIRM THAT THIS IS THE CASE?"**

**[IF ASKED, CONFIRM THAT YOU ARE ONLY SEEKING INFORMATION, AND NEITHER THE INDIVIDUAL NOR THE BUSINESS CAN OR WILL BE MADE A PARTY TO THE PROCEEDING.]**

4. **HAS YOUR BUSINESS EVER PURCHASED ANY PRODUCTS UNDER THE BRAND NAME "HYPERSONIC"?**

**IF YES, PLEASE DESCRIBE THE PRODUCTS, AND WHATEVER YOU CAN REMEMBER ABOUT HOW MANY YOU PURCHASED AND SOLD.**

**IF YES, DOES YOUR BUSINESS CURRENTLY SELL PRODUCTS UNDER THE BRAND NAME "HYPERSONIC"?**

5. **HAS YOUR BUSINESS EVER PURCHASED ANY PRODUCTS FROM A COMPANY KNOWN AS CENTRAL MFG. CO., IN CHICAGO, ILLINOIS?**

**IF YES, PLEASE DESCRIBE THE PRODUCTS, AND WHATEVER YOU CAN REMEMBER ABOUT HOW MANY YOU PURCHASED AND SOLD.**

**IF YES, DOES YOUR BUSINESS CURRENTLY SELL PRODUCTS PURCHASED FROM CENTRAL MFG. CO.?**

6. **HAS YOUR BUSINESS EVER RECEIVED ANY ADVERTISING MATERIAL, PROMOTIONAL MATERIAL, OR CATALOGS FROM CENTRAL MFG. CO.?**

**IF YES, DID THAT MATERIAL CONTAIN ANY REFERENCES TO "HYPERSONIC" PRODUCTS?**

**IF YES, WHEN DID YOU LAST RECEIVE SUCH MATERIAL, AND HOW OFTEN HAVE YOU RECEIVED IT?**

Outdoorsmans He	11th St & Hwy 53	International Falls	MN
Outer Limits Skate	1301 W Sunset Bl	Saint George	UT
Outfitter The	207 E Kemp	Watertown	SD
Outfitters	223 Main St S	Stillwater	MN
Outfitters The	Snwms Vlg Ml	Snowmass Village	CO
Outlet	722 N Washington	Junction City	KS
Outpost Hunt & S	11124 Highway 55	Minneapolis	MN
Outpost Sunsport	622 S College Ave	Fort Collins	CO
Outpost Sunsport	931 E Harmony R	Fort Collins	CO
Outrageous Ski O	209 Ten Mile Cir	Copper Mountain	CO
Outward Bound S	945 Pennsylvania	Denver	CO
Ov Development I	3404 W 13th St	Grand Island	NE
Over The Edge Sp	202 E Aspen Ave	Fruita	CO
Over The Hill Gan	2682 US Highway	Kalispell	MT
Overby Enterprise	100 E Graham Rd	Urich	MO
Overland Billiard		Blue Springs	MO
Overland Billiard	1800 SW Market	Lees Summit	MO
Overland Park Bai	8206 Marty St	Shawnee Mission	KS
Owatonna Roller	SW 18 St	Owatonna	MN
Owenhouse Ace	25 S Black Ave	Bozeman	MT
Owenhouse Ace	25 S Black Ave	Bozeman	MT
Owenhouse Ace	36 E Main St	Bozeman	MT
Owenhouse Ace	36 E Main St	Bozeman	MT
Owl Sports	535 10th Ave NW	Glenwood	MN
Owne Bait & Tackl	2528 New Pinery	Portage	WI
Oxbo Resort	Ofc RR	Park Falls	WI
Oxbow Outfitting	675 E Durant Ave	Aspen	CO
Oxford Bowl	325 Oxford St	Worthington	MN
Ozark Adventures	1457 S Glenstone	Springfield	MO
Ozark Adventures	2825 S Glenstone	Springfield	MO
Ozark Anglers Wo		Camdenton	MO
Ozark Archery Inc	1800 S Broadway	Poplar Bluff	MO
Ozark Athletic Sup	1222 Main	Joplin	MO
Ozark Gun Club	RR 4	Salem	MO
Ozark Motor & Su	440 E Tampa St	Springfield	MO
Ozark Mountain Cl	1202 Eaglecrest D	Nixa	MO
Ozark Mountain G	2910 S Fort Ave	Springfield	MO
Ozark Outfitters B	City Rt 44	Waynesville	MO
Ozark Outfitters B	City Rt 44	Waynesville	MO
Ozark Pool Spa &	1007 N Pine St	Rolla	MO
Ozark Shooters S	759 S Commercial	Branson	MO

Palmers Collector	898 Elmore St	Green Bay	WI
Palo Bait Shop	1204 1st St	Palo	IA
Pam Co	608 S Mahan St	Lowry City	MO
Panasonic Vacuu	1993 S 1100 E	Salt Lake City	UT
Pancho Ski Shop		Aspen	CO
Panda Sports Ren	621 Bridger Dr	Bozeman	MT
Panetti Yamaha P	7020 N 76th St	Milwaukee	WI
Paola Skating Rin	2 Morningside Dr	Paola	KS
Paparu Trading C	3000 E 14th St	Des Moines	IA
Paper & Felt Billiar	2 W Main	East Helena	MT
Paper City Guns &		Port Edwards	WI
Pappys Golf Car	3970 Sinton Rd	Colorado Springs	CO
Pappys Golf Shop	3970 Sinton Rd	Colorado Springs	CO
Paps General Stor	1637 80th St	Balsam Lake	WI
Paps Sport Shop	64 E Bdway	Little Falls	MN
Par 3 On 93	6155 US Highway	Whitefish	MT
Par 6 Originals	2400 Industrial Ln	Broomfield	CO
Par 72 Custom Go		Saint Joseph	MO
Par Excellance Go	10401 W Lincoln	Milwaukee	WI
Par Four Discs	1520 Ontario Ave	Sheboygan	WI
Par Line Golf Rep	420 Front St	Brookings	SD
Parabolic Shop	447 E Cooper St	Aspen	CO
Paradise Divers	1009 17 St	Moorhead	MN
Paradise Point Re	4744 County Roa	Brainerd	MN
Paradise Pointe G		Smithville	MO
Paradise Pools	1714 Crest View	Hudson	WI
Paradise Pools	883 State Road 6	River Falls	WI
Paradise Rock Gy	6260 Washington	Denver	CO
Paradise Sailboar	3216 E Douglas A	Wichita	KS
Paradise Sales	731 W Colorado A	Colorado Springs	CO
Paradise Ski & Sp	366 S Pierre St	Pierre	SD
Paradise Valley G	1055 Lochmoor Dr	High Ridge	MO
Paragliding Utah	Po Po Box 21099	Salt Lake City	UT
Paragon Pool & P	305 Stillwater Rd	Saint Paul	MN
Paragon Ski & Sp	217 W Colorado A	Telluride	CO
Paragon Ski & Sp	217 W Colorado A	Telluride	CO
Paragon Sports Lt	2962 Highway 74	Evergreen	CO
Paramount Sporti	320 W 1550 N	Layton	UT
Parasail Liquid Ex	Hickory Ln	Lake Ozark	MO
Park City Golf Cou	North Park	Park City	UT
Park City Golf Cou	1541 Thaynes Ca	Park City	UT

Patricia Radtke H	136 Park	Endeavor	WI
Pats	4250 Sd Highway	Pierre	SD
Pats Arctic Cat	18931 Old 141 Rd	Pembine	WI
Pats Army & Sport	1202 Main St	Lexington	MO
Pats Army & Sport	1202 Main St	Lexington	MO
Pats Lightning Pa	140 S Main St	Clinton	MO
Pats Pawn And G	506 Riley	Ogden	KS
Pats Pro Shop	355 W Wisconsin	Oconomowoc	WI
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Pats Sport Shop	RR 1	Isle	MN
Patterson Hardwa	212 S Chestnut St	Kimball	NE
Patty J Clardy Ins	RR 2	Warsaw	MO
Pattys Place	821 E 4th St	North Platte	NE
Paul Bunyan Bowl	1871 Excelsior Rd	Baxter	MN
Paul Keith Group	N2520 County Ro	Appleton	WI
Paul Swigart's Kar	6529 N Cosby Av	Parkville	MO
Pauleys Guns & S	406 Barnes Lake	Hutchinson	KS
Paulko		Waukesha	WI
Pauls 76 & Sport	101 S River St	Spooner	WI
Pauls Bait & Tackl	4421 Chippewa St	Saint Louis	MO
Pauls Jewelry Pa	116 N Kingshighw	Sikeston	MO
Paulsen Gun Stoc	Clear Crk Rte	Chinook	MT
Pawn Broker The	1213 8th Ave	Greeley	CO
Pawn City Inc	701 NW State Ro	Blue Springs	MO
Pawn Emporium	17 Charlestowne	Saint Peters	MO
Pawn It	1730 Oxford St	Worthington	MN
Pawn King	520 Jeffco Blvd	Arnold	MO
Pawn King	3801 W Yellowsto	Casper	WY
Pawn King	710 S Douglas Hw	Gillette	WY
Pawn Mart	512 Court St	Beatrice	NE
Pawn Plus	14501 E 40 Hwy	Independence	MO
Pawn Shop Bel-Ai	7429 S Broadway	Saint Louis	MO
Pawn Shop First	2180 1st Capitol D	Saint Charles	MO
Pawn Shop The	150 E Main St	Castle Dale	UT
Pawn Shop The	Po Box 1250	Jackson	WY
Pawn Shop The	116 E Church St	Marshalltown	IA
Pawnshop &Sporti	560 W Broadway	Jackson	WY
Pay Less Drug St	331 S Camino Del	Durango	CO
Payless Drug Liqu	50 E Flaming Gor	Green River	WY
Payless Drug Liqu	50 E Flaming Gor	Green River	WY
Paynesville Sports	409 State Highwa	Paynesville	MN

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Penalty Box	105 S Main St	Fond Du Lac	WI
Penalty Box	5100 Vista Rd	Manitowoc	WI
Penalty Box The	550 Fond Du Lac	Fond Du Lac	WI
Penalty Box The	1202 S Wildwood	Sheboygan	WI
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Pendulum Aerosp	13154 County Ro	Salida	CO
Penn Cycle	2290 Cliff Rd	Saint Paul	MN
Penn Cycle Minne	10750 Cedar Bnd	Hopkins	MN
Penn Cycle Richfi	3916 W Old Shak	Minneapolis	MN
Penn Cycle Richfi	710 W Lake St	Minneapolis	MN
Penn Cycle Richfi	10750 Cedar Bnd	Minnetonka	MN
Penn Cycle Skate	3916 W Old Shak	Minneapolis	MN
People Helping Pe11603	County Hig	Iowa Falls	IA
People Powered S	29 Union St N	Mora	MN
Peoples Sporting	4516 Stillwater Av	Cheyenne	WY
Pepi Sports Clothi	231 Bridge St	Vail	CO
Pepi Stiegler Spor	3395 W Mccollllste	Jackson	WY
Peppers Hot Tub	6920 N Oak Trfwy	Gladstone	MO
Peregrine Cycle	10291 S 1300 E	Sandy	UT
Perfection Tip		Denver	CO
Performance Athle	Westview Plaza	Mc Cook	NE
Performance Bicy	2490 Arapahoe Av	Boulder	CO
Performance Bicy	2540 S Colorado	Denver	CO
Performance Bicy	11058 W Jewell A	Lakewood	CO
Performance Fitne	13790 Nico Ilet Av	Burnsville	MN
Performance Fitne	302 S Traer St	Clarksville	IA
Performance Gun		Woodland Park	CO
Performance Off		Woodland Park	CO
Performance Plus		Mcintosh	MN
Performance Spor	1805 Hwy 2 W	Columbia Falls	MT
Performance Spor	48475 Highway 55	Durango	CO
Performance Spor	531 E Lionshead	Vail	CO
Performance Tech	240 E Pine	Pinedale	WY
Perkins Sports Inc	1202 S Central Av	Marshfield	WI
Perks Bait Shop	Highway 84	Caruthersville	MO
Perma Pak Distrib	3999 S Main St	Salt Lake City	UT
Perpetual Product		Sandy	UT
Perry Golf Sales	2701 Willis Ave	Perry	IA

