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

Proceeding	91218423
Party	Defendant Manifatture 7 Bell S.p.A.
Correspondence Address	LEO M LOUGHLIN ROTHWELL FIGG ERNST & MANBECK PC 607 14TH ST NW STE 800 WASHINGTON, DC 20005-2005 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Leo M. Loughlin
Filer's e-mail	PTO-TM-Email@rothwellfigg.com
Signature	/Leo M. Loughlin/
Date	12/29/2014
Attachments	1229-1633 MOTION TO SUSPEND.pdf(1575511 bytes)

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

ROY "DUSTY" ROGERS, JR., AS TRUSTEE OF THE CHILDREN'S TRUST U/A ROY ROGERS AND DALE EVANS ROGERS TRUST

and

HAPPY TRAILS, LLC,

Opposers,

v.

MANIFATTURE 7 BELL S.P.A.,

Applicant.

Opposition No. 91218423

APPLICANT'S MOTION TO SUSPEND OPPOSITION PROCEEDINGS UNDER TBMP §510.02(a)

Opposers, Roy "Dusty" Rogers, Jr., as Trustee of the Children's Trust U/A Roy Rogers and Dale Evans Rogers Trust and Happy Trails, LLC, have filed a Notice of Opposition against Application Serial No. 85/931,769 for the mark ROY ROGER'S in classes 18, 25 and 35. Applicant, Manifatture 7 Bell S.p.A., filed a Complaint for Declaratory Judgment against Opposers, Happy Trials, LLC and The Children's Trust U/A Roy Rogers Dale Evans Rogers Trust with the United States District Court for the District of Delaware on December 23, 2014. A copy of the complaint filed with the district court is attached at Tab A.

The Federal civil action involves issues in common with those in the instant proceeding. The suspension, if granted, would save the time and resources of the parties and the Board.

It is respectfully requested that the Board suspend the instant proceeding until final determination of the Federal civil action.

Respectfully submitted,

MANIFATTURE 7 BELL S.P.A.

E. Anthony Figg, Esq.
Leo M. Loughlin, Esq.
Rothwell, Figg, Ernst & Manbeck, P.C.
607 14th Street, N.W.
Washington, D.C. 20005
Tel. (202) 783-6040

Attorneys for Applicant

Dated: December 29, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S MOTION TO SUSPEND OPPOSITION PROCEEDINGS UNDER TBMP §510.02(a) was served via first-class mail, postage prepaid, on counsel for Opposers.

REBECCA A FINKENBINDER
MCNEES WALLACE & NURICK
100 PINE STREET
P O BOX 1166
HARRISBURG, PA 17108-1166

This 29TH DAY OF December, 2014.

Leo M. Loughlin

TAB A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MANIFATTURE 7 BELL S.P.A.	)	
	)	
Plaintiff,	)	C. A. No.: _____
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
HAPPY TRAILS, LLC and THE CHILDREN'S TRUST U/A ROY ROGERS DALE EVANS ROGERS TRUST	)	
	)	
Defendants.	)	

MANIFATTURE 7 BELL, S.P.A. COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Manifatture 7 Bell, S.p.A. ("Manifatture 7 Bell"), by and through its undersigned counsel, files this Complaint for a declaratory judgment against Defendants, Happy Trails, LLC ("Happy Trails") and The Children's Trust U/A Roy Rogers Dale Evans Roger Trust ("Trust"), and alleges as follows:

NATURE OF ACTION

1. This is an action for a declaratory judgment that Manifatture 7 Bell does not infringe any valid claim or right of Defendants in the name Roy Roger's and for a declaratory judgment that Plaintiff's U.S. Trademark Registration Nos. 3,636,761 and 3,476,723 are valid and subsisting, and further that Application No. 85/931,769 be registered.

2. A true and correct copy of Registration No. 3,636,761 (the "761 Registration") is attached hereto as Exhibit A.

3. A true and correct copy of Registration No. 3,476,723 (the "723 Registration") is attached hereto as Exhibit B.

4. A true and correct copy of Application No. 85/931,769 (the "769 Application") is attached hereto as Exhibit C.

THE PARTIES

5. Plaintiff, Manifatture 7 Bell, is a corporation organized and existing under the laws of Italy, with its principal place of business located at Campi Bisenzio (FI), Via Bruno Buozzi 172 50013, Italy.

6. On information and belief, Defendant Happy Trails is a Delaware limited liability company, with its principal place of business located at 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

7. On information and belief, Defendant Trust is a trust established under the laws of Missouri, with its principal place of business located at P.O. Box 360, Lampe, MO 65681.

8. On information and belief, the sole trustee in the Trust is Roy Rogers, Jr., a U.S. citizen having an address of P.O. Box 360, Lampe, MO 65681. On further information and belief, the Trust is a member of Happy Trails.

JURISDICTION AND VENUE

9. This action arises under the trademark laws of the United States, Title 15 of the United States Code (15 U.S.C. § 1051, et. seq.), and under the Federal Declaratory Judgment Act (28 U.S.C. §§ 2201 and 2202).

10. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (action arising under an Act of Congress relating to trademarks).

11. This Court has personal jurisdiction over Happy Trails because of its organization and residence in Delaware so as to make personal jurisdiction proper in this Court. The Court has personal jurisdiction over the Trust since it is a member of Happy Trails.

12. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c).

THE PRESENCE OF AN ACTUAL CONTROVERSY

13. Manifatture 7 Bell was founded in Florence in 1949 and is the first Italian blue jeans manufacturer. Since 1952 the group has also produced denim under the name of Roy Roger's.

