

09/08/2003TTAB

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

In the Matter of Application Serial No. 75/640,815
Published in the Official Gazette on December 24, 2002
Mark: PACKER PANTIES

GREEN BAY PACKERS, INC. and NFL
PROPERTIES LLC,

Opposers,

-against-

THE STACY J. LOME AND LEONARD D.
LOME PARTNERSHIP,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION



08-22-2003

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #58

TO THE COMMISSIONER FOR TRADEMARKS:

Opposers Green Bay Packers, Inc. (“Green Bay Packers”) and NFL Properties LLC (“NFLP”) believe they will be damaged by registration of the mark PACKER PANTIES as shown in the above-identified application and hereby oppose the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. § 1063(a).

As grounds for the opposition, Opposers allege that:

1. Opposer Green Bay Packers, a corporation organized and existing under the laws of Wisconsin with its principal place of business at 1265 Lombardi Avenue, Green Bay, Wisconsin 54303, owns and operates a professional football team, providing entertainment services to the public in the form of competitive professional football games. The Green Bay Packers football franchise is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

09/08/2003TAR

2. Opposer NFLP, a limited liability company organized and existing under the laws of Delaware with its principal place of business at 280 Park Avenue, New York, New York 10017, has been licensed exclusively by the NFL and each of the Member Clubs to use their respective trademarks for commercial purposes, to promote the NFL and its Member Clubs and to protect their trademarks.

3. For many years and long before February 16, 1999, the filing date of the intent-to-use application herein opposed, Opposers have used marks incorporating the terms PACKER, PACKERS and variations thereof ("PACKERS Marks") in connection with their business of organizing, conducting and promoting the Green Bay Packers football franchise.

4. For many years and long before February 16, 1999, the filing date of the intent-to-use application herein opposed, Opposers and their authorized business partners, sponsors and licensees have used the PACKERS Marks on or in connection with the sale of a wide variety of goods and services, including underwear. Attached as Exhibit A are printouts of officially licensed underwear available through the Green Bay Packers Web site.

5. On behalf of the NFL and its teams, NFLP actively seeks to identify and stop perceived infringers of the marks of the NFL, including the PACKERS Marks.

6. During their long, widespread and continuous use of the PACKERS Marks, Opposers and their authorized business partners, sponsors and licensees have expended considerable time, effort and money in advertising and publicizing the sale of goods and services bearing the PACKERS Marks.

7. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the PACKERS Marks in a trading area of broad geographical scope encompassing, inter alia, all of the states and territories of the United States.

09/08/2003TAR

8. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the PACKERS Marks in numerous channels of trade. Millions of persons from around the United States attend NFL games, including Green Bay Packers games, each year, and millions more follow NFL games, including Green Bay Packers games, via television and radio broadcasts. Still many other persons access information through the Internet by downloading information from the Green Bay Packers' Web sites at <www.packers.com> and <www.packersproshop.com>.

9. For many years and long before February 16, 1999, the filing date of the intent-to-use application herein opposed, the print and broadcast media and the general public have used the PACKERS Marks many thousands of times when referring to the Green Bay Packers football franchise. Such use by the media and the public inures exclusively to the benefit of Opposers.

10. Opposers' widespread use of the PACKERS Marks on a variety of goods and services, Opposers' extensive advertising and publicity of such goods and services and the thousands of uses by the media of the PACKERS Marks when referring to the NFL and the Green Bay Packers have contributed to the powerful consumer association between the PACKERS Marks and Opposers, and have made the PACKERS Marks truly famous.

11. The PACKERS Marks have a high degree of distinctiveness due to the duration and extent of Opposers' use, advertising and publicity of the PACKERS Marks.

12. In addition to Opposers' common law rights in the PACKERS Marks,

Opposer Green Bay Packers owns the following federal trademark registrations for PACKERS

Marks:

<u>Registration Number</u>	<u>Mark</u>	<u>International Class(es)</u>	<u>Date of First Use</u>
1,100,375	PACKERS	041	01/21/1921
1,109,722	GREEN BAY PACKERS	041	05/01/1935
1,810,704	GREEN BAY PACKERS	016 025	09/00/1963

The above-referenced registrations are incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065. Registration No. 1,810,704 for the mark GREEN BAY PACKERS covers "underwear."

13. By the application herein opposed, Applicant seeks to register the mark PACKER PANTIES in International Class 25. The application was filed on the basis of Applicant's intent to use the mark PACKER PANTIES for "clothing, namely, underwear used by spectators as flags during sport events."

14. Applicant filed this application on February 16, 1999, many years after Opposers started using the PACKERS Marks, and after the marks had become famous.

15. Opposers will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposers.

16. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant's use of the mark PACKER PANTIES

09/08/2003TAR
falsely suggests a connection between Applicant and Opposers named herein, to the damage of Opposers.

17. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that Applicant's PACKER PANTIES mark so resembles the PACKERS Marks used consistently by Opposers in the United States, as to be likely, when used on or in connection with underwear used by spectators as flags during sport events, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Opposers and to the public.

