

TTAB

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

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

Opposition No: 91123765

Opposer,

Trademark: HYPERSONIC

vs.

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

Applicant

Box TTAB/NO FEE

MOTION TO COMPEL

NOW COMES the Opposer and requests the Board to compel the attendance of the following three witnesses for discovery depositions: The President, Chief Financial Officer and Chief Executive Officer of the Applicant, PARAMOUNT PARKS, INC. The Opposer noticed the said depositions for April 28, 2005. See attached notices of deposition and correspondence to Applicant's counsel, marked as **Exhibit A**.

Applicant's counsel, Lance Koonce, and Leo Stoller, conducted a tele-conference on March 30, 2005, in order to resolve the discovery dispute. Lance Koonce informed Leo Stoller that the Applicant would not produce the named witnesses. Mr. Koonce informed Leo Stoller that the Board had previously denied Opposer's motion to compel three corporate witnesses of Viacom, Inc., the parent company of PARAMOUNT PARKS, INC. Leo Stoller informed Mr. Koonce that the reason the Board denied Opposer's motion to compel to depose the previous deponents, all of whom were officers of Viacom, was that Viacom was not a party to this proceeding. Leo Stoller said he is entitled to depose the corporate officers of the Applicant in order to complete Opposer's discovery. Mr. Koonce stated that he would not produce the said witnesses.



04-07-2005

On March 30, 2005, Leo Stoller directed written correspondence to Mr. Koonce requesting that the Applicant advise the Opposer by April 5, 2005, whether or not he would produce the said witnesses. Otherwise, the Opposer would be forced to file a motion to compel. As of this date, the Opposer has not received any correspondence or telephonic communication from Mr. Koonce regarding the Applicant's willingness to produce the said witnesses.

There is a bona fide discovery dispute as between the parties. The Opposer made a good faith effort by telephone and written correspondence to resolve the said discovery dispute. Time is of the essence, as discovery closes on June 16, 2005.

WHEREFORE, the Opposer prays that the Board enter a order compelling the Applicant to produce the President, Chief Financial Officer, and Chief Executive Officer for discovery depositions at a mutually agreed upon location.

By:  _____

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

Date: April 5, 2005

Certificate of Service

I hereby certify that this *Motion to Compel* is being deposited with the U.S. Postal Service by **Express Mail** **No: ED 016861728 US** in an express mail envelope addressed to:

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

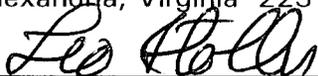


Leo Stoller
Date: April 5, 2005

Certificate of Mailing

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

TTAB / NO FEE
Commissioner of Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451



Leo Stoller
Date: April 5, 2005

D:\MARKS35\PARAM.MTC

HYPERSONIC

HYPERSONIC BRAND PRODUCTS & SERVICES SINCE 1981

P.O. Box 35189
Chicago, IL 60707-0189
VOICE 773/283-3880
FAX 708/453-0083

March 30, 2005

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

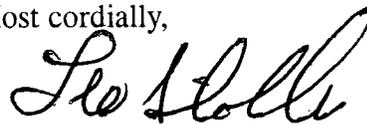
Dear Mr. Koonce:

Accordingly, attached you will find our *COVENANT NOT TO SUE* for you to review with your client .

If this settlement agreement is not acceptable the opposer wants to move forward with those three depositions on the dates requested. You have already indicated that you will not produce the three witnesses requested this is a good faith effort to resolve the discovery dispute. unless I hear from you by April 05, 2005 I will file a motion to compel.

If you have any questions, please contact us before the expiration date of the Agreement of **April 20, 2005**.

Most cordially,



Leo Stoller, Pres.
HYPERSONIC
P.O. Box 35189
Chicago, IL 60707
Tel: (773) 283-3380

C:\MARKS38\HYPERSO2.LTR

EXHIBIT A

IN THE UNITED PATENT & TRADEMARK OFFICE
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NOTICE OF DEPOSITION

Please take Notice that the Opposer will take the Deposition upon oral examination of the President of PARAMOUNT PARKS, INC, before a Notary Public or other officer authorized by law to administer oaths, on the subjects listed in the Notice of Opposition. The deposition will be held at the law offices of Applicant's counsel: **David Wright Tremaine, LLP., 1633 Broadway, New York, New York, 10019**, commencing on **April 28, 2005 at 11:00 a.m.**, or at such other date, time and place as mutually agreed upon by counsel, and continuing from day to day until completed. The testimony will be stenographically recorded. You are invited to attend and cross-examine.

PLEASE TAKE FURTHER NOTICE that the Opposer is prepared to stipulate that the transcript of testimony and all exhibits thereto shall be filed under seal and shall be made available only to the Opposer, the Applicant and the members of the TTAB so that all confidential documents, information and testimony produced by the Applicant shall be maintained confidential.

By: _____

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

Date: March 25, 2005

EXPRESS MAIL
Certificate of Service

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

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

Leo Stoller

Leo Stoller
Date: March 25, 2005

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Leo Stoller

Leo Stoller

Date: 4-5-05

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PLEASE TAKE FURTHER NOTICE that the Opposer is prepared to stipulate that the transcript of testimony and all exhibits thereto shall be filed under seal and shall be made available only to the Opposer, the Applicant and the members of the TTAB so that all confidential documents, information and testimony produced by the Applicant shall be maintained confidential.

By: *Leo Stoller*
Leo Stoller, President
CENTRAL MFG. CO., Opposer
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PLEASE TAKE FURTHER NOTICE that the Opposer is prepared to stipulate that the transcript of testimony and all exhibits thereto shall be filed under seal and shall be made available only to the Opposer, the Applicant and the members of the TTAB so that all confidential documents, information and testimony produced by the Applicant shall be maintained confidential.

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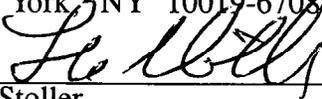
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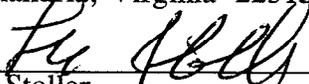
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Leo Stoller

Date: 04-05-05

