

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

In the Matter of Application Serial No. 78/261116  
For the Mark SPORTLINE  
Published in the Official Gazette on March 23, 2004

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E&B GIFTWARE LLC and  
SPORTLINE, INC. x

Opposition No.

Opposers x

v. x

YORK BARBELL HOLDINGS LIMITED x

Applicant x

-----X

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

07/27/2004 TMCCANTS 00000111 78261116

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NOTICE OF OPPOSITION  
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Opposers, E&B Giftware, LLC, a Delaware Limited Liability Company, and Sportline, Inc., a corporation of the State of Delaware, both doing business at 4 Executive Plaza, Yonkers, New York 10701 believing they will be damaged by the registration of the mark SPORTLINE as shown in Serial No. 78/261116 filed June 11, 2003, and the period for



filing this Opposition having been extended to July 21, 2004, hereby oppose registration of the SPORTLINE mark to applicant.

The grounds for the opposition are as follows:

1. Opposer E&B Giftware, LLC is a limited liability company organized under and existing by virtue of the laws of the State of Delaware, and has its principal place of business at 4 Executive Plaza, Yonkers, New York 10701.

2. Opposer Sportline, Inc. is a corporation organized under and existing under the laws State of Delaware, and has its principal place of business at 4 Executive Plaza, Yonkers, New York 10701. Opposer Sportline, Inc. is a wholly owned subsidiary of Opposer E&B Giftware, LLC.

3. Sports & Leisure Technology doing business as Sports & Leisure Technology Corp. is a division of Opposer E&B Giftware, LLC, and has obtained an extension until July 21, 2004 to file this opposition. Opposer E&B Giftware, LLC and Opposer Sportline, Inc. are in privity with Sports & Leisure Technology, and conduct business under the SPORTLINE mark here involved under common ownership and control.

4. Opposer Sportline, Inc. through its predecessor Sportsline Corporation is the owner of registration 1,526,602 for the mark SPORTLINE for pedometers, watches and stop watches with a first use in 1987. Sports & Leisure Technology and Opposer E&B Giftware, LLC and Opposer Sportline, Inc. have been marketing pedometers, stop watches and other related exercise equipment such as adjustable ankle/wrist weights, torso weights, weighted

belts, back support belts, exercise belts with resistance tubing, reflective vests, reflective armbands, reflective ankle/shoe bands, reflective utility belts, armband radios, water bottles, flashing lights, fanny packs, arm wallets, shoe wallets, gel heel pads, scale with body fat analyzers, sport watches and O rings under the SPORTLINE mark.

5. The mark SPORTLINE has become well known by means of its continuous and widespread use by Opposer Sportline, Inc. for exercise related equipment, and such use relates to Opposer E&B Giftware, LLC and its division Sports & Leisure Technology.

6. Upon information and belief, Applicant York Barbell Holdings Limited is a corporation of Canada with a place of business at 1450 South Service Road, West Oakville, Ontario, Canada, and is the owner of pending U.S. Trademark Application No. 78/261116 for registration of the mark SPORTLINE in connection with exercise equipment.

7. Applicant York Barbell Holdings Limited filed its application for the SPORTLINE trademark under Section 1(b) of The Statute as an intent- to- use application claiming priority from a Canadian application filed May 22, 2003.

8. Opposer Sportline, Inc. and thus Opposer E&B Giftware, LLC and its division Sports & Leisure Technology have used the SPORTLINE mark through related companies in connection with exercise equipment since as least as early as 1987, and such uses predate any priority date of Applicant York Barbell Holdings Limited for the SPORTSLINE mark.

9. Due to the identity between the Applicant's mark and Opposers' SPORTLINE mark and the similarity of the goods in connection with the marks are used, consumers are

likely to be confused and deceived into believing that Applicant's goods emanate from the Opposers, thereby resulting in a likelihood of confusion, deception or mistake and resulting damage to Opposers' SPORTLINE mark and the good will represented thereby.

10. Due to the identity between the Applicant's mark and Opposers' mark there is a false suggestion of connection between Applicant and the Opposers.

11. Due to the identity between the Applicant's mark and Opposers' mark, the use and registration of Applicant's mark will likely cause dilution of the distinctive quality of Opposer' mark.

12. If Applicant is granted a registration for the mark herein opposed, Applicant would obtain at least a prima facie exclusive right to use that trademark on the goods recited in its application and such registration would be a source of damage and injury to Opposers, their related companies and its many customers who have established a valuable trade in exercise equipment bearing the mark.

Wherefore, the Opposers believes they will be damaged by the grant of a registration to Applicant and pray, therefore, that the Application Serial No. 78/261116 be rejected, the registration of the mark therein sought for the goods therein specified be denied and refused, and this opposition be sustained.

All communications concerning this opposition should be directed to Opposers' attorney, at the below stated address;

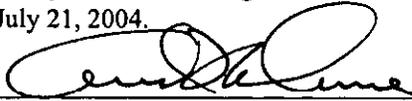
A copy of this Notice of Opposition and the statutory fee of \$300 are submitted herewith.

New York, N.Y.  
July 21, 2004



Gerard F. Dunne  
Attorney for Opposers  
156 Fifth Avenue  
Suite 1223  
New York, NY 10010  
(212) 645-2410

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Trademarks, BOX TTAB  
2900 Crystal Drive, Arlington, VA 22102-3513  
on July 21, 2004.



Gerard F. Dunne      Dated: July 21, 2004

TTAB

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July 21, 2004

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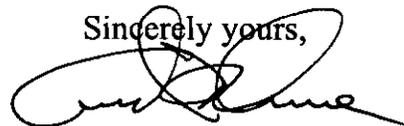
Re: Opposition of E&B Giftware, LLC and Opposer Sportline, Inc.  
Re SPORTLINE Application  
Opposition No. To be assigned  
Our File No.: 584-067

Dear Sir or Madam:

Enclosed is my check in the amount of \$300 for the fee under 37 CFR §2.6(a)(17) for the Notice of Opposition. The original and two copies of the Notice of Opposition are enclosed herewith.

Please charge any deficiency in the fee due to deposit account no. 041797.

Sincerely yours,



Gerard F. Dunne

GFD:jd  
Encl.

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07-23-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22