18. Registration should be refused pursuant to Sections 2(f) and 13(a) of the Lanham Act, 15 U.S.C. §§ 1052(f) and 1063(a), on the grounds that Opposers will be damaged by the registration sought by Applicant because the registration will dilute the distinctive and famous quality of the PACKERS Marks.

WHEREFORE, Opposers believe they will be damaged by the registration by Applicant of the mark PACKER PANTIES for the goods identified in Application Serial Number 75/640,815 and respectfully request that the opposition be sustained and registration of said mark be denied.

This Notice of Opposition is filed in duplicate as required by 37 C.F.R. § 2.104(a). Pursuant to 37 C.F.R. §2.6(a)(17), enclosed is the the requisite statutory filing fee of \$600. Please charge any additional amounts to Deposit Account No. 23-1705.

09/08/2003TTAB

All communication should be addressed to Opposers' counsel, White & Case

LLP, at the below stated address.

Dated: New York, New York
August 20, 2003

Respectfully submitted,

WHITE & CASE LLP

By: 

Robert L. Raskopf
Jennifer L. Johnson
Sean D. Burke
1155 Avenue of the Americas
New York, New York 10036

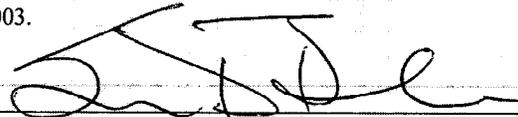
ATTORNEYS FOR OPPOSERS GREEN BAY
PACKERS, INC. AND NFL PROPERTIES,
LLC

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" mailing label number: EL286876945US

I hereby certify that this document and instructions for payment of fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on this 21st day of August, 2003.

Signature: _____



Sean D. Burke

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men's other



Cotton Mock Sweater *
New!
\$59.95



Crewneck Jacquard Ski Sweater *
New!
\$79.95



Striped Sleeve Crewneck Sweater *
New!
\$94.95



Striped V-Neck Sweater *
New!
\$99.95



Argyle V-Neck Vest *
New!
\$64.95



'G' Intarsia Sweater *
New!
\$94.95



Legion Knit Pant
New!
\$29.95



Legion Knit Short
New!
\$24.95



Legion Knit Top
New!
\$34.95



Play Dry™ Interlock Mock
New!
\$42.95



'G' Logo Pima Cotton Sweater *
\$79.95



Men's Skybox Boxer
New!
\$14.95



Men's Skybox Short
New!
\$17.95



Men's Skybox Pant
New!
\$24.95



Lambeau Field Polar Fleece Sweater *
New!
\$64.95

* Exclusive to the Packers Pro Shop



09/08/2003TTAB

\$74.95



'Baldy' Crew Neck Tee
\$18.95

\$72.95



Two-Tone Jersey Tee
\$21.95

\$16.95



Ladies Horizon Plaid Pant
\$24.95



Ladies Horizon Plaid Short
\$14.95



Ladies Horizon V-neck Tank
\$24.95



Ladies Horizon Skinny Tank
\$22.95



Ladies Horizon Panty
\$8.95



Ladies Replica Jersey
\$49.95



Georgetown Sleeveless Shirt
\$54.95



Ladies Pique Polo - Pine
\$36.95



Ladies Pique Polo - White
\$36.95



Tournament Polo
\$42.95



Double Pique Polo
\$49.95



Ladies Signature Twill Shirt - Denim
\$64.95



Ladies Signature Twill Shirt - White
\$64.95



Ladies Signature Twill Shirt - Khaki
\$64.95



Ladies Interlock Mock
\$56.95



Leather Coat
\$279.95

* Exclusive to the Packers Pro Shop



TJTB

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LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
SAN FRANCISCO
WASHINGTON, D.C.

WHITE & CASE

LIMITED LIABILITY PARTNERSHIP

1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200

FACSIMILE: (1-212) 354-8113

DIRECT DIAL: (212) 819-8833

E-MAIL: sburke@whitecase.com

ALMATY
ANKARA
BANGKOK
BOMBAY/MUMBAI
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August 20, 2003

VIA EXPRESS MAIL No. EL286876945US



08-22-2003

U.S. Patent & TMO/c/TM Mail Ropt Dt. #58

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Re: Opposition by Green Bay Packers, Inc. and NFL Properties LLC against The Stacy J. Lome and Leonard D. Lome Partnership over the mark PACKER PANTIES

Dear Madam Commissioner:

Pursuant to 37 CFR § 2.104(a), I enclose the original and one copy of the Notice of Opposition by Green Bay Packers, Inc. and NFL Properties LLC to the application of The Stacy J. Lome and Leonard D. Lome Partnership over its application for the mark PACKER PANTIES. I also enclose a check for \$600.00 to cover the filing fee for this Notice of Opposition pursuant to 37 C.F.R. §2.6(a)(17). Please charge any additional amounts to Deposit Account No. 23-1705.

Please stamp and return the enclosed postcard to acknowledge receipt of the Notice of Opposition and the check. Please also conduct all correspondence with regard to the above-referenced application with the undersigned.

Sincerely,

Sean D. Burke

Enclosures

cc: Anastasia M. Danias
Robert L. Raskopf
Jennifer Johnson Millones