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Filing date: **01/11/2006**

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

Proceeding	92043811
Party	Plaintiff Roger Orozco and Nora Orozco
Correspondence Address	KURT KOENIG KOENIG & ASSOCIATES 220 EAST FIGUEROA STREET SANTA BARBARA, CA 93101 Kurt@incip.com
Submission	Motion for Summary Judgment
Filer's Name	Kurt Koenig
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Signature	/Kurt Koenig/
Date	01/11/2006
Attachments	Brief.pdf (117 pages)

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

Roger Orozco and Nora Orozco, Petitioner,	)	
V.	)	Cancellation No. 92043811
Michael Hwang, Respondent.	)	

PETITIONER'S MOTION FOR SUMMARY JUDGMENT

Petitioner, Roger Orozco and Nora Orozco, pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, 15 U.S.C. § 1064, and Rules 2.111(b), 2.116, and 2.117 of the Trademark Rules of Practice moves for summary judgment on its Petition for Cancellation against the registration of the mark OAKTREE. There is no genuine issue of material fact and Petitioner is entitled to judgment as a matter of law, on the ground that the mark registered is confusingly similar to a mark and name previously and continuously used by Petitioner since prior to the filing date of the Registration which Petitioner seeks to cancel.

Petitioner submits herewith its Brief in Support of this Motion, together with the Declarations of Kurt Koenig, Russell Chaney, and Nora Orozco, and Exhibits attached thereto. This Motion is submitted prior to the commencement of Petitioner's testimony period and it is respectfully requested that this Motion be granted, the Cancellation be sustained, and the Registration be cancelled. Pursuant to Trademark Rule 1.127(d) it is requested

that the proceedings be suspended pending the disposition of this Motion.

Respectfully submitted,

KOENIG & ASSOCIATES

Dated: January 11, 2006 By: _____

Kurt Koenig
Koenig & Associates
220 East Figueroa Street
Santa Barbara, CA 93101
Tel: 805-965-4400
Fax: 805-564-8262

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I, KURT KOENIG, hereby certify that I caused a copy of the foregoing "**PETITIONER'S MOTION FOR SUMMARY JUDGMENT**" to be served on January 11, 2006, by first class mail, postage prepaid, addressed to:

Mr. John Johnson
Ms. Stacy Grossman
Fish & Richardson P.C.
Citigroup Center
153 E, 53rd St., 52nd Floor
New York, NY 10022-4611

Dated: January 11, 2006

_____
Kurt Koenig

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by electronic mail to the United States Patent and Trademark Office on the date shown below.

_____ Dated: January 11, 2006
KURT KOENIG

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

Roger Orozco and Nora Orozco, Petitioner,	)	
V.	)	Cancellation No. 92043811
Michael Hwang, Respondent.	)	

BRIEF IN SUPPORT
OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT

Petitioner, Roger Orozco and Nora Orozco ("Petitioner") submit this brief in support of their motion for summary judgment seeking to cancel the mark OAKTREE for footwear registered by Michael Hwang ("Respondent"). In support thereof, Petitioner submits the Declarations of Kurt Koenig, Nora Orozco, and Russell Chaney, together with supporting exhibits.

I. Introduction

The procedural history of this proceeding is relatively simple.

On February 10, 2003, Respondent filed intent-to-use Application Ser. No. 78/213,107 for the stylized mark OAKTREE for use on footwear ("Respondent's Mark") in the form as follows:

On May 25, 2004, Respondent's Mark matured into Registration No. 2,846,833. The registration indicates a claimed date of first use and use in commerce of December 20, 2003.

On September 23, 2003, Petitioner filed Application Ser. No 78/304,288 for registration of the mark OAK TREE FARMS on footwear ("Petitioner's Application") in the form set forth below:

On October 27, 2004, Petitioner filed this Cancellation proceeding to cancel Respondent's Mark. Petitioner's Application was suspended pending the outcome of this proceeding. Discovery closed on November 13, 2005. Petitioner's testimony period opens on January 12, 2005 and closes on February 11, 2005. This motion is submitted prior to the opening of Petitioner's testimony period pursuant to Trademark Rule 2.127(e)(1).

As grounds for the cancellation, Petitioner alleges that Respondent's mark, when used on footwear, so resemble Petitioner's previously used trademarks OAK TREE, OAK TREE FARMS, and OAK TREE FARMS & Design on footwear as to be likely to cause confusion, mistake, or to deceive. The marks in issue are identical because they both contain the mark OAK TREE or OAKTREE and are essentially identical other than the fact that Petitioner at times uses the word "FARMS" as part of its mark and also uses an oak leaf design in conjunction with its OAK TREE mark. The undisputed material facts show that Petitioner has prior common law rights to its mark and there is a likelihood of confusion. As a result, it is appropriate to resolve this matter by summary judgment.

II. Summary of Facts

The following facts are admitted for purposes of this motion:

1. Respondent is an individual. (Answer to Petition for Cancellation ¶ 2). Respondent is the owner of Reg. No. 2,846,833 for the mark OAKTREE in a stylized form for "footwear" in International Class 25. Respondent filed the intent-to-use application on February 10, 2003. The statement of use filed by Respondent indicates a date of first use of December 20, 2003. The earliest priority date on which Respondent can rely is February 10, 2003, the filing date for Application Ser. No. 78/213,107. The file of Registration No. 2,846,833 is in evidence pursuant to Trademark Rule 2.122(b)(1).

2. Petitioner is Roger Orozco and Nora Orozco, individual citizens of the United States and also husband and wife. Declaration of Nora Orozco ("Orozco Declaration"), ¶ 2). At least as early as October 1, 1995, Petitioner's predecessor-in-interest began offering footwear for sale under the OAK TREE FARMS brand. (Orozco Declaration, ¶ 11). Petitioner and its predecessors-in-interest used in interstate commerce, and Petitioner is currently using through its licensee Evolutions Footwear, Inc., the trademarks OAK TREE and OAK TREE FARMS (collectively "Petitioner's Mark"). (Orozco Declaration, ¶ 3, 11).

3. Petitioner obtained Petitioner's Mark from Evolutions, LLC, a California limited liability company which was wholly owned by Petitioner. (Orozco Declaration, ¶ 2). Petitioner currently licenses Petitioner's Mark to Evolutions Footwear, Inc., a California Corporation wholly owned by Petitioner. (Orozco Declaration, ¶ 3).

4. Petitioner filed Application Ser. No 78/304,288 for registration of the mark OAK TREE FARMS on footwear. (Orozco Declaration, ¶ 2, 6).

5. Petitioner's goods consists of footwear, namely shoes and boots. (Orozco Declaration, ¶ 13).

6. Petitioner promotes, markets, and sells its footwear in interstate commerce within the United States under Petitioner's Mark in a variety of ways, including direct mail, through third party retailers and specialty stores, distributors, via the Internet, print media, trade shows and in other ways common to the footwear trade. (Orozco Declaration, ¶ 12, 13, 18). The third party retailers selling goods in both retail stores and on the Internet bearing Petitioner's Mark, include Sheplers, Boot Barn, The Boot Connection, Nags Tack and Western, Discount Western Wear, Boot City, and Aaron's Bunk House Boots. (Orozco Declaration, ¶ 24.) Continuously, since 1995 and long prior to February 10, 2003, Petitioner, its predecessor-in-interest, and its licensee have spent substantial sums of money to advertise, publicize, and promote Petitioner's Mark in connection with footwear. (Declaration of Russell Chaney ("Chaney Declaration"), ¶ 4-5), Orozco Declaration, ¶ 12,13,14,15,16). Due to its distinctive mark, substantial advertising, substantial promotional activities, and extensive sales, Petitioner has achieved widespread consumer recognition and acceptance of Petitioner's Mark for footwear. (Chaney Declaration, ¶ 13.)

7. Petitioner's Mark is recognized as being uniquely and distinctly associated with Petitioner in part based on the substantial advertising, promotional activities of Petitioner. (Chaney Declaration, ¶ 7.)

8. Petitioner's Mark is inherently distinctive, is uniquely associated with Petitioner and has come to be recognized by the public as an indicator of high quality products associated with Petitioner. (Chaney Declaration, ¶ 7, 13.)

9. Since Petitioner made its first sale of footwear bearing Petitioner's Mark, Petitioner has its footwear in every state in the United States and Petitioner currently continues to make such sales. (Orozco Declaration, ¶ 12, 25, 35.)

10. Respondent's goods are directed to the same or related class of consumers as those for Petitioner's goods. Respondent's goods are sold in the same channels of trade as Petitioner's goods. Accordingly, Respondent's goods and Petitioner's goods are commercially related and identical. (Orozco Declaration, ¶ 33.)

11. Respondent's Mark and Petitioner's Mark are essentially identical marks used in conjunction with identical goods and are directed at the identical consumers such that the use by Respondent is confusingly similar to the prior use by Petitioner.

12. Petitioner has successfully established its right to exclude others from use and registration of the mark OAKTREE, including Respondent. (Orozco Declaration, ¶ 26, 28.)

III. Discussion

A. Legal Standard for Summary Judgment

"Fed. R. Civ. P. 56, made applicable to proceedings before the Board by 37 C.F.R. §2.116(a) provides in pertinent part:

> (c) ... The judgment sought [on a motion for summary judgment] shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law....

Sweats Fashions v. Pannill Knitting Co., 833 F.2d 1560, 4 USPQ2d 1793, 1795 (Fed. Cir. 1987).

The Court in the Sweats Fashions case noted that the Supreme Court "counseled that summary judgment is a salutary method of disposition 'designed to secure that just, speedy and inexpensive determination of every action.'" Id., citing Celotex Corp. v. Catrett, 106 S.Ct. 2548, 2555 (1986), Anderson v. Liberty Lobby, Inc. 106 S.Ct. 2505 (1986), and Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 106 S.Ct. 1348 (1986). Moreover, summary judgment should not be denied "merely to satisfy a litigant's speculative hope of finding some evidence that might tend to support a complaint." Pure Gold, Inc. v. Syntex (U.S.A.), Inc., 739 F.2d 627, 636 (Fed. Cir. 1984).

The Federal Circuit has held that the likelihood of confusion between two marks is a question of law to be decided by the Board. Weiss Assoc., inc. v. HRE Assoc., Inc., 902 F.2d 1546, 1547 (Fed. Cir. 1990). See also Pure Gold, supra at 636 (likelihood of confusion is an issue well-suited for summary judgment).

B. <u>Elements of Proof</u>

Petitioner asserts that Respondent's registration should be cancelled under 2(d) of the Lanham Act, 15 U.S.C. § 1052(d)and 15 U.S.C. § 1064 in that the mark registered is confusingly similar to a mark previously used by Petitioner and is thus causing injury

to Petitioner and their business. Section 2(d) provides in pertinent part, that a mark shall be refused registration on the Principal Register if it:

> Consists of or comprises a mark which so resembles... a mark or a trade name previously used in the United States by another and and not abandoned, as to be likely when used on or in connection with the goods of the application, to cause confusion, or to cause mistake, or to deceive....

15 U.S.C. § 1052(d).

Petitioner, in the position of party Plaintiff in contesting the registration, bears the burden of proving its asserted grounds of priority and likelihood of confusion by a preponderance of the evidence. See, Cerveceria Centroamericana, S.A. v. Cerveceria India, Inc., 892 F.2d 1021, 13 USPQ2d 1307 (Fed. Cir. 1989) and Cunningham v. Laser Golf Corp., 222 F.3d 943, 55 USPQ2d 1842, 1848 (Fed. Cir. 2000).

C. <u>Petitioner has standing to Challenge the Registration of Respondent's Registration.</u>

As demonstrated above and by the Orozco Declaration, Petitioner is the owner of the mark OAK TREE and OAK TREE FARMS used in connection with footwear. The registration of the mark OAKTREE by Respondent gives Respondent certain statutory rights under the Trademark Act. 15 U.S.C. § 1115 provides that registration on the principal register shall be admissible in evidence and prima facie evidence of the validity of the registered mark in commerce on or in connection with the goods or services specified in the registration. As such, Petitioner has a real interest in the proceedings and a reasonable basis for belief that it will be damaged by the registration of Respondent's mark.

Richie v. Sampson, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999). Accordingly, Petitioner's allegations of prior use of a confusingly similar mark and its proof submitted herewith are sufficient to establish standing to challenge and cancel the Registration.

D. <u>Petitioner has Established the Priority of its Use of a Distinctive Mark</u>

Petitioner has priority in the present cancellation proceeding, having first used their mark OAK TREE FARMS in 1995. (See Orozco Declaration, ¶ 12). Respondent's application was filed on February 10, 2003 on the basis of intent to use. One who makes use of a confusingly similar designation as a mark or a trade name prior to the application date of an intent-to-use application may establish rights under 2(d) of the Lanham Act. Miller Brewing Co. v. Anheuser-Busch, Inc., 27 USPQ2d 1711, 1714 (TTAB 1993). Petitioner has demonstrated prior and continuous use of its mark OAK TREE FARMS in connection with footwear. As established by the Orozco Declaration, the Chaney Declaration, and the exhibits appended thereto, Petitioner has used the mark OAK TREE FARMS in connection with such goods in the United States since 1995. The Orozco Declaration and the Chaney Declaration show that such use of Petitioner's Mark in connection with footwear has been continuous and expanding since its inception in 1995, more than seven years before the Respondent's Mark was filed in 2003.

Petitioner has also established that Petitioner's Mark is distinctive. See Otto Roth & Co. Universal Foods Corp., 640 F.2d 1317, 209 USPQ 40 (CCPA 1981) and Towers v. Advent Software, Inc., 913 F.2d 942, 16 USPQ2d 1039 (Fed. Cir. 1990). Respondent's Mark

OAKTREE is not merely descriptive in that it does not directly convey information concerning the function, characteristic, purpose or use of the goods. See In re Abcor Dev. Corp., 588 F.2d 811, 813, 200 USPQ 215, 217 (CCPA 1978). Thus, it is clear that Petitioner's Mark is inherently distinctive.

Furthermore, Petitioner has demonstrated that Petitioner's Mark has acquired distinctiveness in connection with footwear. Petitioner has established long and continuous use of Petitioner's Mark since 1995, over 7 years prior to the filing date of Respondent's Mark, in regard to footwear. Petitioner has substantial advertising and promotional expenses of over $40,000 in 2002 (prior to the filing date of Respondent's Mark) and has sold its footwear to approximately 982 different retailers with sales in 2002 reaching approximately $937,000. (Orozco Declaration, ¶ 12, 13, 24). Petitioner's advertising and promotional expenditures as well as sales under OAK TREE brand have increased steadily since 2002. Accordingly, Petitioner has demonstrated that Petitioner's Mark is both inherently distinctive and has acquired distinctiveness prior to the filing date of Respondent's Mark.

E. **Petitioner has Overwhelmingly Demonstrated Likelihood of Confusion**

The determination of a likelihood of confusion is based on an analysis of all the probative facts in evidence that are relevant to the factors set forth in In re duPont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). The "issue of likelihood of confusion is one of law." Sweats Fashions v. Pannill Knitting Co., 4 USPQ2d at 1797. The significance of each factor and its relevance varies from case to case. DuPont, 476 F.2d at 1361. As such, we discuss below only those factors most relevant to this case.

1. **Similarity of the Marks**

Turning first to the marks in question, an analysis of the similarities and dissimilarities in the marks and their connotation and commercial impression reveals that the marks are demonstrably similar, effectively equivalent. Petitioner uses the marks OAK TREE and OAK TREE FARMS. (Orozco Declaration, ¶ 11). Respondent's Mark is OAKTREE. The dominant portion of both marks are the words "oak" and "tree." Even when Petitioner uses the mark OAK TREE FARMS, the word or words "OAK" and "TREE" are the first terms to be encountered by the consuming public, giving this portion of the mark far more dominance. (See Chaney Declaration, ¶ 11). The design element of Petitioner's mark does not have any significant impact on the visual similarities and Petitioner does not always use the design element as part of its mark. While a mark must be considered in its entirety and may not be dissected, "in articulating reasons for reaching a conclusion on the issue of likelihood of confusion, there is nothing improper in stating that, for rational reasons, more of less weight has been given to a particular feature of the mark, provided the ultimate conclusion rests on consideration of the marks in their entireties." In re National Data Corp., 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985).

In this case, where the marks "OAK TREE FARMS" or "OAK TREE" are considered in relation to footwear, the "OAK TREE" portion is clearly the dominant component and the one to which consumers would look to when identifying the source of the goods. (Chaney Declaration, ¶ 11). Thus, the connotation of Respondent's Mark in relation to Petitioner's Mark for footwear is exactly the same – effectively "OAKTREE" compared to "OAK TREE." Especially where

OAKTREE is the first and only term in Respondent's Mark, it is clear that the marks are similar in sound, meaning, appearance, and connotation, and the public would be likely to believe that the footwear sold by Respondent under OAKTREE is associated with or has some connection with Respondent's OAK TREE FARMS footwear.

Additionally, the trademark office has suspended Petitioner's App. Ser. No. 78/304,288 on the basis of the prior registration of Respondent which indicates that the trademark examining attorney felt the marks were sufficiently similar to be likely to cause confusion.

2. **The Goods of Petitioner and Respondent are Identical**

The similarity or dissimilarity of the parties' respective goods and services is also relevant to whether there is a likelihood of confusion. DuPont, supra at 567. The Board must base its determination as to likelihood of confusion based on the description of the goods as they are set forth in the application. In re Pellerin Milnor Corp., 221 USPQ 558, 559 (TTAB 1983). "Thus, registration of an applicant's mark will be refused under §2(d) if it so resembles a previously registered mark or a previously used trade name that buyers are likely to think that the applicant's goods or services come from the same source, or are affiliated with, connected with or sponsored by, the owner of the previously registered or used mark or name." See J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition, Vol. 4, §24.63, page 24-123 (4th Ed. 2003) and the cases cited therein in FN 1.

It is not necessary to a finding of likelihood of confusion that goods be the same or even competitive. It is quite sufficient for that purpose that there is a relationship between

them such that, if they were to be seen by the same customers, bearing the same or a similar mark, they would be attributed to the same source. See Oxford Pendaflex Corporation v. Anixter Bros., Inc., 201 USPQ 851 (TTAB 1978).

Respondent's and Petitioner goods are both "footwear." There is no doubt that Petitioner's and Respondent's goods are not only related, but are in fact identical. When goods overlap or are identical they support a finding of a likelihood of confusion. V&S Vin & Spirit Aktiebolag v. Hanson, 61 USPQ2d 1277 (E.D. Va 2001), In re Total Quality Group Inc., 889 F.2d 1070, 12 USPQ2d 1901, 1904 (Fed. Cir. 1989). Also, with regard to confusion arising due to overlap in customers, see Ultratan Suntanning Centers Inc. v. Ultra Tan International AB, 49 USPQ2d 1313, 1316 (TTAB 1998). Both end user consumers and buyers for retail store purchasers, might rationally believe that Respondent's OAKTREE footwear is in some manner connected with or approved by Petitioner. This is especially true given the fact that shoes are sold directly to a broad class of consumers through the Internet and retail stores.

Respondent's goods as recited in the Registration are not in any way restricted or limited regarding the type of footwear, channels of trade, or methods of provision. As a result, the type of goods must be presumed to include all types of footwear in all forms of potential consumers and through all channels of trade. See Oxford Pendaflex Corporation v. Anixter Bros., Inc., 201 USPQ at 855. Thus, Respondent's goods are closely related to Petitioner's goods as used by Petitioner, such that those who purchase Petitioner's footwear would believe that Respondent's footwear is related thereto.

3. **Other Applicable duPont Factors favor Petitioner**

There are no disputed material issues of fact regarding the marks of the parties or they goods they offer for sale. With respect to the other duPont factors in evidence, Petitioner submits that they favor the grant of summary judgment in the present case.

a. **Similarity of Channels of Trade**

If the users of two similar marks use similar trade channels to advertise their goods and services there is a greater likelihood of confusion between the two marks. DuPont, supra at 1361; Fleischmann Distilling Corp. v. Maier Brewing Company, 314 F.2d 149, 161 (9th Cir. 1963). Shoes sold to individuals are typically sold in shoe stores and general retail stores and that is where Petitioner's goods are sold. For the purposes of likelihood of confusion analysis, the Registrant is presumed to use all normal and customary channels of trade. In re Southern Belle Frozen Foods, Inc., 48 USPQ2d 1849 (TTAB 1998). Since Respondent has not limited his channels of trade and his registration is deemed to include all channels of trade, the channels of trade factor favors Petitioner.

Further, Respondent has not limited its goods to any particular class of consumer. Therefore, Respondent's goods are deemed to extend to all consumers. As noted in the Orozco Declaration, Petitioner sells its footwear to the general public without any restrictions as to the conditions of sales or services associated therewith. (Orozco Declaration, ¶ 27, Chaney Declaration, ¶ 12.)

b. Conditions Under Which Sales Are Made

Both Petitioner and Respondent act as a sort of wholesaler insofar as they sell goods to businesses that resell them. Of course, the ultimate consumers make their purchases at retail stores. Clearly, both parties market goods that some consumers might buy on impulse while others may require a good deal of deliberation. The fact is that when dealing with shoes many consumers would assume that boots bearing the identical mark would come from the same source.

c. The Fame of the Marks

With this factor, one looks at what fame a mark has achieved in the marketplace. "Thus, a mark with extensive public recognition and renown deserves and receives more legal protection than an obscure or weak mark." Kenner Parker Toys v. Rose Art Industries, 963 F.2d 350, 353 (Fed. Cir. 1992). Here, there is no doubt, Petitioner has spent a good deal more effort on trying to establish its brand than Respondent. Fame is relative, however, not absolute, and while Petitioner's Mark is not on a par with the marks in Kenner Parker, nonetheless, the fame factor favors Petitioner.

d. Extent to Which Petitioner has the Right to Exclude Others from Use of its OAK TREE Mark

Petitioner has demonstrated its right to exclude others from confusingly similar usage of the mark OAKTREE based on the fact there are no known third parties, other than Respondent using a mark containing OAK and TREE on footwear. Accordingly, Petitioner has established its right to exclude others from using confusingly

similar marks in the field of footwear and related goods and this factor favors Petitioner.

e. **Extent of Potential Confusion**

The extent of potential confusion is substantial, given Petitioner's nationwide use since 1995 and the substantial advertising expenditures of Petitioner. If the registration of Respondent is not cancelled, Respondent will have the presumptive right to use the mark nationwide in connection with footwear, precisely the goods long previously provided by Petitioner in connection with its Petitioner's Mark. This presents a substantial risk of confusion that potential purchasers will associate the footwear of Respondent with Petitioner and potentially restrict or limit Petitioner's right to use its own prior and widely used mark.

f. **Bad Faith of Junior User**

Finally, with regard to other factors, Petitioner notes that it is the duty of the junior user to select a mark which is not confusingly similar to that of the senior user for related goods. Petitioner's mark is well-established and Respondent is the junior user, who adopted a similar mark for closely related goods and did not exercise good faith in avoiding the rights of others, particularly its competitors' preexisting products. "[A]ll doubt as to whether confusion, mistake, or deception is likely is to be resoled against the newcomer, especially where the established mark is one which is famous. Nina Ricci S.A.R.L. v. E.T.F. Enterprises Inc., 12 USPQ2d 1901, 1904 (Fed. Cir. 1989).

IV. **Respondent's Requests for Admission are Deemed Admitted because Respondent Failed to Respond to them within the Required Time.**

Petitioner propounded its First Request for Admissions to Respondent on April 1, 2005, serving them by mail. (Declaration of Kurt Koenig (Koenig Decl.), ¶ 2). A copy of Respondent's Responses to Petitioner's Requests for Admission is attached as Exhibit A to the Koenig Declaration. Respondent's Responses to Petitioner's Requests for Admission were due 35 days after service: 30 days plus an additional five days because service was by effected by mail. Fed.R.Civ.P. 36, 37 C.F.R. §§ 2.119(c) and 2.120(a), TBMP 403.03. Respondent's counsel sent an email indicating he had received the Requests and noted they would be late, but took no action to timely respond. (Koenig Decl. ¶ 3). Respondent served the Responses on May 16, 2005 as noted by the date on the Response. (Koenig Decl., ¶ 3). Because Respondent failed to respond timely, the requests for admission are deemed admitted. Accordingly, the additional following facts are conclusively shown in this proceeding:

1. Respondent offers for sale footwear which bears the mark OAKTREE.

2. Respondent has sold boots in conjunction with the mark OAKTREE.

3. Respondent did not sell footwear prior to December 20, 2003.

4. Respondent promotes and sells footwear to consumers at the retail level.

5. Respondent promotes and sells footwear to wholesalers.

6. Respondent's mark OAKTREE is virtually identical to Petitioner's mark OAK TREE FARMS.

7. Respondent uses advertising media to promote his footwear under the OAKTREE mark.

8. Respondent uses the same channels of trade as Petitioner to sell his footwear under the OAKTREE mark.

9. Respondent did not conduct a detailed search regarding the use of the mark OAKTREE on footwear prior to filing his application for OAKTREE.

These admissions establish additional facts sufficient to support of a grant of summary judgment in this proceeding.

V. Conclusion

Taking all the duPont factors into consideration, Petitioner submits there is no genuine issue of material fact regarding the issues of priority and likelihood of confusion. For purposes of this Motion there are no remaining issues. Respondent's Mark is sufficiently similar in appearance, sound, significance and commercial impression as to be nearly identical and its contemporaneous use on the goods involved in this case is likely to cause confusion as to the source or sponsorship of such goods and services. Summary judgment may appropriately be entered in favor of Petitioner, the Cancellation sustained, and the Registration of Respondent cancelled. See Recot, Inc. v. Becton, 214 F.3d 1322, 54 USPQ2d 1894 (Fed. Cir. 2000) on remand 56 USPQ2d 1859 (TTAB 2000). See also, J.T. McCarthy, McCarthy on Trademarks and Unfair Competition, Section 24:47, page 24-76 (4th ed. 2003).

Petitioner's Petition for Cancellation must be granted as a matter of law. OAKTREE is similar to OAK TREE FARMS that there is likelihood of confusion and Petitioner is the long prior user.

KOENIG & ASSOCIATES
Attorneys for Opposer

Dated: January 11, 2006 By: _____

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CERTIFICATE OF SERVICE

I, KURT KOENIG, hereby certify that I caused a copy of the foregoing "**PETITIONER'S MEMO IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT**" to be served on January 11, 2006, by first class mail, postage prepaid, addressed to:

Mr. John Johnson
Ms. Stacy Grossman
Fish & Richardson P.C.
Citigroup Center
153 E, 53rd St., 52nd Floor.
New York, NY 10022-4611

Dated: January 11, 2006

_____
Kurt Koenig

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by electronic mail to the United States Patent and Trademark Office on the date shown below.

_____ Dated: January 11, 2006
KURT KOENIG

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

Roger Orozco and Nora Orozco, Petitioner,	)	
V.	)	Cancellation No. 92043811
Michael Hwang, Respondent.	)	

DECLARATION OF KURT KOENIG
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

I, Kurt Koenig, declare as follows:

1. I am an attorney duly licensed to practice law in the States of California and Illinois. I am a principal of the firm of Koenig & Associates. Koenig & Associates is trademark counsel to Petitioner, Roger Orozco and Nora Orozco in the above captioned matter. I submit this declaration in support of Petitioner's Motion for Summary Judgment. This declaration is made based on my personal knowledge of the following facts, and I could and would testify competently thereto if called as a witness.

2. On April 1, 2005, Petitioner served Petitioner's First Set of Interrogatories, Petitioner's First Request for Production of Documents, and Petitioner's First Request for Admissions.

3. On information and belief, Respondent did not serve its responses to Petitioner's First Requests for Admissions within the required time. The Response to Petitioner's First Request for Admissions were due on or before May 6, 2005. On May 6, 2005, Respondent's counsel sent an email indicating that he would be unable to respond and that more time was required. The Responses were served on May 16, 2005. Copies of Respondent's Response to Petitioner's First Request for Admissions are annexed hereto as Exhibit A.

4. Attached as Exhibit B is a scanned copy of Respondent's footwear provided to me by Respondent's counsel on May 20, 2005.

5. Attached as Exhibit C is a scanned copy of Respondent's packaging consisting of a box which was provided to me by Respondent's counsel on May 20, 2005.

6. On or about August 25, 2004, I sent a letter to Respondent informing him of Petitioner's prior rights and requesting that Respondent cease use of Respondent's Mark.

7. I am informed and believe that Respondent's first shipment of goods bearing the mark OAKTREE did not arrive in the United States until December 7, 2003. This information appears in documents provided to me by counsel for Applicant on May 20, 2005. Such documents were marked as confidential by Respondent's counsel.

8. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, and that such willful

false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; all statements made herein of her own knowledge are true; and all statements made on information and belief are believed to be true.

Kurt Koenig

Dated: January 9, 2006

Kurt Koenig
Attorney for Petitioner

EXHIBIT A

to

DECLARATION OF KURT KOENIG
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

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

Roger Orozco and Nora Orozco, Petitioners, v. Michael Hwang, Registrant.	Cancellation No.: 92043811

RESPONDENT'S RESPONSE TO
PETITIONERS' FIRST REQUEST FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1:

Admit that Respondent is the owner of the U.S. Trademark Registration No. 2,846,833.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Admitted.

REQUEST FOR ADMISSION NO. 2:

Admit that Respondent owns U.S. Trademark Registration No. 2,846,833 solely and not in association with any other individual, entity or through any partnership or other business relationship.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Admitted.

REQUEST FOR ADMISSION NO. 3:

Admit that Respondent offers for sale footwear which bears the mark OAKTREE.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Admitted.

REQUEST FOR ADMISSION NO. 4:

Admit that Respondent has sold boots in conjunction with the mark OAKTREE.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Admitted.

REQUEST FOR ADMISSION NO. 5:

Admit that Respondent did not sell footwear under the mark OAKTREE prior to December 20, 2003.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Denied.

REQUEST FOR ADMISSION NO. 6:

Admit that Respondent promotes and sells the goods identified in U.S. Trademark Registration No. 2,846,833 to consumers at the retail level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Denied.

REQUEST FOR ADMISSION NO. 7:

Admit that Respondent promotes and sells the goods identified in U.S. Trademark Registration No. 2,846,833 to wholesalers.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Denied.

REQUEST FOR ADMISSION NO. 8:

Admit that Respondent's products offered under the mark OAKTREE are footwear.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Registrant objects to this request on the ground that it is vague. To the extent that the Request seeks an admission that the goods offered for sale under U.S. Trademark Registration No. 2,846,833 are footwear, Registrant's response is: Admitted.

REQUEST FOR ADMISSION NO. 9:

Admit that Respondent's Mark "OAKTREE" is virtually identical to Petitioners' Mark "OAK TREE FARMS."

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Denied.

REQUEST FOR ADMISSION NO. 10:

Admit that Respondent's Mark "OAKTREE" conjures up the same mental impression as Petitioners' Mark "OAK TREE FARMS."

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Denied.

REQUEST FOR ADMISSION NO. 11:

Admit that Respondent uses advertising media to promote his footwear sold under the OAKTREE mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Registrant objects to this request on the ground that the term "advertising media" is not defined. Registrant understands the term "advertising media" to incorporate any form of advertising, whether paid or unpaid. Based on Registrant's understanding of this request, Registrant's response is: Admitted.

REQUEST FOR ADMISSION NO. 12:

Admit that Respondent uses the Internet to promote his footwear sold under the OAKTREE mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Denied.

REQUEST FOR ADMISSION NO. 13:

Admit that Respondent uses the same channels of trade as Petitioners to sell his footwear under the OAKTREE mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Denied.

REQUEST FOR ADMISSION NO. 14:

Admit that the customers likely to be interested in purchasing Respondent's footwear might also be interested in purchasing Petitioners' footwear.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Registrant objects to this request on the ground that he has no independent knowledge of customer interest. In Registrant's opinion, customers who purchase Registrant's footwear would not be interested in purchasing Petitioners' footwear, so Registrant's response is: Denied.

REQUEST FOR ADMISSION NO. 15:

Admit that Respondent did not conduct a detailed search regarding the use of the mark OAKTREE on footwear prior to filing his application for OAKTREE.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Denied.

REQUEST FOR ADMISSION NO. 16:

Admit that Respondent did not pay a third party search firm regarding the use of the mark OAKTREE on footwear prior to filing his application for OAKTREE.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Admitted.

REQUEST FOR ADMISSION NO. 17:

Admit that Respondent was aware of Petitioners' footwear, particularly boots, being sold under the mark OAK TREE FARMS prior to filing his application for OAKTREE.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Denied.

REQUEST FOR ADMISSION NO. 18:

Admit that Respondent was aware of Petitioners' footwear, particularly boots, being sold under the mark OAK TREE FARMS prior to December 20, 2003 when he first began selling footwear bearing the OAKTREE mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Denied.

REQUEST FOR ADMISSION NO. 19:

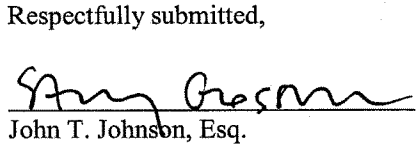
Admit that Respondent was aware of Petitioners' footwear, particularly boots, being sold under the mark OAK TREE FARMS subsequent to filing his application for OAKTREE but prior to October 27, 2004 when this Cancellation was filed.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Denied.

Respectfully submitted,

Dated: May 16, 2005

By: 

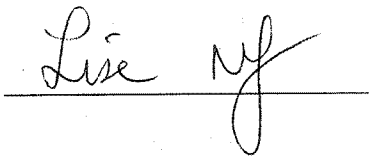
John T. Johnson, Esq.
Stacy J. Grossman, Esq.
Attorneys for Michael Hwang
Fish & Richardson P.C.
Citigroup Center
153 East 53rd Street, 52nd Floor
New York, New York 10022-4611
Tel.: (212) 765-5070
Fax.: (212) 258-2291

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing RESPONDENT'S RESPONSE TO PETITIONERS' FIRST REQUEST FOR ADMISSIONS has been served on attorneys for Petitioners by mailing the same by first class mail, postage prepaid, to:

Kurt Koenig, Esq.
Koenig & Associates
220 East Figueroa Street
Santa Barbara, CA 93101

this 16th day of May, 2005.



30230922.doc

EXHIBIT B

to

DECLARATION OF KURT KOENIG
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

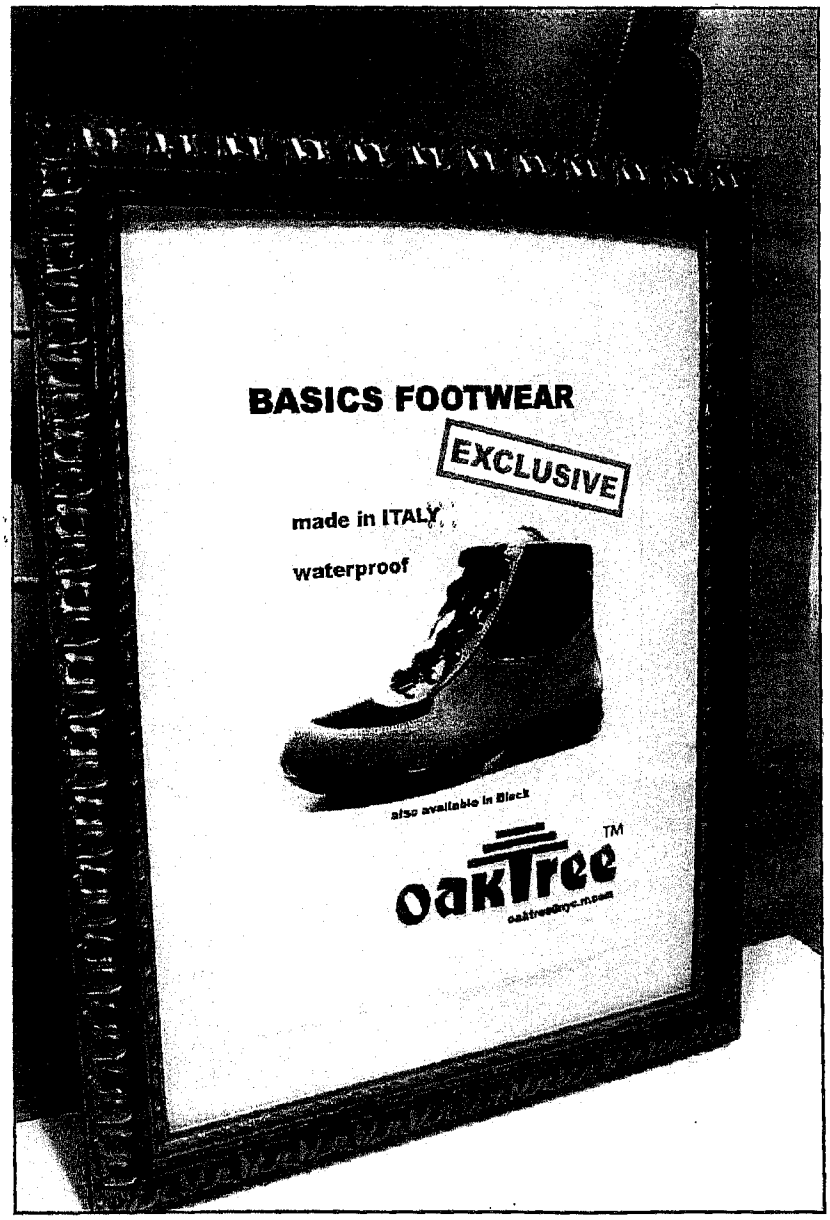
HWA000002

EXHIBIT C

to

DECLARATION OF KURT KOENIG
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

oakTree
Cross Country
Sand/Navy 302
Men's
9
MADE IN ITALY


BASICS FOOTWEAR
EXCLUSIVE
made in ITALY
waterproof
also available in Black
oakTree
TM

HWA000009

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

Roger Orozco and Nora Orozco,	)	
	)	
Petitioner,	)	
	)	
V.	)	Cancellation No. 92043811
	)	
	)	
Michael Hwang,	)	
	)	
	)	
Respondent.	)	
	)	

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

I, Nora Orozco, declare as follows:

1. I submit this declaration in support of Petitioner's Motion for Summary Judgment in the above-noted matter. This declaration is made based on my personal knowledge and I could and would testify competently thereto if called as a witness.

2. My husband Roger Orozco and I (collectively "Petitioner") are the owners of the trademarks OAK TREE and Application Ser. No. 78/304,288 for the mark OAK TREE FARMS & Design (collectively "Petitioner's Mark") which we obtained by assignment from Evolutions, LLC, a California limited liability company wholly owned by Roger and myself which has now been dissolved.

3. I am Vice President of Evolutions Footwear, Inc. ("Evolutions"), a California Corporation wholly owned by Petitioner.

4. Evolutions is a licensee of Petitioner and is currently authorized and licensed to use the trademarks OAK TREE and OAK TREE FARMS and all use by Evolutions inures to the benefit of Petitioner. Evolutions is a related company whose use of Petitioner's Mark is controlled by the Petitioner with respect to the nature and quality of the goods sold by Evolutions under Petitioner's Mark.

5. According to the records of the USPTO and the file associated with this case, on or about February 10, 2003, Michael Hwang, an individual, ("Respondent") filed intent-to-use App. Ser. No 78/213,107 for the stylized mark OAKTREE for footwear ("Respondent's Mark").

6. According to the records of the USPTO and the file associated with this case, on September 23, 2003, Petitioner filed App. Ser. No 78/304,288 for registration of the mark OAK TREE FARMS ("Petitioner's Application").

7. On or about May 7, 2004, I became aware of Respondent's Mark through my attorneys.

8. On or about August 25, 2004, Petitioner's counsel, Kurt Koenig, sent a letter to Respondent informing him of Petitioner's prior rights and requesting that Respondent cease use of Respondent's Mark.

9. On October 28, 2004, Petitioner filed a Petition for Cancellation against Respondent's Mark which had matured into Reg. No. 2,846,833 issued May 25, 2004.

10. According to the Statement of Use filed by Respondent on February 26, 2004, which is of record in this case,

Respondent's claimed date of first use is December 21, 2003. However, I am informed by my counsel that Respondent has provided documentation which may show an invoice date of December 15, 2004 relating to the sale of certain footwear goods.

11. The first use by Petitioner and its predecessors-in-interest of Petitioner's Mark on footwear began at least as early as 1995, long prior to the filing date for Respondent's Mark. Petitioner and their predecessors-in-interest have used the marks OAK TREE and OAK TREE FARMS continuously and without interruption since 1995. Petitioner has exclusively and continuously used Petitioner's Mark in commerce for at least 10 years immediately prior to the date of this Declaration.

12. Petitioner has continuously advertised Petitioner's Mark throughout the United States at trade shows, in catalogs, in advertising and promotional activities, and in other ways common to the trade since at least as early as 1995 with promotional costs and advertising in excess of $40,000 in 2002 alone, the year prior to Respondent's application filing date.

13. Petitioner has sold and distributed footwear, namely shoes and boots, bearing the OAK TREE and OAK TREE FARMS mark on the labels and packaging for the goods, to third party retail stores for sales directly to consumers with sales in excess of $937,000 in 2002 alone.

14. Petitioner, through its Licensee, has prepared and distributed catalogs of footwear related goods, bearing the OAK TREE and OAK TREE FARMS marks in conjunction with various different models of footwear. A catalog featuring OAK TREE FARMS footwear which was printed on or about May 15, 2001 is attached as

Exhibit A and the back page indicates Job # 116126. A catalog featuring OAK TREE FARMS footwear which was printed on or about January 18, 2002 is attached as Exhibit B and the back page indicates Job # 117814. The catalogs were printed by AMC ColorGrafix pursuant to Job # 116126 and Job # 117814. The printing is verified by a letter I received from AMC ColorGrafix and the copies of the sales orders and invoices for the printing of said catalogs are attached as Exhibit C.

15. Exhibit A displays the mark OAK TREE FARMS on the front cover of the catalog and on each and every page of the catalog. The catalog displays the footwear available for sale. This catalog and a later printed version which was the same (except for the words "New Catalog" on the front cover) was distributed by Evolutions to customers from May 15, 2001 until approximately January 2002 when it was replaced by the catalog displayed in Exhibit B.

16. Exhibit B displays the mark OAK TREE (the word FARMS being removed) on the front cover of the catalog and on each and every page of the catalog. The catalog also displays the footwear available for sale. Evolutions began using this catalog after it was printed on January 18, 2002.

17. The evidence in Exhibits A and B support the trademark use of Petitioner's mark on footwear, by a related company, predating any use which can be claimed by Respondent.

18. I have attended various trade shows on behalf of Evolutions since 1995, including the Western & English Sales Association and the World Shoe Association. Other employees of Evolutions, including Tony Sugden have also attended trade shows

on behalf of Evolutions. The trade shows contracts verifying attendance at these shows is attached as Exhibit D.

19. A Tack'N Togs magazine advertisement from April 2002 bearing Petitioner's mark is attached as Exhibit E. This shows the first page of the magazine and the advertisement placed by Evolutions in this magazine.

20. A Tack'N Togs Buyer's Guide for 2002-2003 bearing Petitioner's Mark is attached as Exhibit F.

21. A Tack'N Togs Advertisement from Feb. 2003 bearing Petitioner's Mark is attached as Exhibit G.

22. The Trade Show Booth information for the International Western/English Apparel & Equipment Market for the shows attended on September 8-10, 2001, January 11-15 2002, and September 7-9, 2002 is attached as Exhibit H. This includes a printout from the directory of each show showing that a representative of Evolutions attended the show.

23. A confirmation copy of the trade show booth Exhibit Information for the World Shoe Association (WSA) show which took place in February 23-26, 2001 is attached as Exhibit I. The OAK TREE FARMS is noted on the form.

24. Third party purchasers of OAK TREE FARMS branded footwear include over 982 specialty shoe stores and related retailers, which include companies such as:

a. Boot Barn, a chain of over 28 retail stores located at 1520 S. Sinclair Street, Anaheim, CA 92806;

b. The Boot Connection, 4275 Layton Avenue, Greenfield, WI 53221;

c. Nags Tack and Western, 358 D Lincoln Avenue, Lancaster, OH 43130;

d. Discount Western Wear, 143 N Main, Valentine, NE 69201;

e. Boot City, 11800 US 41 S., Terre Haute, IN 47802;

f. Aaron's Bunk House Boots, 7020 Church Street #5, Brentwood, TN 37027.

g. Sheplers Inc., 6501 W Kellogg Ave. Wichita, KS 67209

25. At various times I check for references related to OAK TREE FARMS on the Google.com search engine. Based on such searches I typically find numerous instances of Petitioner's OAK TREE FARMS brand footwear available from various different retailers throughout the United States and the World. All such uses of the mark OAK TREE FARMS related to footwear have been related to sales of Petitioner's footwear by third party retailers. In none of the searches I have conducted have I found any reference to Respondent in relation to Respondent's Mark or any other third party claiming rights to "OAK TREE."

26. To the best of my knowledge, no other third party, other than the alleged use by Respondent, is using the mark "OAK TREE" or "OAKTREE" in connection with any footwear or related goods.

27. Petitioner and Evolutions sell footwear to the general public without any restrictions as to the conditions of sales or services associated therewith.

28. Petitioner has successfully established its right to exclude others from use and registration of the mark OAKTREE, including Respondent.

29. I believe that the mark OAKTREE will be confused by consumers with Petitioner's Mark.

30. Petitioner commenced this Cancellation on the grounds of confusingly similarity between Petitioner's Mark and Respondent's Mark.

31. Upon information an belief, the conditions under which sales of Respondent's footwear will be made, and the buyers to whom such sale swill be made, are substantially identical as those of Petitioner and Evolutions.

32. The intended purchasers of goods sold in connection with Petitioner's Mark are primarily retail shoe stores and customers who purchase footwear at retail shoe stores.

33. Respondent's goods are identical to the goods listed in Petitioner's pending application for OAK TREE FARMS. Further, the goods sold by both Petitioner and Respondent are identical, namely footwear.

34. Upon information and belief, Petitioner's Mark and Respondent's Mark are so similar in their entireties as to appearance, sound, connotation, and commercial impression such that there is a likelihood of confusion that the average purchaser encountering the parties respective products bearing the marks will mistakenly assume that they originate from the same source.

35. The page attached as Exhibit J represents the first page of a printout of sales of OAK TREE FARMS footwear during calendar year 1997. This printout shows that in 1997 Petitioner's Mark was used on the sale of footwear to various retail stores in all 50 states. The printout references the mark OAK TREE by the use of the acronym "OT." Additionally, the "Item Description corresponds

36. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

By: _____ Dated: January 10, 2006
Nora Orozco

EXHIBIT A

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

Oak Tree Farms

OAK TREE FARMS

STYLE Liberty

COLORS:

- Black/White
- White/Blue
- Red/White

OAK TREE FARMS

STYLE Pinto

COLORS:

- Black
- White

OAK TREE FARMS

STYLE: Rio

COLORS:

- Black
- White
- Brown Nubuck

OAK TREE FARMS

STYLE: Mesa

COLORS:

- Red
- Black
- Fawn
- White
- Brown Nubuck

OAK TREE FARMS

STYLE: Arroyo

COLORS:

- Brown Nubuck
- Black
- Fawn

Evolutions, Toll Free: 888-235-9877 • Fax: 805-684-6348

OAK TREE FARMS

STYLE: Sonora

COLORS:

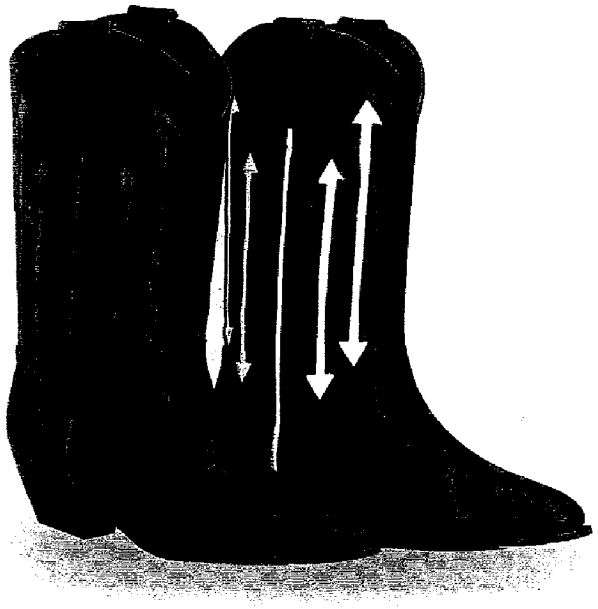
- Brown Nubuck
- Black Smooth

Evolutions, Toll Free: 888-235-9877 • Fax: 805-684-6348

STYLE: Dixie

COLORS:

- Fawn/White
- Red/White
- Black/White

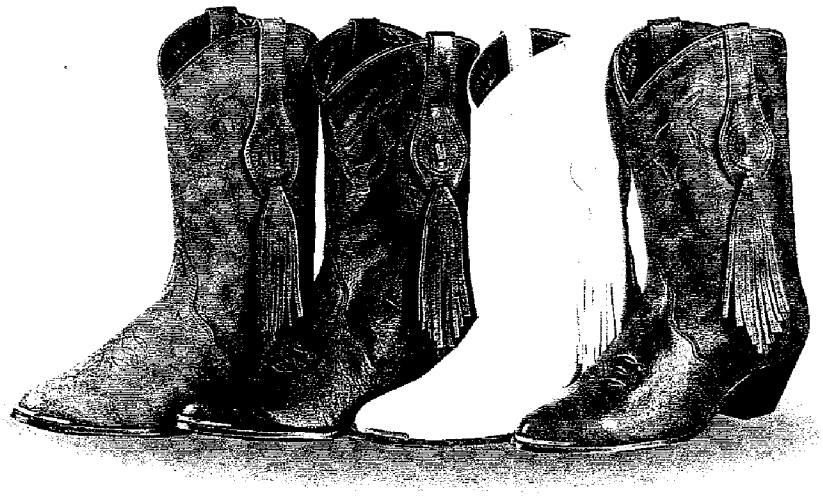


STYLE: Arrows

COLORS:

- Black/Red
- Black/White

OAK TREE FARMS



STYLE: Sahara

COLORS:

- Brown Nubuck
- Black
- White
- Red
- Ivory

OAK TREE FARMS

STYLE: Oasis

COLORS:

- Black
- White
- Red
- Brown Nubuck

Evolutions, Toll Free: 888-235-9877 • Fax: 805-684-6348

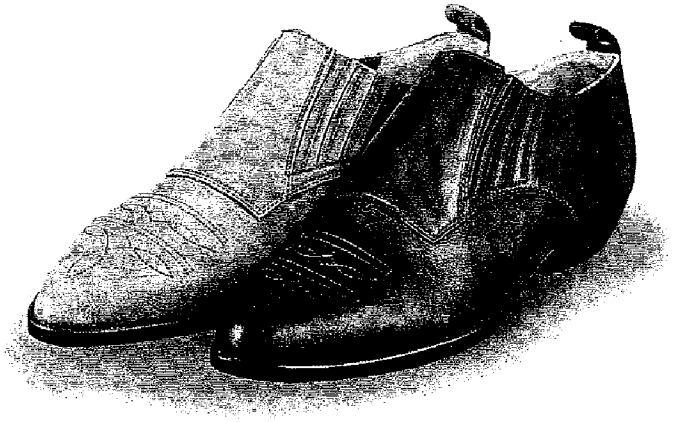
OAK TREE FARMS

STYLE: Mirage

COLORS:

- Black
- Fawn
- Ivory

OAK TREE FARMS



STYLE: Barranca

COLORS:

- Brown Nubuck
- Black
- Fawn

Evolutions, Toll Free: 888-235-9877 • Fax: 805-684-6348

OAK TREE FARMS

STYLE: Steeple

COLORS:

- Ivory
- Black
- White

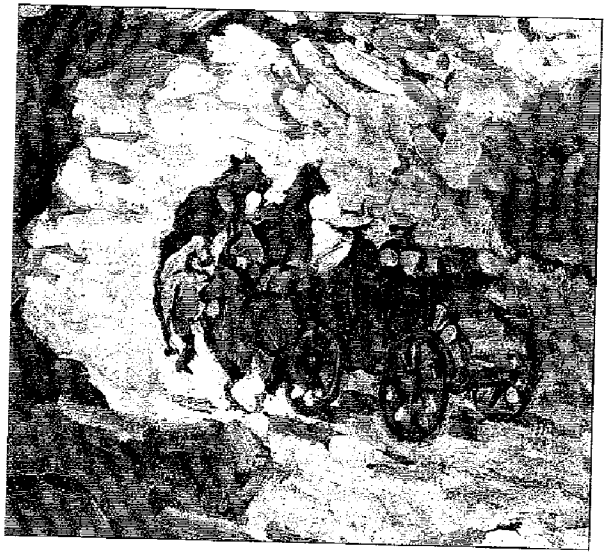
OAK TREE FARMS

STYLE: Cathedral

COLORS:

- White Leather with White Lace
- Black Leather with Black Lace
- Ivory Leather with Ivory Lace

Evolutions, Toll Free: 888-235-9877 • Fax: 805-684-6348



"Oak Tree farms" Boots for today's fashion conscious Western lifestyle woman. There are no gimmicks here, our boots are 100% genuine leather and fit like a dream.

Sizes 6-11 including half sizes with no $10^1/_2$.

Happy Trails !

EXHIBIT B

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

OAK TREE
BOOTMAKERS
EVOLUTIONS FOOTWEAR INC., CALIFOR

Steeple
womens

BRAND: Oak Tree

COLORS:
White Leather
Black Leather
Ivory Leather

SIZES: 5 1/2 - 11

Cathedral
womens

BRAND: Oak Tree

COLORS:
White Leather with White Lace
Black Leather with Black Lace
Ivory Leather with Ivory Lace

SIZES: 5 1/2 - 11

Oasis
womens

BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black, White, Red

SIZES: 5 1/2 - 11

Sahara
womens

BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black, White, Red

SIZES: 5 1/2 - 11

Rio
womens

BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black, White

SIZES: 5 1/2 - 11

Mesa
womens

BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black, White, Red

SIZES: 5 1/2 - 11

Arroyo
womens

BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black

SIZES: $5^1/_2$ - 11

Sonora
womens

BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black

SIZES: $5^1/_2$ - 11

Cheyenne
womens

BRAND: Oak Tree

COLORS: Smooth Leather - Black

SIZES: 5 1/2 - 11

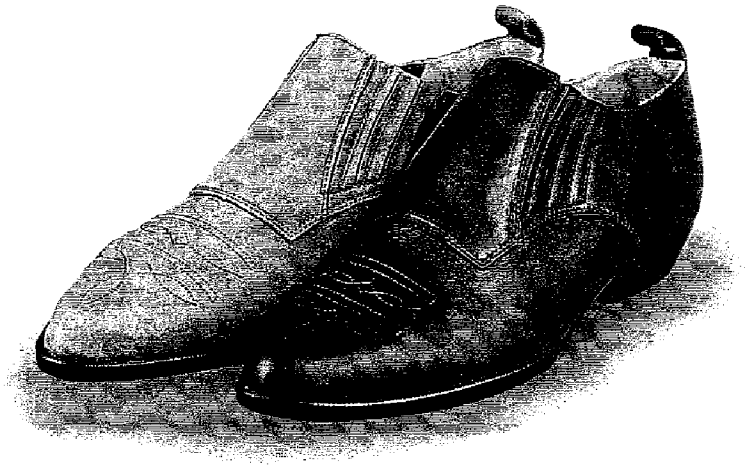
Pueblo
womens

BRAND: Oak Tree

COLORS: Elk Print Leather - Black
Crazy Horse Leather - Brown

SIZES: 5 1/2 - 11

Barranca
womens



BRAND: Oak Tree

COLORS: Distressed Nubuck Leather - Brown
Smooth Leather - Black

SIZES: 5 1/2 - 11

Mojave
mens

BRAND: STAGECOACH BOOT MAKERS

COLORS: Elk Print Leather - Black
Crazy Horse Leather - Brown

SIZES: 7-13

Sierra
mens

BRAND: STAGECOACH BOOT MAKERS

COLORS: Elk Print Leather - Black
Crazy Horse Leather - Brown

SIZES: 7-13

Oak Tree Farms and Stagecoach brand boots by Evolutions are being successfully sold in today's western market by hundreds of retailers across the country and abroad.

Please call (805) 684-6248 for a sales representative in your area.

JOB # 11784

Evolutions Footwear Inc.

CALIFORNIA (805)684-6248

EXHIBIT C

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

AMC COLORGRAFIX

March 30, 2005

Evolutions
Nora
4180 Via Real. #D
Carpenteria, CA 93013

Dear Nora:

As per your request, here is the information on the jobs that AMC Colorgrafix printed for you:

Job# 116126, Invoice #17756
Date ordered: May 15th, 2001
Small 16 page catalog

Job# 117814, Invoice # 19818
Date Ordered: January 18, 2002
Small 16 page catalog

I have attached copies of the sales orders, invoices, and print samples. If you require any additional information, please call me at (626)575-1788 ext. 121.

Sincerely,
Jaclyn Bonds
AMC Colorgrafix

2085 Peck Road, South El Monte, CA 91733 • Tel: (626) 575-1788 • Fax: (626) 575-1588

AMC COLORGRAFIX

SALES ORDER

2085 Peck Road, South El Monte
California 91733-3726
Tel: 626-575-1788 • Fax: 626-575-1588

DATE: May 15, 2001

JOB #: 118126

CLIENT: Evolutions

Attention: Susie
Address: 4010 Carpinteria Ave
City: Carpinteria
State: CA Zip: 93013
Phone #: (805) 684-6248
Fax #: (805) 684-6248
Salesperson: Jaclyn
Job Description:

Quotation #:

JOB INFORMATION:

Due Date: asap

- [x] Photography
- [x] Art
- [ ] Prepress
- [x] Printing
- [ ] R/R As is
- [ ] R/R w/Change

Others:

PHOTOGRAPHY INFORMATION:

Shooting Date: 5-17-01
Client Presence: [ ] Yes [x] No
Photographer:

PRINTING INFORMATION:

Single Sheet:
Catalog Pages: small 16page
Quantity: 2,500
Color: 4/4
Paper(Cover):
Paper(Text): 100# gloss Book
Paper(Insert):
Trim Size: 8½x11
Finished Size: 8½x5½
Others:

LOT CHANGES:

CREDIT INFORMATION: 5/17
- [x] C.O.D.
- [x] Previous Acct. Cust. # 1433.70
- [ ] New Acct. Cust. #
- [x] Deposit Check # $1433.70 #
- [ ] Deposit Check #

	Price	$ Change	Initial
MATERIAL SUPPLIED:			
# Disk	17756		
# Comp. Negs.			
# Others: AMC has JOB	on file		
PHOTOGRAPHY:			
Shots: 1 @	Included	$65 add'l sho	
Insert @			
Others			
ARTWORK & COLOR SEPARATION:			
Scan: 1 @	"		
Artwork: 16 pg's @	"		
K/O: 1 image @	"		
Computer Time @			
Output: 16 pg's @	"		
Others			
PRINTING:			
Base Price	$2,155		
Coating/UV: AQueous	free		
Others			
BINDERY:			
Saddle Stitch/Perfect Bind	Included		
Type of Fold			
Hole Drill			
Others			
Sub Total	$2155		
Tax	$212.40		
Shipping	not included		
Total	$2367.40		
Deposit	$1433.70		
Deposit	$1433.70		
Balance			

SHIPPING:
- [ ] Will Call
- [ ] Ship Via
- [x] Ship To: Evolutions address

REMARKS: 50% Deposit, 50% C.O.D.

UPS # X00631

A deposit of fifty percent (50%) is requested upon the signing of this contract and the balance in full upon completion of this order. All accounts not paid for within thirty (30) days shall be charged interest. Client agrees to pay reasonable attorney fees in case of legal action necessary for collection on overdue accounts. Should the client decide to cancel this order after twentyfour hours from signing, a ten percent (10%) service fee will be charged. **See reverse side for additional terms & conditions.**

TRANSPARENCY PROOF: X _____ DATE _____

TYPESET PROOF: X on file DATE _____

FINAL PROOF: X _____ DATE _____

CLIENT SIGNATURE: X on file DATE _____

AMC COLORGRAFIX
2005 PECK ROAD
SOUTH EL MONTE, CA 91733

Telephone 626/575-1788

INVOICE

17756

CUSTOMER NO. EVOLU

BILL TO:

EVOLUTIONS LLC.
4690 CARPENTERIA AVE.
CARPENTERIA, CA 93013

SHIP TO:

EVOLUTIONS LLC.
4690 CARPENTERIA AVE.
CARPENTERIA, CA 93013

DATE	SHIP VIA	F.O.B.	TERMS
06/07/01	UPS	Origin	C.O.D

PURCHASE ORDER NUMBER	ORDER DATE	SALESPERSON	INVOICE NO.
Verbal	05/15/01	JB	116126

QUANTITY REQUIRED	QUANTITY SHIPPED	QUANTITY B.O.	ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
1	1		MISC	SMALL 16PG 2.5M 4/4 100LB	2720.00	2720.0

THE ABOVE PRICE MAY INCLUDE PHOTOGRAPHY, FILMS, POLAROIDS,COLOR SEPS.,ART TYPESETTING, PRINTING AND BINDING. ALL TITLE(S) TO SPECIAL PRINTING AIDS ARE PASSED TO THE CLIENT BEFORE USE. AMC COLORGRAFIX SHALL NOT BE HELD RESPONSIBLE FOR ANY PRODUCTS UNCLAIMED AFTER ONE YEAR OF THE DATE OF THIS INVOICE

05-17-01 CK#2322 $1,433.70, BALANCE $1,503.90 C.O.D

NonTaxable Subtotal	0.0
Taxable Subtotal	2720.0
Tax (8.000 %)	217.6
Total	2937.6

Page 1

Thank You

JOB # 116126

"Oak Tree farms" Boots for today's fashion conscious Western lifestyle woman. There are no gimmicks here, our boots are 100% genuine leather and fit like a dream.

Sizes 6-11 including half sizes with no $10^1/_2$.

Happy Trails !

AMC COLORGRAFIX

SALES ORDER

2085 Peck Road, South El Monte
California 91733-3726
Tel: 626-575-1788 • Fax: 626-575-1588

DATE: Jan 18, 2002

JOB #: 117814

CLIENT: Evolutions Co.

Attention: Nora
Address: 4690 Carpenteria Ave. #A
City: Carpenteria
State: CA Zip: 93013
Phone #: (805) 684-6248
Fax #: (805) 684-6348
Salesperson: Jaclyn
Job Description:

Quotation #:

JOB INFORMATION:

Due Date:

- [x] Photography
- [x] Art
- [x] Prepress
- [x] Printing
- [ ] R/R As is
- [ ] R/R w/Change

Others:

PHOTOGRAPHY INFORMATION:

Shooting Date: Jan 22, 2001
Client Presence: [ ] Yes [x] No
Photographer: Joe

PRINTING INFORMATION:

Single Sheet:
Catalog Pages: Small 16 page Catalog
Quantity: 5M
Color: 4/4

Paper(Cover):
Paper(Text): 100# Gloss Book
Paper(Insert):
Trim Size: 8½x11
Finished Size: 8½x5½
Others:

LOT CHANGES:

CREDIT INFORMATION:

- [x] C.O.D.
- [x] Previous Acct. Cust. #
- [ ] New Acct. Cust. #
- [x] Deposit Check # C/C $1596.68 pls
- [ ] Deposit Check #

		Price	$ Change	Initial
MATERIAL SUPPLIED:				
# Disk		1981	8	
# Comp. Negs.				
# Other: AMC Has Catalog on file				
PHOTOGRAPHY:				
Shots: 9 small group		Included		
Insert	@			
Others				
ARTWORK & COLOR SEPARATION:				
Scan	@	"	2/13/2002	
Artwork	@	"	UPS	
K/O: 9 images	@	"	$5.-	
Computer Time	@			
Output: 16pg's	@	"	@	
Others				
PRINTING:				
Base Price		$4425		
Coating/UV: Aqueous		Free	2/27/2002	
Others			UPS	
			$10.-	
BINDERY:				
Saddle-Stitch/Perfect Bind		"	@	
Type of Fold				
Hole Drill			3/6/2002	
Others			UPS	
Sub Total		$4425.00	$5.-	
Tax		$365.06	@	
Shipping		not included		
Total		$4790.06		
Deposit		$1596.68		
Deposit		~~$1596.68~~	$1677.-	
Balance		~~$1596.70~~		

SHIPPING:

- [ ] Will Call
- [ ] Ship Via
- [ ] Ship To

REMARKS: 1/3 deposit 1/3 final proof 1/3 C.O.D.
Flp CC $1677.- 3/12/2002

A deposit of fifty percent (50%) is requested upon the signing of this contract and the balance in full upon completion of this order. All accounts not paid for within thirty (30) days shall be charged interest. Client agrees to pay reasonable attorney fees in case of legal action necessary for collection on overdue accounts. Should the client decide to cancel this order after twentyfour hours from signing, a ten percent (10%) service fee will be charged. **See reverse side for additional terms & conditions.**

TRANSPARENCY PROOF: X _____ DATE _____

TYPESET PROOF: X _____ DATE _____

FINAL PROOF: X _____ DATE _____

CLIENT SIGNATURE: on file DATE _____

AMC COLORGRAFIX
2085 PECK ROAD
SOUTH EL MONTE, CA 91733

Telephone 626/575-1788

INVOICE

19818

CUSTOMER NO. EVOLU

BILL TO:

EVOLUTIONS LLC.
4690 CARPENTERIA AVE.#A
CARPENTERIA, CA 93013

SHIP TO:

EVOLUTIONS LLC.
4690 CARPENTERIA AVE.#A
CARPENTERIA, CA 93013

DATE	SHIP VIA	F.O.B.	TERMS
03/22/02	WILL CALL	Origin	C.O.D

PURCHASE ORDER NUMBER	ORDER DATE	SALESPERSON	OUR ORDER NUMBER
117614	01/18/02	JK	117614

QUANTITY REQUIRED	QUANTITY SHIPPED	QUANTITY B.O.	ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
1	1		MDS	16PGS 5M 4/4 100LB 8 1/2 X 5	4545.00	4545.0
THE ABOVE PRICE MAY INCLUDE PHOTOGRAPHY, FILMS, POLAROIDS,COLOR SEPS., ART TYPESETTING, PRINTING AND BINDING. ALL TITLE(S) TO SPECIAL PRINTING AIDS ARE PASSED TO THE CLIENT BEFORE USE. AMC COLORGRAFIX SHALL NOT BE HELD RESPONSIBLE FOR ANY PRODUCTS UNCLAIMED AFTER ONE YEAR OF THE DATE OF THIS INVOICE						
01/22/02 VS$1596.08,03/12/02 VS$1677.00, 03/21/02 VS$1626.30,BALANCE $140.50						
				Shipping Subtotal		120.0
				NonTaxable Subtotal		0.0
				Taxable Subtotal		4545.0
				Tax (8.250 %)		374.9
Page	1			Total		5039.9

Thank You

JOB # 11784

Evolutions Footwear Inc.

CALIFORNIA (805)684-6248

EXHIBIT D

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-September 8-10, 2001

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with show fee.

EXHIBITOR NAME: TONY SUGDEN | COMPANY NAME - LIST ONLY ONE: OAK TREE FARMS

**IMPORTANT–DIRECTORY & CATEGORY INFORMATION

Your show fee includes the listing of your name, phone numbers and space location in the Exhibitor Index of the Market Directory. Companies will be listed in the Company Index. Categories will be listed in the Category Index.

PHONE #: (805) 684 6248 E-MAIL: _____

PHONE #: (_____) _____ WEBSITE: _____

FAX #: (805) 684 6348

PERMANENT ROOM #: _____ TEMPORARY SPACE #: (We will fill in) EXPO ROOM (ER) J46

EXPO BOOTH (EB) _____

IF YOU ARE SHOWING WITH ANOTHER MEMBER/EXHIBITOR, PLEASE INDICATE NAME AND SPACE:

Name: _____ Space #: _____

*COMPANIES: PRINT or TYPE companies (not descriptions) to be listed in directory.	SIGNAGE: Please refer to Signage Contract to order your exhibit space signage.	CATEGORIES: See page 4 of this contract for category codes.
*EVOLUTIONS		101 &
*OAK TREE FARMS		101 &
*STAGECOACH		101 &
*		&
*		&
*		&
*		&
*		&

PLEASE KEEP COPIES OF ALL CONTRACT PAGES FOR YOUR RECORDS

DENVER

WHERE THE INDUSTRY MEETS

Denver International Western/English Apparel & Equipment Market

September 8-10, 2001

One Great Event Deserves Another!

Introducing ...

The First Annual
WESA Open Golf Tournament

Thursday, September 6, 2001
Legacy Ridge Golf Course
Proceeds to benefit NARHA

Mitchies Matchings
Nelson, Deborah ..... MR 3584

MKR Rugs
Kellogg, Chris ..... MR 1367

Monarch Robes
Jolly, Kathy ..... MR 4474

Monet's Garden
Rahe, Peter ..... MR 2388

Montana Bits & Spurs
Barden, J. Todd ..... ER K52

Montana Cincha Co.
Franklin, Floyd ..... EB 211
Franklin, Rosie

Montana Coat Company
Levy, Frank ..... MR 4482

Montana Lifestyles
Barden, J. Todd ..... ER K52

Montana Silversmiths
Barden, J. Todd ..... ER K52

Montana Time
Barden, J. Todd ..... ER K52

Montana Toons
Levy, Frank ..... MR 4482

Montecarlo Hats
Cury, Samir ..... ER H32

MoonDancer of New Mexico
Grenemyer, Connie ..... MR 3369

Moose Creek
Martin, Pam ..... MR 3342

Morey's Gifts
Morey, Bill ..... EB 308
Morey, Jo Ellen

Morris Kaye & Sons Furs
Kaye, Joel ..... MR 4483
Levy, Frank ..... MR 4482

Moses Sales Co.
Zuege, Calvin ..... ER J53
Zuege, Craig

Moss Brothers Inc.
Amey, Hall ..... EB 101
Cahoon, Calvin ..... ER K44
Newnam, George ..... EB 310

Moxy
Sulzbach, Fred ..... EB 116

MS Wholesale Sales

Muck Boot Co.
Bullock, Lloyd ..... MR 3238
Hahn, Brad ..... ER G32
Kesner, Darel ..... MR 3236/MR 3530

Myler's Inc.
Myler, Ron ..... MR 4442

Myrtlewood Stables
Farago, Cheryl ..... EB 301

Native Wisdom
Rodman, Alpine ..... ER J50-52
Rodman, Sue

Natural Ride™
Robinson, Bill ..... EB 107
Van Scoyk, Jeffry

Nevada Boots
Ruiz Nava, Jorge ..... ER G47-49

New World Trading
Keith, Charlotte ..... EB 412/MR 1518

Neyelle
Levy, Frank ..... MR 4482

No Bull
Cahoon, Calvin ..... ER K44

Nocona Belt Co.
Anderson, Craig ..... MR 3830
Brown, Dan
Eddins, Mickey
Eddins, David ..... ER G51
Walkingshaw, Cay ..... ER G53
Walkingshaw, Dennis

Nocona Boot Co.
Keiter, James ..... MR 3134
Martin, Jim
Piper, Scott
Wogoman, Gary

Nomadic Traders
Aleksiewicz, Don ..... MR 3863

Nordic Lights
Levy, Frank ..... MR 4482

North American Frontier
Swan, Tom ..... MR 3826

North Central Plastics Inc.
Latter, Jim ..... EB 212

Nostalgic Glass
Berger, Ronna ..... MR 3380

Oak Tree Farms
Sugden, Tony ..... ER J48

Oasis-Frontier Corp.

Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-January 11-15, 2002

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with market fee.

TOMY SUGDEN — EXHIBITOR NAME

OAK TREE FARMS — COMPANY OR LINE NAME - LIST ONLY ONE

**IMPORTANT-DIRECTORY & CATEGORY INFORMATION

Your market fee includes the listing of your name, phone numbers and space location in the Exhibitor Index of the Market Directory. Companies will be listed in the Company Index. Categories will be listed in the Category Index.

PHONE # (805) 684 6248 E-MAIL:

PHONE # ( ) Website:

FAX # (805) 684 6348

PERMANENT ROOM #: TEMPORARY SPACE # (We will fill in)

MART ROOM (MR)
MART ANNEX (MA) 3030
MART BOOTH (MB)
EXPO ROOM (ER)
EXPO BOOTH (EB)
PAVILION (PB)

IF YOU ARE SHOWING WITH ANOTHER MEMBER/EXHIBITOR, PLEASE INDICATE NAME AND SPACE:

Name: Space #:

*COMPANIES: PRINT or TYPE companies (not descriptions) to be listed in directory.	SIGNAGE: Please refer to Signage Contract to order your exhibit space signage.	CATEGORIES: See page 4 of this contract for category codes.
*OAK TREE FARMS		101 &
*STAGECOACH BOOTS		101 &
*EVOLUTIONS		101 &
*		&
*		&
*		&
*		&
*		&

PLEASE KEEP COPIES OF ALL CONTRACT PAGES FOR YOUR RECORDS

denver
international western/englishish apparel & equipment market
tack
collectibleS
gift
80 anniversary market
January 11-15 2002

Nybro Crystal
Fairchild, William . . . . . ER E36
Nypac Leather
Mc Dowell, Beverly . . . . . EB 318
Oak Tree Farms
Sugden, Tony . . . . . MA 3030
Oasis-Frontier Corp.
Von Gunten, Ron . . . . . PB 535
Odyssey Creations
Keith, Charlotte . . . . . PB 328/MR 1518
Of Another Time
Little, Connie . . . MR 2326-2320/MR 2329
Ojibwa Birch Bark Basketry
Rodman, Alpine . . . . . ER B30-34
Rodman, Sue
Oklahoma Casting
Fairchild, William . . . . . ER E36
Olathe Boot Co.
Shackelford, Bill . . . . . ER G47-49
Shackelford, Kim
Walkingshaw, Dennis . . . . . ER G51-53
Anderson, Michael . . . . . ER H40
Myers, Wayne
Old El Paso Shirtworks
Ruddock, John . . . . . EB 125
Ruddock, James . . . . . PB 454
Old Gringo Boots
Tarut, Ernie . . . . . ER K48-50
Old Mill Whips
Dahle, Marilyn . . . . . ER J54-55
Old West Boots
Walkingshaw, Cay . . . . . ER G51-53
Old West Cowboy Boots Corp.
Gupta, Kiran . . . . . MR 3235
Old West Signs
Little, Connie . . . MR 2326-2320/MR 2329
Old West Wire Art
Gates, Julie . . . . . MR 1455-1454
Old West-Jama Corp.
Kesner, Darel . . . . . MB 204/MR 3238
Olympia Furs
Levy, Frank . . . . . ER F38-40/MR 4482
Olympian
Hood, Todd . . . . . PB 101-202
Omni Leather Inc.
Edrich, Eric . . . . . EB 424
Stein, Morey
On Your Back
Berger, Ronna . . . . . MR 3380
Oooh! By Linda
Eisen, Stuart (Stuie) . . . . . MR 3383
Oralx Corp.
Satterthwaite, Lynn . . . . . PB 116
Ott Ranch Equipment
Beagley, Jerry . . . . . ER J36-38
Outback Crusher
Walrous, Gary . . . . . PB 657
Outback Trading Co.
Singleton, Bob . . . . . MR 3161
King, Wilson . . . . . PB 302/MR 3161
Outfitters Supply Inc.
Barnett, Russ . . . . . PB 223
Mc Intyre, Blaine
Outlaw Cowboy Furniture
Carney, Lise . . . . . MA 3922
Outrigger by Renegade
Clark, R. Scott . . . . . MR 3739
Oxbow Tack

Ozark Leather Co.
Kramer, Dennis . . . . . EB 101
von Rosenberg, Glenn
von Rosenberg, Karl
Ozark Mountain Mktg.
Borg-Caldwell, Lisa . . . . . PB 515
Miller, Brenda
P A Originals
Levy, Frank . . . . . ER F38-40/MR 4482
Pacific Teaze
Martin, Pam . . . . . MR 3342
Pagano West
Amey, Hal . . . . . EB 111/MR 4448
Pagano, Frank . . . . . MR 4448
Paint Rock Designs
Hathcock, H. Glen . . . . . MA 3940
Painted Pony
Robertson, John . . . . . MR 4478
Palo Duro
Hochster, Jeffrey . . . ER J31-35/MR 4436
Hochster, Leonard
Olsen, John . . . . . MR 4436
Panhandle Slim
Hochster, Jeffrey . . . ER J31-35/MR 4436
Hochster, Leonard
Olsen, John . . . . . MR 4436
Paramount Brand
Austin, Gig . . . . . EB 212
Cox, Craig
Parker Enterprises
Parker, Kathy . . . . . PB 703
Parker, Sonny
Partrade Trading Corp.
Cook, Glen . . . . . ER D35-37
Harrell, Robert . . . . . ER H42
Woods, Suzanne
Gibbs, Richard . . . . . ER H44
Watson, Roy . . . . . ER H48-50
Party Kils & Equestrian Gifts
Biesel, Becky . . . . . PB 102
Pat Dahnke Designs
Dahnke, Patricia . . . . . ER K49
Patricia Wolf
Robertson, John . . . . . MR 4478
PBR Outerwear
Mizrahi, Roland . . . . . MR 4429
PBR/Total Impact
Morgan, Dave . . . . . MR 4460
Peaces
Yost, Del . . . . . MA 3018
Peleteria Jalisco
Gold, Rafael . . . . . ER G56-57
Levy, Elias . . . . . PB 338
Ramos, Gilberto
Pelham Ascot Sport Boots
Prunty, Dianna . . . . . PB 217
Pendleton Coats
Levy, Frank . . . . . ER F38-40/MR 4482
Pendleton Woolen Mills
Kearns, Mike . . . . . ER J56-57
Performer's 1st Choice
Corn, Shane . . . . . PB 101-202
Perri's Leather
Perri, Carla . . . . . MR 3341
Peyote Bird Designs
Alexander, Mark . . . . . PB 605
Phoenix Performance Products
Rosenfeld, Stan . . . . . EB 438
Picture Warehouse

Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-September 7-9, 2002

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with show fee.

TONY SUGDEN — EXHIBITOR NAME

OAK TREE FARMS — COMPANY NAME - LIST ONLY ONE

**IMPORTANT-DIRECTORY & CATEGORY INFORMATION

Your show fee includes the listing of your name, phone numbers and space location in the Exhibitor Index of the Market Directory. Companies will be listed in the Company Index. Categories will be listed in the Category Index.

PHONE #: (805) 684 6248 E-MAIL: TSUGDEN@EVOLUTIONSLLC.COM

PHONE #: ( ) WEBSITE:

FAX #: (805) 684 6348

PERMANENT ROOM #: TEMPORARY SPACE #: (We will fill in) EXPO ROOM (ER) J 37

EXPO BOOTH (EB)

IF YOU ARE SHOWING WITH ANOTHER MEMBER/EXHIBITOR, PLEASE INDICATE NAME AND SPACE:

Name: Space #:

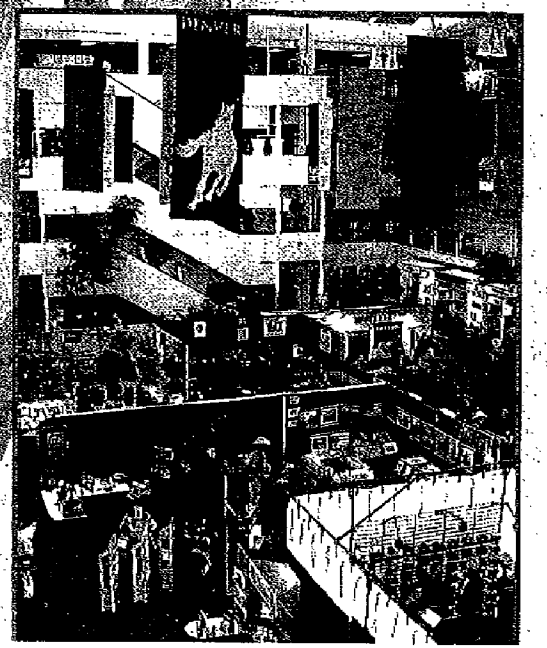
*COMPANIES: PRINT or TYPE companies (not descriptions) to be listed in directory	SIGNAGE: Please refer to Signage Contract to order your exhibit space signage.	CATEGORIES: See page 4 of this contract for category codes.
*OAK TREE FARMS		101 &
*EVOLUTIONS		101 &
*		&
*		&
*		&
*		&
*		&
*		&

PLEASE KEEP COPIES OF ALL CONTRACT PAGES FOR YOUR RECORDS

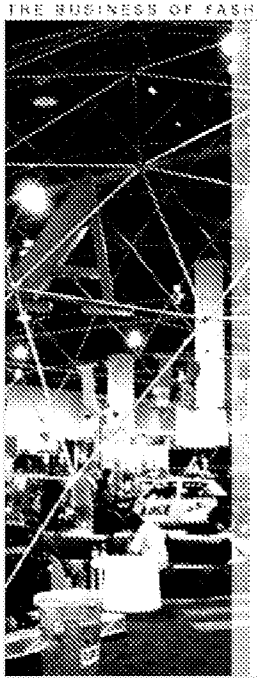
DENVER ABOVE PAR

DENVER INTERNATIONAL WESTERN/ENGLISH APPAREL & EQUIPMENT MARKET

September 7-9, 2002



MD's Choice
D'Agosta, Ralph ..... ER H43-46
Menage a Trois by Kippy's
Kipperman, Bob ..... MR 4467
Merle's Frames
Creech, Jerry ..... MR 1140
Meyda Lodge Lamps
Kellogg, Bonnie ..... MR 1370
Michael Garman Productions
Garman, Mary Pat ..... EB 100
Michael Strong Leather Products
Strong, Michael ..... ER G34
Michel Jordi
Marold, Dave ..... MR 4634
Mid West Garment Co.
Gibson, Brian ..... MR 3747
Midwest of Cannon Falls
Doherty, Kevin ..... MR 1156
Midwestern Sport Togs
Gameson, Lloyd ..... MR 3742
Milano Hat Co. Inc.
House, Gene ..... EB 301
Milano Jr., John ..... MR 3170
Thompson, James
Minnetonka Moccasin Co.
Tait, Jack ..... MR 3546
Mitchies Matchings
Nelson, Deborah ..... MR 3584
MKR Rugs
Kellogg, Chris ..... MR 1367
Mohair Council of America
Langford, Mark ..... ER H49
Monarch Robes
Jolly, Kathy ..... MR 4474
Montana Cincha Co.
Franklin, Floyd ..... EB 309
Franklin, Rosie
Montana Clothing Co.
Levy, Frank ..... MR 4482
Montana Lifestyles
Barden, J. Todd ..... ER K52
Salo, Scott
Montana Silversmiths
Barden, J. Todd ..... ER K52
Branson, Joe
Salo, Scott
Montana Time
Barden, J. Todd ..... ER K52
Salo, Scott
Montana Wax and Wood
Kellogg, Bonnie ..... MR 1370
Montecarlo Hats
Cury, Samir ..... ER J51
Moon West Trading Co.
Pinera, Jorge ..... EB 206
R'de Ruelas, Lorena
Morey's Gifts
Morey, Bill ..... EB 308
Morey, Jo Ellen
Morris Kaye & Sons
Kaye, Joel ..... MR 4483
Moses Sales
Zuege, Calvin ..... ER K53
Zuege, Craig
Moss Brothers
Atwood, Sharon ..... EB 310
Newman, George
Cahoon, Calvin ..... EB 409
Muck Boot Company
Hahn, Brad ..... ER G32
Bullock, Lloyd ..... MR 3238 & 3530
Kesner, Darel
Murphy Sales
Murphy, Robert (Bob) ..... EB 201
Native Wisdom
Rodman, Alpine ..... ER J50-52
Rodman, Sue
Natural Ride ™
Robinson, Bill ..... EB 107
Romero, Jim
Van Scoyk, Jeffry
New World Trading
Keith, Char B. ..... EB 412/MR 1518
Newlon Sales Company
Newlon, Kendall ..... EB 107
No Bull
Cahoon, Calvin ..... EB 409
Nocona Belt Co.
Eddins, David ..... ER G51
Walkingshaw, Cay ..... ER G53
Eddins, Mickey ..... MR 3830
Johnson, Keldon
Nocona Boot Co.
Broughton, Mark ..... MR 3134
Keiter, Jim
Martin, Jim
Piper, Scott
Nordic Lights
Levy, Frank ..... MR 4482
Nortex Apparel Sales Co.
Bein, Ron ..... MR 4435
Northern Apparel Group
Levy, Frank ..... MR 4482
Nutra Pet
Sulzbach, Fred ..... EB 116
Oak Tree Farms
Sugden, Tony ..... ER J37
Oakcroft Inc.
VandenBosch, Adam ..... ER F38-40
Oasis-Frontier Corp.
Von Gunten, Ron ..... EB 306
Odyssey Creations
Keith, Char B. ..... EB 412/MR 1518
Ojibwa Birchbark Crafts
Rodman, Alpine ..... ER J50-52
Olathe Boots
Walkingshaw, Cay ..... ER G53
Shackelford, Bill ..... ER H53
Shackelford, Kim



Bed:Stu

Address:	Carpinteria, CA United States
Sales Contact:	Nina Tan, Sales Manager
Phone:	(805) 684 0268
E-Mail:	[illegible]
Web site:	
Export:	No
Brands:	Jakers Wild Knockaloose **Oak Tree** Farms Polo Polo Footwear
Product Category:	• Footwear

Booth:	ST31245
Show:	MAGIC
Floor Category:	Streetwear (MAGIC)
Location:	Las Vegas Convention Center

EXHIBIT E

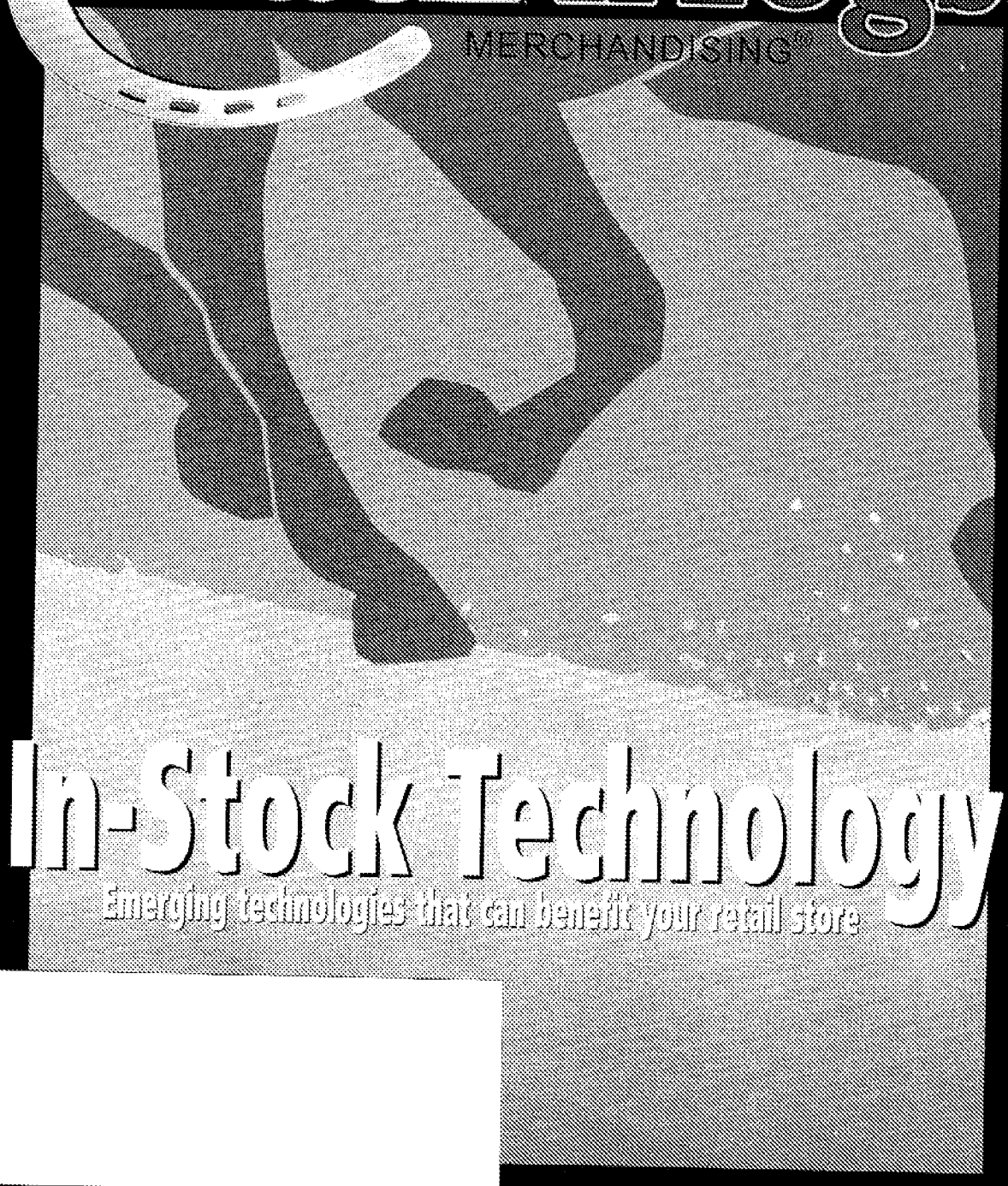
to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

April 2002

Tack'n Togs

MERCHANDISING®



In-Stock Technology

Emerging technologies that can benefit your retail store

Doing Business: Better Displays p.20

Holiday Merchandising Tips p.24

will become proficient with the system and then quit.

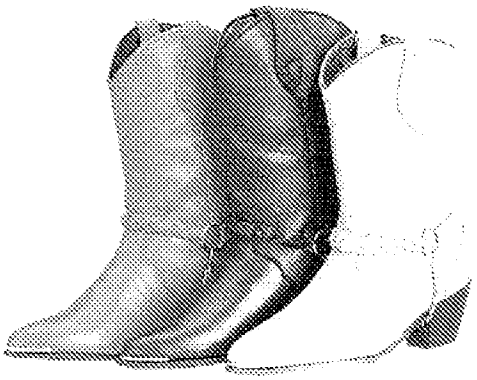
"And that's a valid concern. I've seen it happen," Hipp said. "That's why you as the owner need to be the expert on the system."

Most systems are designed to be easy to teach employees on the sales floor. Maintaining the system, generating unique reports, and trouble-shooting require a higher level of training.

Scalability also helps training efforts.

"It's a solution that can generate a tremendous amount of complexity for those who want to drill down into their store's data," Malaney said. "However, most of our customers just want to know what's on their shelves, what's selling, and what's not."

"Same Horse"



"Different Barn"

Ladies western dress fashion boots.

1-888-235-9877

Please call for catalogue and sales representative in your area.

Circle No. 265 on ACTIONCARD

Belly Up to the

Equestrian retailers owe a debt of gratitude for a quick and efficient system to speed customers through the checkout lines to the iron horse.

Bar codes—a series of lines and numbers found on almost every product manufactured today—were originally developed for railroad companies. With a huge number of cars moving through switching yards, industry needed a method of identifying cars quickly. Bar codes on the sides of rail cars assisted the sorting process.

The first widespread use of bar codes in the retail industry sprang from the grocery business. As the number of items on market shelves burgeoned in the '80s, store operators found it increasingly difficult to keep up with inventory and needed a way to speed shoppers through checkout lines.

In 1971, RCA demonstrated a bull's eye bar code system, but printing problems and scanning difficulties limited its usefulness.

Later, the bar code we know today was introduced and the adoption of the Universal Product Code in 1973 launched a revolution.

Bar codes represent numeric data as a series of bars, which have various thicknesses and separations. When bar codes are read, light from the reader bounces off the dark bars and

EXHIBIT F

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

Tack'n Togs MERCHANDISING®

February 2003

OUTERWEAR

Trends in outdoor apparel for the 2003-04 season

Ariat's New Apparel Line p.12

On the Road: A Mobile Retailer Study p.18

said. Several factors came together to allow this modification to proceed. First, the landlord liked having a tack shop on the premises.

"My landlord is a cowboy," says Cima. "He has a ranch in Texas. And my store fits into the larger old West and country scheme of things."

The Bernat Mill Complex, where the tack shop is located, retains the charm of its original industrial mill. The towns surrounding Uxbridge are loaded with people who own horses, so the tack shop brings in lots of customers that help business at other tenants.

Pay attention to the time frame in the renewal option. Be aware of any demands that you notify your landlord of intent to renew before a certain number of months prior to lease expiration.

2 Find a walk-away alternative before negotiating.

If you are going to negotiate from a position of strength, you need to know you can walk away from your current position because you have an alternative location to fall back on.

"Few tenants take time to get a walk away alternative," Martin said. "But it's crucial."

Besides leverage, there's another benefit to having an alternative location: You can visualize your negotiation as an entirely new piece of business rather than an alteration of a previous agreement.

"You want to consider every critical term of your lease a negotiable item," Martin said.

One final point: Don't try to fake your walk-away alternative. You must always have a real one for it to work, or otherwise you will pull your punches during negotiations, says Martin.

3 Watch for unfair escalation clauses.

Outside of the base rental rate, the stickiest part of a lease is the operating expense escalation clause. Sometimes called pass through clauses, these call for your rent to increase according to a formula that determines your pro-rated share of the actual rises in a building's operating expenses.

Unfortunately, such clauses often include so many types of operating expenses that they result in unexpected liabilities for tenants.

Many landlords view these clauses as profit centers, while tenants see them as methods used by landlords to stay even. In your negotiations, attempt to eliminate expenses that relate to the risks of ownership rather than of leasing.

retailers' forum

SHARE YOUR THOUGHTS ONLINE

Q: How has a property lease helped or hindered your business?

www.retailmagazine.com

These include marketing costs for the building, and amortization of maintenance and energy conservation and

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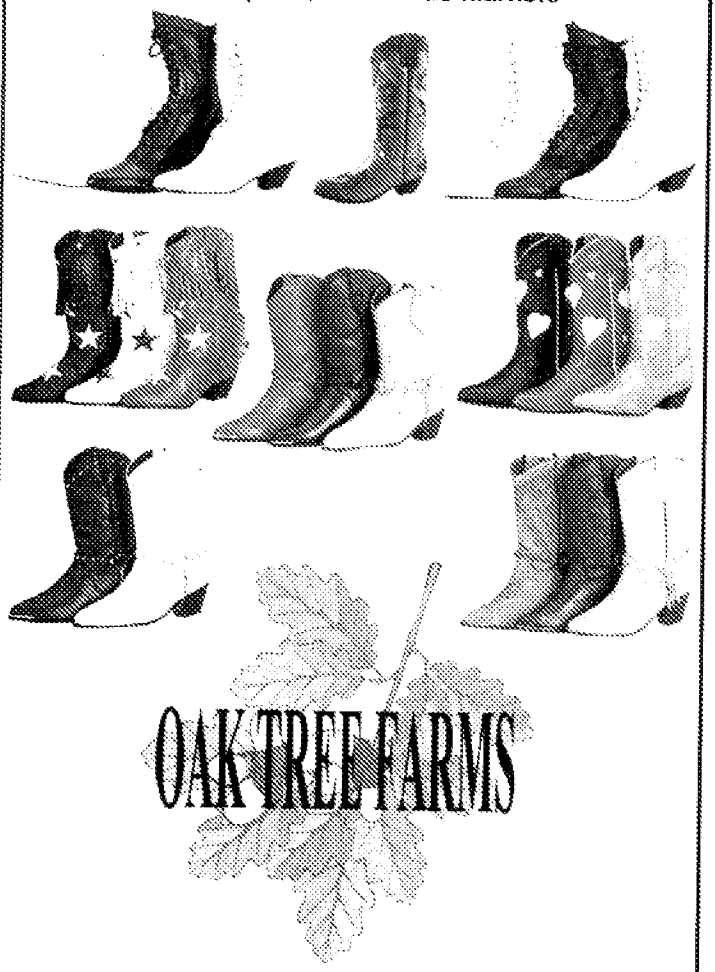

OAK TREE FARMS

Ladies western dress fashion boots.

1-888-235-9877

Please call for catalogue and sales representative in your area.

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to

DECLARATION OF NORA OROZCO
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Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-September 8-10, 2001

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with show fee.

EXHIBITOR NAME: TONY SUGDEN | COMPANY NAME - LIST ONLY ONE: OAK TREE FARMS

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PHONE #: (_____) _____ WEBSITE: _____

FAX #: (805) 684 6348

PERMANENT ROOM #: _____ TEMPORARY SPACE #: (We will fill in) EXPO ROOM (ER) J46

EXPO BOOTH (EB) _____

IF YOU ARE SHOWING WITH ANOTHER MEMBER/EXHIBITOR, PLEASE INDICATE NAME AND SPACE:

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*OAK TREE FARMS		101 &
*STAGECOACH		101 &
*		&
*		&
*		&
*		&
*		&

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DENVER

WHERE THE INDUSTRY MEETS

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September 8-10, 2001

One Great Event Deserves Another!

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Thursday, September 6, 2001
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Proceeds to benefit NARHA

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MKR Rugs
Kellogg, Chris ..... MR 1367

Monarch Robes
Jolly, Kathy ..... MR 4474

Monet's Garden
Rahe, Peter ..... MR 2388

Montana Bits & Spurs
Barden, J. Todd ..... ER K52

Montana Cincha Co.
Franklin, Floyd ..... EB 211
Franklin, Rosie

Montana Coat Company
Levy, Frank ..... MR 4482

Montana Lifestyles
Barden, J. Todd ..... ER K52

Montana Silversmiths
Barden, J. Todd ..... ER K52

Montana Time
Barden, J. Todd ..... ER K52

Montana Toons
Levy, Frank ..... MR 4482

Montecarlo Hats
Cury, Samir ..... ER H32

MoonDancer of New Mexico
Grenemyer, Connie ..... MR 3369

Moose Creek
Martin, Pam ..... MR 3342

Morey's Gifts
Morey, Bill ..... EB 308
Morey, Jo Ellen

Morris Kaye & Sons Furs
Kaye, Joel ..... MR 4483
Levy, Frank ..... MR 4482

Moses Sales Co.
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Zuege, Craig

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Amey, Hall ..... EB 101
Cahoon, Calvin ..... ER K44
Newnam, George ..... EB 310

Moxy
Sulzbach, Fred ..... EB 116

MS Wholesale Sales

Muck Boot Co.
Bullock, Lloyd ..... MR 3238
Hahn, Brad ..... ER G32
Kesner, Darel ..... MR 3236/MR 3530

Myler's Inc.
Myler, Ron ..... MR 4442

Myrtlewood Stables
Farago, Cheryl ..... EB 301

Native Wisdom
Rodman, Alpine ..... ER J50-52
Rodman, Sue

Natural Ride™
Robinson, Bill ..... EB 107
Van Scoyk, Jeffry

Nevada Boots
Ruiz Nava, Jorge ..... ER G47-49

New World Trading
Keith, Charlotte ..... EB 412/MR 1518

Neyelle
Levy, Frank ..... MR 4482

No Bull
Cahoon, Calvin ..... ER K44

Nocona Belt Co.
Anderson, Craig ..... MR 3830
Brown, Dan
Eddins, Mickey
Eddins, David ..... ER G51
Walkingshaw, Cay ..... ER G53
Walkingshaw, Dennis

Nocona Boot Co.
Keiter, James ..... MR 3134
Martin, Jim
Piper, Scott
Wogoman, Gary

Nomadic Traders
Aleksiewicz, Don ..... MR 3863

Nordic Lights
Levy, Frank ..... MR 4482

North American Frontier
Swan, Tom ..... MR 3826

North Central Plastics Inc.
Latter, Jim ..... EB 212

Nostalgic Glass
Berger, Ronna ..... MR 3380

Oak Tree Farms
Sugden, Tony ..... ER J48

Oasis-Frontier Corp.

Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-January 11-15, 2002

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with market fee.

TOMY SUGDEN — EXHIBITOR NAME

OAK TREE FARMS — COMPANY OR LINE NAME - LIST ONLY ONE

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MART ROOM (MR)
MART ANNEX (MA) 3030
MART BOOTH (MB)
EXPO ROOM (ER)
EXPO BOOTH (EB)
PAVILION (PB)

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*STAGECOACH BOOTS		101 &
*EVOLUTIONS		101 &
*		&
*		&
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80 anniversary market
January 11-15 2002

Nybro Crystal
Fairchild, William . . . . . ER E36
Nypac Leather
Mc Dowell, Beverly . . . . . EB 318
Oak Tree Farms
Sugden, Tony . . . . . MA 3030
Oasis-Frontier Corp.
Von Gunten, Ron . . . . . PB 535
Odyssey Creations
Keith, Charlotte . . . . . PB 328/MR 1518
Of Another Time
Little, Connie . . . MR 2326-2320/MR 2329
Ojibwa Birch Bark Basketry
Rodman, Alpine . . . . . ER B30-34
Rodman, Sue
Oklahoma Casting
Fairchild, William . . . . . ER E36
Olathe Boot Co.
Shackelford, Bill . . . . . ER G47-49
Shackelford, Kim
Walkingshaw, Dennis . . . . . ER G51-53
Anderson, Michael . . . . . ER H40
Myers, Wayne
Old El Paso Shirtworks
Ruddock, John . . . . . EB 125
Ruddock, James . . . . . PB 454
Old Gringo Boots
Tarut, Ernie . . . . . ER K48-50
Old Mill Whips
Dahle, Marilyn . . . . . ER J54-55
Old West Boots
Walkingshaw, Cay . . . . . ER G51-53
Old West Cowboy Boots Corp.
Gupta, Kiran . . . . . MR 3235
Old West Signs
Little, Connie . . . MR 2326-2320/MR 2329
Old West Wire Art
Gates, Julie . . . . . MR 1455-1454
Old West-Jama Corp.
Kesner, Darel . . . . . MB 204/MR 3238
Olympia Furs
Levy, Frank . . . . . ER F38-40/MR 4482
Olympian
Hood, Todd . . . . . PB 101-202
Omni Leather Inc.
Edrich, Eric . . . . . EB 424
Stein, Morey
On Your Back
Berger, Ronna . . . . . MR 3380
Oooh! By Linda
Eisen, Stuart (Stuie) . . . . . MR 3383
Oralx Corp.
Satterthwaite, Lynn . . . . . PB 116
Ott Ranch Equipment
Beagley, Jerry . . . . . ER J36-38
Outback Crusher
Walrous, Gary . . . . . PB 657
Outback Trading Co.
Singleton, Bob . . . . . MR 3161
King, Wilson . . . . . PB 302/MR 3161
Outfitters Supply Inc.
Barnett, Russ . . . . . PB 223
Mc Intyre, Blaine
Outlaw Cowboy Furniture
Carney, Lise . . . . . MA 3922
Outrigger by Renegade
Clark, R. Scott . . . . . MR 3739
Oxbow Tack

Ozark Leather Co.
Kramer, Dennis . . . . . EB 101
von Rosenberg, Glenn
von Rosenberg, Karl
Ozark Mountain Mktg.
Borg-Caldwell, Lisa . . . . . PB 515
Miller, Brenda
P A Originals
Levy, Frank . . . . . ER F38-40/MR 4482
Pacific Teaze
Martin, Pam . . . . . MR 3342
Pagano West
Amey, Hal . . . . . EB 111/MR 4448
Pagano, Frank . . . . . MR 4448
Paint Rock Designs
Hathcock, H. