

Mark: RPS and design
Ser. No.: 76/230,048
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1. Opposer, Hillerich & Bradsby Co., is a corporation organized under the laws of the Commonwealth of Kentucky, located at 800 West Main Street, Louisville, Kentucky 40202.

2. Opposer is a manufacturer of sporting goods and related products. Opposer's customers include those who participate in the sport of hockey.

3. Opposer has adopted and is using the mark TPS in connection with, *inter alia*, "softball bats, batting gloves, baseball and softball gloves, athletic equipment bags, athletic wrist bands, golf gloves, golf bags, hockey sticks, protective hockey equipment, namely, gloves, protective padded pants, elbow pads, shin protectors, leg pads, chest protectors" (U.S. Reg. No. 1,965,440, which is incontestable); "golf clubs and baseball bats" (U.S. Reg. No. 1,477,888, which is incontestable) and "softball bats, baseball gloves, softball gloves, athletic equipment bags, namely, bags designed for baseball and/or softball equipment, batting gloves" (U.S. Reg. No. 2,035,305). The mark has been used since at least as early as June 3, 1986, during which time it has developed substantial good will and consumer recognition. Opposer also relies upon all common law rights it has otherwise developed in the mark TPS.

4. Applicant, Rebellion Sport AB, is, on information and belief, a corporation organized under the laws of Sweden, located at Box 1652, Propellervagen 5, SE-701 16 Orebro, Sweden.

5. Applicant has filed an intent to use application, Serial No. 76/230,048, to register the mark "RPS and design" for "hockey helmets and visors, in-line skating helmets" in Class 9 and "equipment for ice hockey, namely, ice skates, ice skate replacement blades, hockey sticks, hockey stick handles, hockey stick replacement blades, hockey shoulder pads, hockey elbow pads, hockey shin guards, jock straps, hockey gloves, hockey pants with protective padding, and

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sticks, hockey stick handles, hockey stick replacement blades, hockey shoulder pads, hockey elbow pads, hockey shin guards, jock straps, hockey gloves, hockey pants with protective padding, and hockey bags; equipment for in-line skating, namely, in-line skates, sticks, shoulder pads, elbow pads, wrist guards, gloves, knee pads, and shin guards” in 28 (“the Application”).

6. Applicant has designated Rebellion, Inc., whose postal address is, upon information and belief, 60-Y Corbin Avenue, Bay Shore, NY 11706-1046, as its designated representative upon whom notice or process in proceedings affecting the mark may be served.

7. Opposer believes it would be damaged by the registration of the mark which is the subject of the Application.

8. On information and belief, Opposer’s federally registered marks have priority over Applicant’s mark and Application.

9. On information and belief, the respective goods of Applicant and Opposer sold under their respective marks are related goods, and the use and registration of Applicant’s mark for the goods cited in the Application is likely to cause confusion in the minds of consumers as to the source of Applicant’s or Opposer’s products, or to cause mistake, or to deceive, within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

10. On information and belief, Applicant and Opposer sell or will sell their respective products under their respective marks in the same channels of trade, in the same outlets and to the same customers or customer groups.

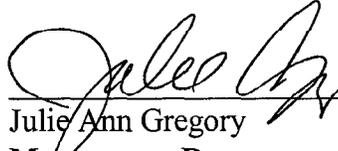
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12. The marks "TPS" and "RPS" when used in connection with the goods of the parties are confusingly similar, and, therefore, Applicant's mark is unregistrable within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13. Opposer's mark has become famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and will be damaged by the registration of Applicant's mark as a result of dilution under Section 43(c).

WHEREFORE, Opposer prays that Serial No. 76/230,048 be denied registration and that this opposition be sustained.

Respectfully submitted,



Julie Ann Gregory
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Counsel for Opposer
Hillerich & Bradsby Co.

Dated: 8/20/2002

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Certification

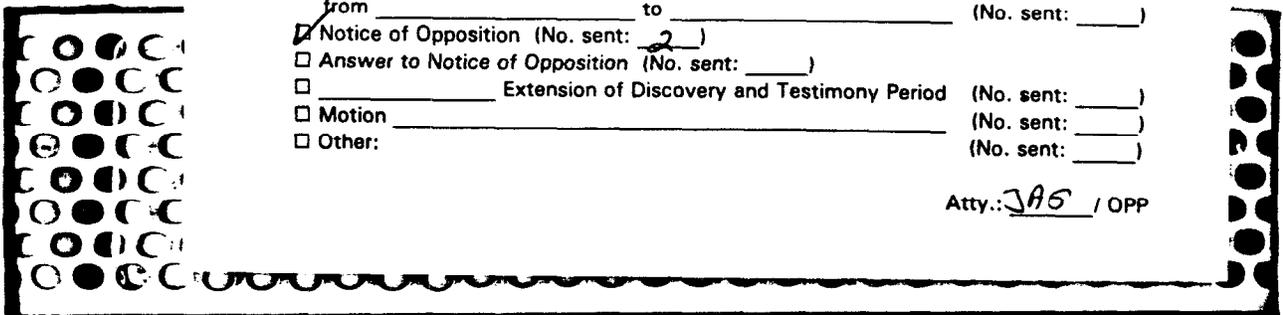
I hereby certify that a copy of the foregoing was mailed, first class, postage prepaid, this 20th day of August, 2002, to Kristen Mollnow Walsh, Esq., **NIXON PEABODY LLP**, Clinton Square, P.O. Box 31051, Rochester, New York 14603-1051, Counsel for Applicant.


Counsel for Opposer

Client: Hillierich + Bradely
 Client/Matter No.: ZE784/94001
 Adverse Party: Rebellion Sport AB
 Mark: APS + DESIGN
 Ser./Reg.: 76/230,048 Opp No.: _____
 Date Mailed: 8/20/02
 RECEIVED SUBMISSION OF:
 Check # 61091 for \$ 600⁰⁰
 Certificate of Mailing 1.8 _____ 1.10 _____ ✓
 _____ Extension of Time to Oppose

from _____ to _____ (No. sent: _____)
 Notice of Opposition (No. sent: 2)
 Answer to Notice of Opposition (No. sent: _____)
 _____ Extension of Discovery and Testimony Period (No. sent: _____)
 Motion _____ (No. sent: _____)
 Other: _____ (No. sent: _____)

Atty.: JAS / OPP



MIDDLETON-REUTLINGER, P.S.C.

061091

Vendor Name	COMMISSIONER FOR TRADEMARKS	Check Date	8/20/2002		
Invoice Date	Invoice Number	Voucher Number	Invoice Amount	Amount To Pay	Check Number
08/20/2002	71071C	71071	\$600.00	\$600.00	61091
Quick Check Batch - ZE784/94001					

THIS DOCUMENT CONTAINS SECURITY FEATURES - THE FACE HAS A COLORED BACKGROUND ON WHITE PAPER



MIDDLETON REUTLINGER, P.S.C.
 2500 BROWN & WILLIAMSON TOWER
 LOUISVILLE, KENTUCKY 40202
 (502) 584-1135

Fifth Third Bank of Kentucky - Louisville

061091

21-234
830
 CHECK # DATE VENDOR
 61091 08/20/2002 007657
 AMOUNT
 \$600.00

Six hundred and NO/100*****

PAY
TO THE
ORDER
OF

COMMISSIONER FOR TRADEMARKS

[Handwritten Signature]

⑈061091⑈ ⑆083002342⑆ 999⑈75667⑈



08-20-2002

MIDDLETON
REUTLINGER

August 20, 2002

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**BOX TTAB
FEE**
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

**Re: Application of Rebellion Sport AB
Mark: RPS and Design
Serial No.: 76/230,048**

Dear Commissioner:

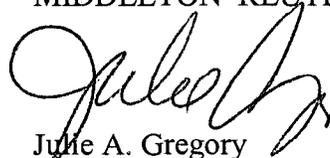
Enclosed herewith for filing are:

1. Notice of Opposition, in duplicate;
2. Certificate of Express Mail under 37 C.F.R. §1.10;
3. Check No. 61091 in the amount of \$600.00 made payable to the Commissioner for Trademarks representing the prescribed filing fee; and
4. A return postcard.

Please return the postcard to indicate your receipt of the above-referenced materials.
Thank you for your assistance in this matter.

Very truly yours,

MIDDLETON REUTLINGER



Julie A. Gregory

JAG/jb
Enclosures
cc: Hillerich & Bradsby Co.
Ms. Chantél M. Gosen