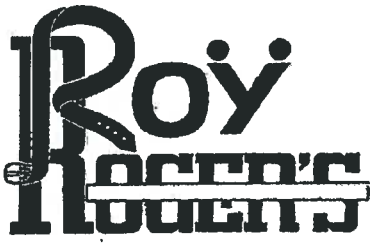
14. Manifatture 7 Bell's Roy Roger's jeans were introduced in post-World War II Italy, a time when many Italians viewed Americans as the liberators of their country. Manifatture 7 Bell was the first Italian jeans manufacturer to use denim imported from the United States.

15. Because of the connection with the United States, Manifatture 7 Bell decided on the Roy Roger's name, a legendary figure that traveled the Great Plains of the American West in the second half of the 19th century, sewing, altering and mending the work clothes of people on ranches. This traveling tailor, Roy Roger, with a hat and big sideburns had customers scattered everywhere and worked for cattle ranchers, gold prospectors, and the inhabitants of the American West.

16. In the 60s and 70s, Roy Roger's jeans became a popular item in Italy, introducing features that today are iconic and found in every pair of Roy Roger's jeans. Roy Roger's jeans have preserved a high quality in raw materials, exclusively coming from the USA, Japan and Europe. Keeping all collections strictly hand-made in Italy, the Roy Roger's brand combines the flavors of the past with innovative techniques of today and steps into the future.

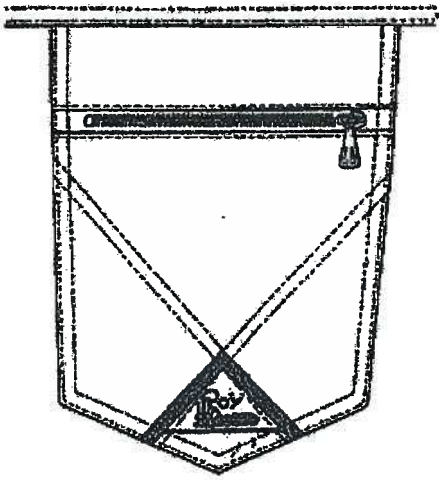
17. Manifatture 7 Bell commenced sale of its products in the United States in 2008 and such use continues to the present.

18. Manifatture 7 Bell is the owner of the '761 Registration granted on June 9, 2009, for the following stylized mark featuring Roy Roger's:



19. The '761 Registration is valid and covers "*trousers of leather or imitation of leather*" in International Class 25.

20. Manifatture 7 Bell is the owner of the '723 Registration granted on July 29, 2008, for the following stylized design mark featuring Roy Roger's:



21. The '723 Registration is valid and covers "*ready made clothing, namely, outfits, namely, jackets, trousers, skirts, workwear, namely, trousers, jackets, sportswear, namely, trousers, jackets*" in International Class 25. In addition, the '723 Registration is incontestable.

22. Manifatture 7 Bell is the owner of the pending '769 Application filed on May 14, 2013, for the mark ROY ROGER'S in plain text for the following goods and services:

- *"leather, unworked or semi-worked, imitation leather, purses, school bags, business card cases, credit card cases, travelling trunks, backpacks, wallets, leather and reusable shopping bags, attaché cases, beach bags, handbags, travelling bags, pouches of leather for packaging, briefcases, case of leather,*

trunks, vanity cases sold empty, leather key cases, suitcases, bags for sport, leather straps, umbrellas, canes, walking sticks, whips, saddlery, harness fittings" in International Class 18;

- *"clothing, namely, skirts, pullovers, shirts, t-shirts, blouses, pants, dressing gowns, pajamas, vests, tights, stockings, jerseys, bathrobes, overalls, underwear, sweaters, jumpers, trousers, jeans, suits, ceremonial dresses, outer clothing, namely, overcoats, coats, stuff jackets, jackets, parkas, knitwear, namely, knit tops, knit bottoms, knit dresses clothing of leather, namely, leather jackets, leather coats, children's clothing, namely, children's cloth bibs, overall sleepwear, one-piece garments, rompers, layettes, bathing caps, bathing suits, clothing for gymnastics, namely, shorts, t-shirts, waterproof clothing, namely, raincoats, footwear, slippers, bath slippers, boots, beach shoes, sandals, sport shoes, headgear, namely, hats, caps, socks, garters, gloves, shawls, ties, neckties, scarves, pocket squares, furs, namely, fur stoles, fur jackets, fur coats, belts"* in International Class 25; and

- *"advertising; business management assistance; document reproduction, word processing, administrative processing of purchase orders, dissemination of advertising matter; presentation of goods on communication media, for retail purposes, namely, allowing the consumer to view and buy the aforesaid goods in retail stores, namely, the bringing together, for the benefit of others, of a variety of goods in the field of clothing and accessories; organization of trade fairs for commercial or advertising purposes, organization of exhibitions of commercial or advertising purposes, organization of fashion shows for advertising or selling purposes, publicity agencies, commercial administration of licensing of goods and services of others, sponsorship search, business management of hotels for others, commercial management for franchising; sales promotion for others; sales promotion for others relating to clothing"* in International Class 35.

23. Upon information and belief, the Trust claims to be the owner of intellectual property rights associated with the late American singer and actor Roy Rogers, including his name and likeness.

24. Upon information and belief, Happy Trails was granted an exclusive license from the Trust to exploit any intellectual property rights associated with the late American singer and actor Roy Rogers.

25. On October 14, 2009, counsel for Defendants' predecessor to the claimed intellectual property rights associated with late American singer and actor Roy Rogers, Roy

Rogers Family Entertainment Corporation ("RRFEC") sent a cease and desist letter to Manifatture 7 Bell alleging that Manifatture 7 Bell's use and registration for Roy Roger's was causing a likelihood of confusion and was damaging RRFEC's rights in the name Roy Rogers. In this letter, RRFEC demanded that Manifatture 7 Bell cease use of Roy Roger's in the United States and RRFEC further demanded that Manifatture 7 Bell cancel that '761 Registration and the '723 Registration.

26. Since Manifatture 7 Bell did not believe its use of Roy Roger's violated any rights alleged by RRFEC, Manifatture 7 Bell did not respond to the October 14, 2009 letter and did not receive any further communications from RRFEC.

27. On June 12, 2013, a different law firm, representing Defendants Happy Trails and the Trust, sent a second cease and desist letter to Manifatture 7 Bell, alleging trademark infringement of Defendants' intellectual property rights associated with the late American singer and actor Roy Rogers as well as a violation of a right of publicity. Once again, the letter demanded that Manifatture 7 Bell cease use of Roy Roger's in the United States and that Manifatture 7 Bell cancel that '761 Registration and the '723 Registration. The letter also stated that unless Manifatture 7 Bell complied with its demands, Defendants would "pursue all available legal remedies against it, including seeking immediate and permanent injunctions, and filing claims of trademark infringement and violations of right of publicity."

28. Manifatture 7 Bell responded to the June 12, 2013 letter through counsel, again insisting that its use of Roy Roger's did not violate any rights owned by Defendants.

29. Upon information and belief, Defendants do not own any federal trademark registrations for the mark Roy Rogers and Defendants do not currently sell any products under the name Roy Rogers.

30. On September 17, 2014, Defendants instituted Opposition No. 91218423 against the '769 Application with the Trademark Trial and Appeal Board ("TTAB") at the United States Patent and Trademark Office. The Opposition is based on: (1) false association with a deceased person under Section 2(a) of the Lanham Act, 15 U.S.C. 1052(a); and (2) fraud in the procurement of the '769 application. The Opposition is currently pending.

31. On November 19, 2014, Defendants instituted consolidated Cancellation No. 92060421 against the '761 Registration and '723 Registration with the TTAB at the United States Patent and Trademark Office. The Cancellation is based on: (1) false association with a deceased person under Section 2(a) of the Lanham Act, 15 U.S.C. 1052(a); and (2) fraud in the procurement and maintenance of the '761 Registration and '723 Registration. The Cancellation is currently pending.

32. Despite the threats made by Defendants in the 2009 and 2013 cease and desist letters, Defendants have not filed any civil actions against Manifatture 7 Bell. Manifatture 7 Bell has relied on Defendants' inaction to its detriment.

33. By virtue of the litigation threats made by Defendants and the actions before the TTAB filed by Defendants against the '761 Registration, the '723 Registration and the '769 Application, Manifatture 7 Bell faces a substantial and protracted controversy of sufficient immediacy and reality to warrant issuance of a declaratory judgment.

34. Manifatture 7 Bell denies that it infringes any valid claim of Defendants' intellectual property rights in connection with Roy Rogers. Manifatture 7 Bell now seeks a declaratory judgment that it does not infringe any valid claim of Roy Rogers' intellectual property rights.

35. Manifatture 7 Bell also seeks a declaratory judgment that the '761 Registration and the '723 Registration are valid and subsisting and that the '769 Application should proceed to registration.

COUNT I

DECLARATORY JUDGMENT OF NO INFRINGEMENT OF RIGHTS UNDER 15 U.S.C. § 1125(a)

36. The allegations of paragraphs 1-35 are incorporated by reference as if fully set forth herein.

37. Based on the above-stated cease and desist letters sent by Defendants and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes that Defendants contend that Manifatture 7 Bell's use of the trademark Roy Roger's infringes one or more trademarks owned by Defendants.

38. Manifatture 7 Bell's use of the trademark Roy Roger's is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Manifatture 7 Bell with Defendants under 15 U.S.C. § 1125(a).

39. Manifatture 7 Bell further avers that the assertions of infringement set forth in Defendants' cease and desist letters are not based on any actual trademark rights in Roy Rogers owned by Defendants.

40. Upon information and belief, Defendants are not using the name Roy Rogers as a trademark and therefore have no enforceable trademark rights under 15 U.S.C. § 1125(a).

41. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

42. An actual controversy exists between Manifatture 7 Bell and Defendants as to whether or not Manifatture 7 Bell has committed trademark infringement in violation of 15 U.S.C. § 1125(a).

43. The controversy is such that, pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that by its activities Manifatture 7 Bell has not engaged in any acts of trademark infringement under 15 U.S.C. § 1125(a). Such a determination and declaration is necessary and appropriate at this time.

COUNT II

DECLARATORY JUDGMENT OF NO UNFAIR COMPETITION UNDER 15 U.S.C. § 1125(a)

44. The allegations of paragraphs 1-43 are incorporated by reference as if fully set forth herein.

45. Based on the above-stated cease and desist letters sent by Defendants and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes that Defendants contend that Manifatture 7 Bell's use of the trademark Roy Roger's constitutes unfair competition in the form of false or misleading representation of fact under 15 U.S.C. § 1125(a).

46. Manifatture 7 Bell avers that its use of the trademark Roy Roger's does not falsely suggest a connection with the late American singer and actor Roy Rogers, and such is not false or misleading representation of fact.