Pidcocks Gun Sho	13 W Geneva St	Elkhorn	WI
Pier The	Hwy 34 W	Creston	IA
Pierce Racing	Po Box 272	Greenbush	MN
Pierce Skate & Ski	208 W 98th St	Minneapolis	MN
Piersons Package	Highway 86	Eagle Rock	MO
Pigeon River Bait	2322 N 15th St	Sheboygan	WI
Piggly Wiggly	112 Oak	Bonner Springs	KS
Pike Creek Outfitt	4507 7th Ave	Kenosha	WI
Pikes Peak Alpine		Green Mountain F	CO
Pikes Peak Mount	2111 N Weber St	Colorado Springs	CO
Pikes Peat Co	2392 231st St	Muscatine	IA
Pillsbury Store	RR 1 Box 37	Swanville	MN
Pilot House The	271 Main	Lansing	IA
Pin High Custom	166 Ridgeview Dr	Kalispell	MT
Pine Bay Golf Cou	6615 S Grove St	Wichita	KS
Pine Cove Diner	State Park	Memphis	NE
Pine Forest Galler	2101 2nd Ave W	Hibbing	MN
Pine Grove Sports	6952 720	Menomonie	WI
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Pines Golf Shopp	112 E 2nd St	Casper	WY
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Pinewskis Ski & B	546 W Main St	Anoka	MN
Pinon Enterprises	964 Lower River R	Snowmass	CO
Pintler Tackle Co	605 E Park St	Anaconda	MT
Pioneer Amuseme	200 S Main St	Mountain Grove	MO
Pioneer Beach Re	14991 252 Av	Spirit Lake	IA
Pioneer Golf	551 E 2100 S	Salt Lake City	UT
Pioneer Grill At Ja	Po Box 250	Moran	WY
Pioneer Gun Club		Kansas City	MO
Pioneer Gun Club		Lees Summit	MO
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Fax (909) 270-1600

E-Mail jsanchez@rwllyall.com

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Contact: Bob Tlumak, Dir. Mktg.

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Contact: Larry Speichler, V.P.

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IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2002

S.T.R. INDUSTRIES, INC.,       \*\*  
                                  Appellant,       \*\*

vs.

\*\*    CASE NO.   3D02-1834

HIDALGO CORP.,               \*\*  
                                  Appellee.       \*\*

\*\*    LOWER  
      TRIBUNAL NO.   01-28000  
\*\*

Opinion filed December 11, 2002.

An Appeal from the Circuit Court for Miami-Dade County,  
Michael A. Genden, Judge.

Dittmar & Hauser, and Helen Ann Hauser, for appellant.

Martin A. Feigenbaum, for appellee.

Before JORGENSON, FLETCHER, and RAMIREZ, JJ.

RAMIREZ, J.

S.T.R. Industries, Inc., a foreign corporation, appeals from  
an order denying its motion to quash service of process. We  
reverse.

Appellee, Hidalgo Corp., a Florida corporation, filed suit against S.T.R., alleging conversion of funds paid by a third party to S.T.R. instead of Hidalgo. The return of service states that Mary McKillip was served as business agent for S.T.R. at 9:05 a.m. on November 29, 2001, at S.T.R.'s offices in Cary, Illinois. S.T.R. is neither licensed nor qualified to do business in Florida. The return of service is silent as to any attempts to serve any of the corporation's superior officers.

S.T.R. moved to quash service of process and submitted an affidavit stating that Mark Stoller was the sole officer and resident agent, that he was present at the business on December 5, 2001, and that no one had attempted service of process on that date. A second affidavit of an S.T.R. delivery driver stated that he found the complaint and summons in the parking lot outside S.T.R.'s business on December 5, 2001. A supplemental affidavit stated that Mary McKillip was not an S.T.R. employee.

Section 48.081, Florida Statutes (2001), governs service of process on corporations and must be strictly complied with. See International Steel Truss Co. v. Artec Group, Inc., 824 So. 2d 340 (Fla. 2d DCA 2002). Section 48.081(1) specifies a certain hierarchy of individuals upon whom process against a corporation

may be served.<sup>1</sup> "[S]ervice of process may be made on a corporation's business agent only in the absence of superior corporate officers and directors." Sierra Holding, Inc. v. Inn Keepers Supply Co., 464 So. 2d 652, 654 (Fla. 4<sup>th</sup> DCA 1985). Subsection (1) requirements are much stricter and much more specific than the requirements for service of process under subsection (3). See Richardson v. Albury, 505 So. 2d 521, 522 (Fla. 2d DCA 1987). Section 48.081(3) allows alternative service on any employee at the corporation's place of business if the corporation has failed to designate a registered agent pursuant to section 48.091. However, this subsection only applies to corporations licensed or qualified to do business in Florida and therefore does not apply to service on S.T.R. See Washington Capital Corp. v. Milandco, Ltd., 665 So. 2d 375, 376 (Fla. 4<sup>th</sup> DCA 1996).

---

<sup>1</sup> The pertinent provisions of section 48.081 provide:

- (1) Process against any private corporation, domestic or foreign, may be served:
  - (a) On the president or vice president, or other head of the corporation;
  - (b) In the absence of any person described in paragraph (a) on the cashier, treasurer, secretary, or general manager;
  - (c) In the absence of any persons described in paragraph (a) or paragraph (b), on any director; or
  - (d) In the absence of any person described in paragraph (a), paragraph (b), or paragraph (c), on any officer or business agent residing in the state.

Hidalgo failed to follow the requirements of section 48.081(1), and thus it failed to properly serve S.T.R. The burden of proof was upon Hidalgo to show a diligent search for superior officers or the necessity for substitute service. The affidavit of the process server failed to indicate that the business agent was served in the absence of superior officers.

Service of process is therefore quashed.

Reversed.

10



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3	78191490		GLOBAL HYPERSONIC	TARR	LIVE
4	76138161	2562522	HYPERSONIC XLC XTREME LAUNCH COASTER	TARR	LIVE
5	76138160	2562521	HYPERSONIC XLC XTREME LAUNCH COASTER	TARR	LIVE
6	76138159	2562520	HYPERSONIC XLC XTREME LAUNCH COASTER	TARR	LIVE
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10	76103447		HYPERSONIC	TARR	LIVE
11	75763888		HYPERSONIC BINGO	TARR	DEAD
12	75314534	2172957	HYPERSONIC	TARR	LIVE
13	75242801	2423622	HYPERSONIC	TARR	LIVE
14	73831658	1687956	HYPERSONIC	TARR	DEAD
15	73828900	1763002	HYPERSONIC 4WD BULLET CAR	TARR	DEAD
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**Word Mark**      **HYPERSONIC**  
**Goods and Services**      IC 009. US 021 023 026 036 038. G & S: sound reproduction equipment, namely, speakers, televisions, radios, computers, telephones, ultrasonic sound emitters for indirectly generating audible sound, and control circuitry for mixing frequencies. FIRST USE: 20000814. FIRST USE IN COMMERCE: 20000814  
**Mark Drawing Code**      (1) TYPED DRAWING  
**Serial Number**      75242801  
**Filing Date**      August 19, 1996  
**Current Filing Basis**      1A  
**Original Filing Basis**      1B  
**Published for Opposition**      March 3, 1998  
**Registration Number**      2423622  
**Registration Date**      January 23, 2001  
**Owner**      (REGISTRANT) American Technologies corporation CORPORATION DELAWARE 12875 Brookprinter Place, Suite 300 Poway CALIFORNIA 92064  
**Attorney of Record**      VAUGHN W NORTH  
**Type of Mark**      TRADEMARK

Register PRINCIPAL  
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### Typed Drawing

**Word Mark** HYPERSONIC  
**Goods and Services** IC 041. US 100 101 107. G & S: entertainment services, namely, providing a web site featuring a computer game, animation and comics about international war in a futuristic setting. FIRST USE: 19970606. FIRST USE IN COMMERCE: 19970606  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75314534  
**Filing Date** June 25, 1997  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** April 21, 1998  
**Registration Number** 2172957  
**Registration Date** July 14, 1998  
**Owner** (REGISTRANT) VR-1, Inc. CORPORATION DELAWARE 4888 Pearl East Circle Ste 101 Boulder COLORADO 80301  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** PATRICK K PERRIN

Type of Mark SERVICE MARK  
Register PRINCIPAL  
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---

[HOME](#) | [INDEX](#) | [SEARCH](#) | [SYSTEM ALERTS](#) | [BUSINESS CENTER](#) | [NEWS&NOTICES](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)



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[Index](#)
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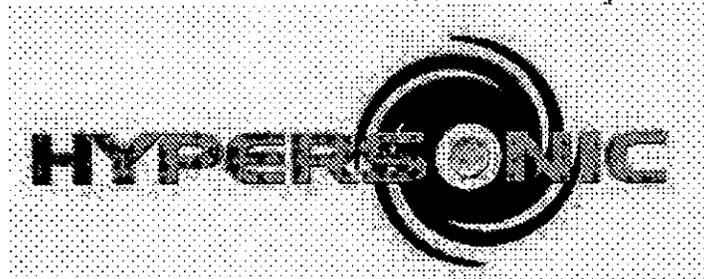
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**Word Mark** HYPERSONIC  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer systems comprising of a microprocessor, memory and mass storage device. FIRST USE: 19980701. FIRST USE IN COMMERCE: 19981001  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 011512  
**Serial Number** 78350969  
**Filing Date** January 13, 2004  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Owner** (APPLICANT) Silicon Data Inc. d/b/a Hypersonic PC Systems CORPORATION NEW YORK 349 Great Neck Rd. Great Neck NEW YORK 11021  
**Description of Mark** The mark consists of The word HYPERSONIC comprising of capital letters in a wide font with a cyclone around the letter "O"..  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL

**Live/Dead  
Indicator**      LIVE

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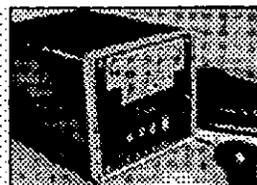
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## Technology Licensing

### HyperSonic Sound

#### What is HSS?

HyperSonic Sound Technology is simply the most revolutionary sound reproduction system of this century. Not since the development of the "cone" loudspeaker more than 75 years ago has any technology provided such significant departure from conventional loudspeakers and such a remarkable new approach to the reproduction of sound.



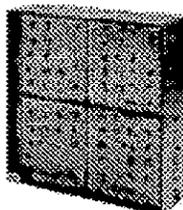
#### How does it work?

The basic operating principle of HSS uses a property of air known as "non-linearity". A normal sound wave (like someone talking) is a small pressure wave that travels through the air. As the pressure goes up and down, the "non-linear" nature of the air itself causes the sound wave to be changed slightly. If you change a sound wave, new sounds (frequencies) are formed within the wave. Therefore, if we know how the air affects the sound waves, we can predict exactly what new frequencies (sounds) will be added into the sound wave by the air itself. An ultrasonic (beyond the range of human hearing) sound wave can be sent into the air with sufficient volume to cause the air to create these new frequencies. Since we cannot hear the ultrasonic sound, we only hear the new sounds that are formed by the non-linear action of the air.

#### The HSS System

A HyperSonic Sound system consists of an audio program source such as a CD player or microphone, an HSS signal processor, and an ultrasonic emitter or transducer that is powered by an ultrasonic amplifier.

The music or voice from the audio source is converted to a highly complex ultrasonic signal by the signal processor before being amplified and emitted into the air by the transducer (emitter). Since the ultrasonic energy is highly directional, it forms a virtual column of sound directly in front of the emitter, much like the light from a flashlight. All along that column of ultrasonic



### Technology Benefits

- Focus sound where you want it and no place else
- Revolutionary new concept in sound reproduction - a technology paradigm shift
- Ultrasonic emitter devices are thin and flat and do not require a mounting cabinet.
- Its characteristics allow it to perform in ways conventional loudspeakers cannot
- The focused or directed sound travels much farther in a straight line than conventional loudspeakers
- Dispersion can be controlled - very narrow or wider to cover a larger listening area
- Reduces feedback from live microphones

### Downloads

- [American Business Review Video About HSS \(Windows Media Player format\)](#)  
To view the video, click on the connection speed of your choice below.  
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- [HSS Technology White Paper \(796KB PDF\)](#)
- [HSS Technology Introduction \(1.3 MB PDF\)](#)
- [HSS Frequently Asked Q&A \(203KB PDF\)](#)
- [HSS Owner's Manual \(472 KB PDF\)](#)
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### Sales

- > **Need an order form for HSS' S220A?**

Please Contact [HSSsales@atcsd.com](mailto:HSSsales@atcsd.com) and include the following information:

- Your title and company contact information
- Your specific application for HSS
- Does this application require a single or multiple units?

*\*Please note, the current S220A is targeted towards professional, commercial, and point of sale applications. This model is not intended as a consumer product.*



sound, the air is creating new sounds (the sound that we originally converted to an ultrasonic wave). Since the sound that we hear is created right in the column of ultrasonic energy, it does not spread in all directions like the sound from a conventional loudspeaker, instead it stays locked tightly inside the column of ultrasonic energy. In order to hear the sound, your ears must be in line with the column of ultrasound, or, you can hear the sound after it reflects off a hard surface. For example, if you point the ultrasonic emitter toward a wall, you will only hear the audible sound after it has reflected off the wall. This is similar to shining a flashlight at a wall in a dark room. You do not see the light from the flashlight, you only see the spot of light on the wall. HSS works the same way, except instead of seeing the spot of light on the wall, you hear the "spot" of sound reflected from the wall. For stereo, a separate ultrasonic emitter is required for each channel of audio, one for the left channel and one for the right channel.

• [PDF](#)

• [OmniMount Data Sheet \(127 KB PDF\)](#)



#### Why HSS?

There are many reasons. The first and most important is the ability to direct or focus sound into a tight beam, similar to the beam of light from the flashlight described above. No other audio reproduction device available today provides this unique ability. The opportunities for applying this characteristic to the reproduction of sound are limitless. Think about the ability in a museum to direct the narration about a specific display only to the people standing directly in front of it. How about the potential to reflect the rear channels of your surround TV from the rear wall of your living room, by focusing HSS speakers mounted on the TV itself - no rear speakers, no rear wiring. Think about the ability to focus sound into a crowd of people on a football field and talk only to a selected few.

The following contains a brief list of other uses made possible by HSS:

- Automobiles - HSS announcement device in the dash to "beam" alert signals directly to the driver
- Audio/Video Conferencing - project the audio from a conference in four different languages, from a single central device, without the need for headphones
- Paging Systems - direct the announcement to the specific area of interest
- Retail Sales - provide targeted advertising directly at the point of purchase
- Drive Through Ordering - intelligible communications directly with an automobile driver without bothering the surrounding neighbors
- Safety Officials - portable "bull horn" type device for communicating with a specific person in a crowd of people
- Military Applications - ship to ship communications, ship-board announcements

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