47. Manifatture 7 Bell further avers that the name of the late American singer and actor Roy Rogers is not famous and entitled to protection under 15 U.S.C. § 1125(a). Further,

Manifatture 7 Bell's Roy Roger's trademark does not point uniquely and unmistakably to the late American singer.

48. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

49. An actual controversy exists between Manifatture 7 Bell and Defendants as to whether or not Manifatture 7 Bell has committed unfair competition in violation of 15 U.S.C. § 1125(a).

50. The controversy is such that, pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that by its activities Manifatture 7 Bell has not engaged in any acts of unfair competition under 15 U.S.C. 1125(a). Such a determination and declaration is necessary and appropriate at this time.

COUNT III

DECLARATORY JUDGMENT OF NO UNFAIR COMPETITION UNDER 6 *DEL. C.* § 2513(a)

51. The allegations of paragraphs 1-50 are incorporated by reference as if fully set forth herein.

52. Based on the above-stated cease and desist letters sent by Defendants and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes that Defendants contend that Manifatture 7 Bell's use of the trademark Roy Roger's constitutes unfair competition under 6 *Del. C.* § 2513(a).

53. Manifatture 7 Bell denies that its use of the trademark Roy Roger's constitute unfair competition in violation of 6 *Del. C.* § 2513(a).

54. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

55. An actual controversy exists between Manifatture 7 Bell and Defendants as to whether or not Manifatture 7 Bell has committed unfair competition in violation of 6 *Del. C.* 2513(a).

56. The controversy is such that, pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that by its activities Manifatture 7 Bell has not engaged in any acts of unfair competition under *Del. C.* § 2513(a). Such a determination and declaration is necessary and appropriate at this time.

COUNT IV

DECLARATORY JUDGMENT OF NO DECEPTIVE TRADE PRACTICES UNDER 6 *DEL. C.* § 2532

57. The allegations of paragraphs 1-56 are incorporated by reference as if fully set forth herein.

58. Based on the above-stated cease and desist letters sent by Defendants and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes that Defendants contend that Manifatture 7 Bell's use of the trademark Roy Roger's constitutes a deceptive trade practice under 6 *Del. C.* § 2532.

59. Manifatture 7 Bell denies that its use of the trademark Roy Roger's constitutes a deceptive trade practice in violation of 6 *Del. C.* § 2532.

60. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

61. An actual controversy exists between Manifatture 7 Bell and Defendants as to whether or not Manifatture 7 Bell has committed a deceptive trade practice in violation of 6 *Del. C.* 2532.

62. The controversy is such that, pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that by its activities Manifatture 7 Bell has not engaged in any deceptive trade practice under *Del. C.* § 2532. Such a determination and declaration is necessary and appropriate at this time.

COUNT V

DECLARATORY JUDGMENT OF NO DILUTION

63. The allegations of paragraphs 1-62 are incorporated by reference as if fully set forth herein.

64. Based on the above-stated cease and desist letters sent by Defendants and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes that Defendants contend that Manifatture 7 Bell's use of the trademark Roy Roger's constitutes dilution under 6 *Del. C.* § 3313.

65. Manifatture 7 Bell's use of the trademark Roy Roger's does not cause dilution under 6 *Del. C.* § 3313.

66. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

67. An actual controversy exists between Manifatture 7 Bell and Defendants as to whether or not Manifatture 7 Bell has violated 6 *Del. C.* § 3313.

68. The controversy is such that, pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 et seq., Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that by its activities Manifatture 7 Bell has not engaged in any acts of dilution under *Del. C.* § 3313. Such a determination and declaration is necessary and appropriate at this time.

COUNT VI

DECLARATORY JUDGMENT OF VALIDITY OF THE '761 REGISTRATION

69. The allegations of paragraphs 1-68 are incorporated by reference as if fully set forth herein.

70. Based on the above-mentioned cease and desist letters and Cancellation No. 92060421 filed at the TTAB, Manifatture 7 Bell is informed and believes that Defendants contend that the '761 Registration violates one or more rights owned by Defendants and should be cancelled for false suggestion and fraud.

71. Manifatture 7 Bell avers that the trademark Roy Roger's in the '761 Registration does not falsely suggest a connection with a person, living or dead, under 15 U.S.C § 1052(a).

72. Manifatture 7 Bell further avers that the name of the late American singer and actor Roy Rogers was not famous on the date the '761 Registration issued. Further, Manifatture 7 Bell's trademark Roy Roger's does not point uniquely and unmistakably to the late American singer and actor. Therefore, the '761 Registration does not violate 15 U.S.C § 1052(a).

73. Manifatture 7 Bell further avers that when it filed the application for the '761 application, it did not know of any superior rights owned by Defendants to the best of its knowledge. As such, the required declaration under 15 U.S.C. § 1051(b) for the '761 Registration was truthful. Further, the information contained in the Statement of Use filed in

connection the '761 Registration was accurate to the best of Manifatture 7 Bell's knowledge. Therefore, Manifatture 7 Bell did not commit fraud in the procurement of the '761 Registration.

74. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

75. Accordingly, an actual controversy exists between Manifatture 7 Bell and Defendants as to the validity and subsistence of the '761 Registration.

76. The controversy is such that, pursuant to Federal Rules of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that the '761 Registration is valid and subsisting. Such a determination and declaration is necessary and appropriate at this time.

COUNT VII

DECLARATORY JUDGMENT OF VALIDITY OF THE '723 REGISTRATION

77. The allegations of paragraphs 1-76 are incorporated by reference as if fully set forth herein.

78. Based on the above-mentioned cease and desist letters and Cancellation No. 92060421 filed at the TTAB, Manifatture 7 Bell is informed and believes that Defendants contend that the '723 Registration violates one or more rights owned by Defendants and should be cancelled for false suggestion and fraud.

79. Manifatture 7 Bell avers that the trademark Roy Roger's in the '723 Registration does not falsely suggest a connection with a person, living or dead, under 15 U.S.C § 1052(a).

80. Manifatture 7 Bell further avers that the name of the late singer Roy Rogers was not famous on the date the '723 Registration issued. Further, Manifatture 7 Bell's mark Roy

Roger's does not point uniquely and unmistakably to the late American singer. Therefore, the '723 Registration does not violate 15 U.S.C § 1052(a).

81. Manifatture 7 Bell further avers that when it filed a declaration of continued use and incontestability for the '723 Registration, the Roy Roger's mark as shown in the registration was in continuous use in commerce for five consecutive years since the registration date. Therefore, Manifatture 7 Bell did not commit fraud in the maintenance of the '723 Registration.

82. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

83. Accordingly, an actual controversy exists between Manifatture 7 Bell and Defendants as to the validity and subsistence of the '723 Registration.

84. The controversy is such that, pursuant to Federal Rules of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that the '723 Registration is valid and subsisting. Such a determination and declaration is necessary and appropriate at this time.

COUNT VIII

DECLARATORY JUDGMENT OF REGISTRATION FOR THE '769 APPLICATION

85. The allegations of paragraphs 1-84 are incorporated by reference as if fully set forth herein.

86. Based on the above-mentioned cease and desist letters and Opposition No. 91218423 filed at the TTAB, Manifatture 7 Bell is informed and believes that Defendants contend that the '769 Application violates one or more rights owned by Defendants and should be cancelled for false suggestion and fraud.

87. Manifatture 7 Bell avers that the trademark Roy Roger's in the '769 Application does not falsely suggest a connection with a person, living or dead, under 15 U.S.C § 1052(a).

88. Manifatture 7 Bell further avers that the name of the late singer Roy Rogers was not famous on the date the '769 Application was filed. Further, Manifatture 7 Bell's mark Roy Roger's does not point uniquely and unmistakably to the late American singer. Therefore, the '769 Application does not violate 15 U.S.C § 1052(a).

89. Manifatture 7 Bell further avers that when it filed the '769 Application, it did not know of any superior rights owned by Defendants to the best of its knowledge. As such, the required declaration under 15 U.S.C. § 1051(b) for the '769 Application was truthful. Therefore, Manifatture 7 Bell did not commit fraud in the filing of the '769 Application.

90. Accordingly, an actual controversy exists between Manifatture 7 Bell and Defendants as to the validity and subsistence of the '769 Application.

91. The controversy is such that, pursuant to Federal Rules of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that the '769 Application is entitled to registration. Such a determination and declaration is necessary and appropriate at this time.

COUNT IX

DECLARATORY JUDGMENT OF NO INFRINGMENT OF THE COMMON LAW RIGHT OF PUBLICITY

92. The allegations of paragraphs 1-91 are incorporated by reference as if fully set forth herein.

93. Based on the above-mentioned cease and desist letters and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes

that Defendants contend that Manifatture 7 Bell's use of the Roy Roger's mark violates a right of publicity in the name Roy Rogers owned by Defendants under the common law.

94. Manifatture 7 Bell avers that the Defendants own no right of publicity in the name Roy Rogers under common law. Manifatture 7 Bell further avers that its use of the Roy Roger's trademark does not unlawfully appropriate the name or likeness of the late American singer and actor Roy Rogers without consent for commercial use or advantage and therefore does not violate the common law right of publicity. Therefore, the use in commerce of the mark Roy Roger's does not violate the common law right of publicity.

95. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

96. Accordingly, an actual controversy exists between Manifatture 7 Bell and Defendants as to the violation of the common law right of publicity.

97. The controversy is such that, pursuant to Federal Rules of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that the use in commerce of the mark Roy Roger's does not violate the common law right of publicity. Such a determination and declaration is necessary and appropriate at this time.

COUNT X

DECLARATORY JUDGMENT OF NO UNFAIR COMPETITION UNDER DELAWARE COMMON LAW

98. The allegations of paragraphs 1-97 are incorporated by reference as if fully set forth herein.

99. Based on the above-mentioned cease and desist letters and the actions filed by Defendants at the TTAB against Manifatture 7 Bell, Manifatture 7 Bell is informed and believes

that Defendants contend that Manifatture 7 Bell's use of the Roy Roger's mark constitutes unfair competition under Delaware common law.

100. Manifatture 7 Bell denies that its use of the trademark Roy Roger's constitute unfair competition in violation of Delaware common law.

101. Manifatture 7 Bell further avers that Defendants have unreasonably delayed in asserting any such claim which has caused prejudice to Manifatture 7 Bell, and therefore any claim is barred by laches.

102. An actual controversy exists between Manifatture 7 Bell and Defendants as to whether or not Manifatture 7 Bell has committed unfair competition under Delaware common law.

103. The controversy is such that, pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 *et seq.*, Manifatture 7 Bell is entitled to a declaration, in the form of a judgment, that by its activities Manifatture 7 Bell has not engaged in any acts of unfair competition under Delaware common law. Such a determination and declaration is necessary and appropriate at this time.

PRAYER FOR RELIEF

WHEREFORE, Manifatture 7 Bell prays that:

A. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's does not infringe any trademark rights of Defendants under 15 U.S.C. § 1125(a).

B. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's is not unfair competition under 15 U.S.C. § 1125(a).

C. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's does not constitute unfair competition under 6 *Del. C.* § 2513(a).

D. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's does not constitute a deceptive trade practice under 6 *Del. C.* § 2532.

E. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's does not dilute Defendants' rights under 6 *Del. C.* § 3313.

F. The Court declare that Manifatture 7 Bell's '761 Registration is valid and subsisting.

G. The Court declare that Manifatture 7 Bell's '723 Registration is valid and subsisting.

H. The Court declare that Manifatture 7 Bell's '769 Application is entitled to Registration.

I. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's does not violate Defendants' right of publicity under the common law.

J. The Court declare that Manifatture 7 Bell's use of the trademark Roy Roger's does not constitute unfair competition under Delaware common law.

K. The Court declare that Defendants have unreasonably delayed in asserting any such claims asserted in this Complaint which has caused prejudice to Manifatture 7 Bell, and therefore any claims are barred by laches.

L. Manifatture 7 Bell be awarded its costs in this action; and

M. Manifatture 7 Bell be awarded such other and further relief as this Court deems is just and proper.

DEMAND FOR A JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38, Manifatture 7 Bell hereby respectfully demands a trial by jury of all issues and claims so triable.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Melanie K. Sharp

Melanie K. Sharp (No. 2501)
James L. Higgins (No. 5021)
Rodney Square
1000 North King Street
Wilmington, DE 19801
(302) 571-6681
msharp@ycst.com

ROTHWELL, FIGG, ERNST & MANBECK P.C.
E. Anthony Figg
Leo M. Loughlin
607 14th Street, N.W.
Suite 800
Washington, DC 20005
(202) 783-6040

Dated: December 23, 2014

Attorneys for Manifatture 7 Bell S.p.A.

01:16448482.1

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 3,636,761

United States Patent and Trademark Office **Registered June 9, 2009**

TRADEMARK
PRINCIPAL REGISTER

MANIFATTURE 7 BELL S.P.A. (ITALY SOCIETA PER AZIONI)
VIA BRUNO BUOZZI 172
50013 CAMPI BISENZIO (FI), ITALY

FOR: TROUSERS OF LEATHER OR IMITATION OF LEATHER, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1950; IN COMMERCE 9-0-2008.

THE NAME SHOWN IN THE MARK DOES NOT IDENTIFY A PARTICULAR LIVING INDIVIDUAL.

SN 78-545,323, FILED 1-11-2005.

LEIGH CAROLINE CASE, EXAMINING ATTORNEY

EXHIBIT B

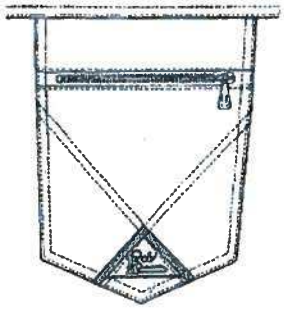
Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 3,476,723

United States Patent and Trademark Office **Registered July 29, 2008**

TRADEMARK
PRINCIPAL REGISTER



MANIFATTURE 7 BELL S.P.A. (ITALY SOCIETA PER AZIONI)
172, VIA BRUNO BUOZZI
I-50013 CAMPI BISENZIO, ITALY

FOR: READY MADE CLOTHING, NAMELY, OUTFITS, NAMELY, JACKETS, COATS, TROUSERS, SKIRTS, SHIRTS; WATERPROOF CLOTHING, NAMELY, RAINCOATS, WATERPROOF JACKETS; WORKWEAR, NAMELY, TROUSERS, JACKETS, COATS, SHIRTS, SWEATERS, T-SHIRTS; SPORTSWEAR, NAMELY, TROUSERS, JACKETS, SKIRTS, SHIRTS, SWEATERS, IN CLASS 25 (U.S. CLS. 22 AND 39).

OWNER OF INTERNATIONAL REGISTRATION 0858345 DATED 5-31-2005, EXPIRES 5-31-2015.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE SHAPE OF THE POCKET OR THE POCKETS REINFORCEMENT STITCHING, APART FROM THE MARK AS SHOWN.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK DOES NOT IDENTIFY A PARTICULAR LIVING INDIVIDUAL.

THE MARK CONSISTS OF A STITCH PATTERN ON A POCKET CONTAINING SLANTED STITCHES WHICH INTERSECT. A HORIZONTAL ZIPPER IS ABOVE THE SLANTED STITCHES AND THE WORDS "ROY ROGERS" APPEAR IN A LOWER TRIANGLE FORMED FROM THE INTERSECTION OF THE SLANTED STITCHES.

SER. NO. 79-014,032, FILED 5-31-2005.

CHERYL CLAYTON, EXAMINING ATTORNEY

EXHIBIT C

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 85931769
Filing Date: 05/14/2013

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85931769
MARK INFORMATION	
***MARK**	ROY ROGER'S
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	ROY ROGER'S
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	Manifatture 7 Bell S.p.A.
***STREET**	Campi Bisenzio (Firenze)
***CITY**	Via Bruno Buozzi 172
***COUNTRY**	Italy
***ZIP/POSTAL CODE (Required for U.S. applicants only)**	50013
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Italy
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	018
	LEATHER, UNWORKED OR SEMI-WORKED, IMITATION LEATHER, PURSES, SCHOOL BAGS, CARD CASES

***IDENTIFICATION**	(NOTECASES), TRAVELLING TRUNKS, BACKPACKS, WALLETS, SHOPPING BAGS, ATTACHE CASES, BEACH BAGS, HANDBAGS, TRAVELLING BAGS, POUCHES OF LEATHER FOR PACKAGING, BRIEFCASES, CASES OF LEATHER, TRUNKS, VANITY CASES NOT FITTED, LEATHER KEY CASES, SUITCASES, BAGS FOR SPORT, LEATHER CHEQUE HOLDERS, LEATHER STRAPS, UMBRELLAS, CANES, WALKING STICKS, WHIPS, SADDLERY, HARNESS FITTINGS
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	025
***IDENTIFICATION**	CLOTHING, OVERALLS, UNDERWEAR, SWEATERS, JUMPERS, TROUSERS, OUTERCLOTHING, POCKET SQUARES, KNITWEAR (CLOTHING), SKIRTS, PULLOVERS, OVERCOATS, COATS, STUFF JACKETS (CLOTHING), JACKETS (CLOTHING), PARKAS, CLOTHING OF LEATHER, SHIRTS, T-SHIRTS, BLOUSES, PANTS, DRESSING GOWNS, PAJAMAS, VESTS, TIGHTS, STOCKINGS, JERSEYS (CLOTHING), BATHROBES, CHILDREN'S CLOTHING, BATHING SUITS, CLOTHING FOR GYMNASTICS, WATERPROOF CLOTHING, JEANS, RAINCOATS, FOOTWEAR, SLIPPERS, BATH SLIPPERS, BOOTS, BEACH SHOES, SANDALS, SPORT SHOES, HEADGEAR, HATS, CAPS, SOCKS, GARTERS, GLOVES (CLOTHING), SHAWLS, TIES, NECKTIES, SCARVES, FURS (CLOTHING), BELTS (CLOTHING), SUITS, CERIMONIAL DRESSES
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	035
	ADVERTISING; BUSINESS MANAGEMENT ASSISTANCE; DOCUMENT REPRODUCTION, WORD PROCESSING, ADMINISTRATIVE PROCESSING OF PURCHASE ORDERS, DISSEMINATION OF ADVERTISING

*IDENTIFICATION	MATTER; PRESENTATION OF GOODS ON COMMUNICATION MEDIA, FOR RETAIL PURPOSES, ORGANIZATION OF TRADE FAIRS FOR COMMERCIAL OR ADVERTISING PURPOSES, ORGANIZATION OF EXHIBITIONS OF COMMERCIAL OR ADVERTISING PURPOSES, ORGANIZATION OF FASHION SHOWS FOR ADVERTISING OR SELLING PURPOSES, PUBLICITY AGENCIES, COMMERCIAL ADMINISTRATION OF LICENSING OF GOODS AND SERVICES OF OTHERS, SPONSORSHIP SEARCH, BUSINESS MANAGEMENT OF HOTELS, COMMERCIAL MANAGEMENT FOR FRANCHISING; SALES PROMOTION FOR OTHERS; FOOTWEAR, HEADGEAR, BAGS, SUITCASES, LEATHER GOODS; SALES PROMOTION (FOR OTHERS) RELATING TO CLOTHING, FOOTWEAR, HEADGEAR, BAGS, SUITCASES, LEATHER GOODS
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Leo M. Loughlin
ATTORNEY DOCKET NUMBER	1229-1640
FIRM NAME	Rothwell, Figg, Ernst & Manbeck, pc
INTERNAL ADDRESS	Suite 800
STREET	607 14th Street NW
CITY	Washington
STATE	District of Columbia
COUNTRY	United States
ZIP/POSTAL CODE	20005
PHONE	202-783-6040
FAX	202-783-6031
DOMESTIC REPRESENTATIVE INFORMATION	
NAME	Leo M. Loughlin
FIRM NAME	Rothwell, Figg, Ernst & Manbeck, pc

INTERNAL ADDRESS	Suite 800
STREET	607 14th Street NW
CITY	Washington
STATE	District of Columbia
COUNTRY	United States
ZIP CODE	20005
PHONE	202-783-6040
FAX	202-783-6031
CORRESPONDENCE INFORMATION	
NAME	Leo M. Loughlin
FIRM NAME	Rothwell, Figg, Ernst & Manbeck, pc
INTERNAL ADDRESS	Suite 800
STREET	607 14th Street NW
CITY	Washington
STATE	District of Columbia
COUNTRY	United States
ZIP/POSTAL CODE	20005
PHONE	202-783-6040
FAX	202-783-6031
FEE INFORMATION	
NUMBER OF CLASSES	3
FEE PER CLASS	325
***TOTAL FEE DUE**	975
***TOTAL FEE PAID**	975
SIGNATURE INFORMATION	
SIGNATURE	/Leo M. Loughlin/
SIGNATORY'S NAME	Leo M. Loughlin
SIGNATORY'S POSITION	Attorney of record, DC bar member
DATE SIGNED	05/14/2013

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 85931769
Filing Date: 05/14/2013

To the Commissioner for Trademarks:

MARK: ROY ROGER'S (Standard Characters, see mark)
The literal element of the mark consists of ROY ROGER'S.
The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Manifatture 7 Bell S.p.A., a corporation of Italy, having an address of
Campi Bisenzio (Firenze)
Via Bruno Buozzi 172 50013
Italy

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 018: LEATHER, UNWORKED OR SEMI-WORKED, IMITATION LEATHER, PURSES, SCHOOL BAGS, CARD CASES (NOTECASES), TRAVELLING TRUNKS, BACKPACKS, WALLETS, SHOPPING BAGS, ATTACHE CASES, BEACH BAGS, HANDBAGS, TRAVELLING BAGS, POUCHES OF LEATHER FOR PACKAGING, BRIEFCASES, CASES OF LEATHER, TRUNKS, VANITY CASES NOT FITTED, LEATHER KEY CASES, SUITCASES, BAGS FOR SPORT, LEATHER CHEQUE HOLDERS, LEATHER STRAPS, UMBRELLAS, CANES, WALKING STICKS, WHIPS, SADDLERY, HARNESS FITTINGS
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 025: CLOTHING, OVERALLS, UNDERWEAR, SWEATERS, JUMPERS, TROUSERS, OUTERCLOTHING, POCKET SQUARES, KNITWEAR (CLOTHING), SKIRTS, PULLOVERS, OVERCOATS, COATS, STUFF JACKETS (CLOTHING), JACKETS (CLOTHING), PARKAS, CLOTHING OF LEATHER, SHIRTS, T-SHIRTS, BLOUSES, PANTS, DRESSING GOWNS, PAJAMAS, VESTS, TIGHTS, STOCKINGS, JERSEYS (CLOTHING), BATHROBES, CHILDREN'S CLOTHING, BATHING SUITS, CLOTHING FOR GYMNASTICS, WATERPROOF CLOTHING, JEANS, RAINCOATS, FOOTWEAR, SLIPPERS, BATH SLIPPERS, BOOTS, BEACH SHOES, SANDALS, SPORT SHOES, HEADGEAR, HATS, CAPS, SOCKS, GARTERS, GLOVES (CLOTHING), SHAWLS, TIES, NECKTIES, SCARVES, FURS (CLOTHING), BELTS (CLOTHING), SUITS, CERIMONIAL DRESSES
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 035: ADVERTISING; BUSINESS MANAGEMENT ASSISTANCE; DOCUMENT REPRODUCTION, WORD PROCESSING, ADMINISTRATIVE PROCESSING OF PURCHASE ORDERS, DISSEMINATION OF ADVERTISING MATTER; PRESENTATION OF GOODS ON COMMUNICATION MEDIA, FOR RETAIL PURPOSES, ORGANIZATION OF TRADE FAIRS FOR COMMERCIAL OR ADVERTISING PURPOSES, ORGANIZATION OF EXHIBITIONS OF COMMERCIAL OR ADVERTISING PURPOSES, ORGANIZATION OF FASHION SHOWS FOR ADVERTISING OR SELLING PURPOSES, PUBLICITY AGENCIES, COMMERCIAL ADMINISTRATION OF LICENSING OF GOODS AND SERVICES OF OTHERS, SPONSORSHIP SEARCH, BUSINESS MANAGEMENT OF HOTELS, COMMERCIAL MANAGEMENT FOR FRANCHISING; SALES PROMOTION FOR OTHERS; FOOTWEAR, HEADGEAR, BAGS, SUITCASES, LEATHER GOODS; SALES PROMOTION (FOR OTHERS) RELATING TO CLOTHING, FOOTWEAR, HEADGEAR, BAGS, SUITCASES, LEATHER GOODS
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:
Leo M. Loughlin of Rothwell, Figg, Ernst & Manbeck, pc

Suite 800
607 14th Street NW
Washington, District of Columbia 20005
United States
The attorney docket/reference number is 1229-1640.

The applicant hereby appoints Leo M. Loughlin of Rothwell, Figg, Ernst & Manbeck, pc
Suite 800
607 14th Street NW
Washington District of Columbia 20005
United States
as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.
The applicant's current Correspondence Information:
Leo M. Loughlin
Rothwell, Figg, Ernst & Manbeck, pc
Suite 800
607 14th Street NW
Washington, District of Columbia 20005
202-783-6040(phone)
202-783-6031(fax)

A fee payment in the amount of $975 has been submitted with the application, representing payment for 3 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Leo M. Loughlin/ Date: 05/14/2013
Signatory's Name: Leo M. Loughlin
Signatory's Position: Attorney of record, DC bar member
RAM Sale Number: 85931769
RAM Accounting Date: 05/15/2013

Serial Number: 85931769
Internet Transmission Date: Tue May 14 16:05:44 EDT 2013
TEAS Stamp: USPTO/BAS-64.124.22.252-2013051416054437
2642-85931769-500c70c8ef3621395b56b1a4c1
2856d744a634a95d947c73b721e42db1324b34-D
A-3031-20130514120121706441

ROY ROGER'S

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
MANIFATTURE 7 BELL S.P.A.

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Melanie K. Sharp, Esquire (302) 571-6681
Young Conaway Stargatt & Taylor, LLP
Rodney Square, 1000 North King Street
Wilmington, DE 19801

DEFENDANTS
HAPPY TRAILS, LLC and THE CHILDREN'S TRUST U/A ROY ROGERS DALE EVANS ROGERS TRUST

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☒ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
15 U.S.C. §§ 1051 et seq., 28 U.S.C. §§ 2201 et seq.

Brief description of cause:
Decl. Judg. of: No Trademark Infringement, Dilution, or Unfair Competition; Validity of Trademark Registrations

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
12/23/2014

SIGNATURE OF ATTORNEY OF RECORD
/s/ Melanie K. Sharp (No. 2501)

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.)**

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.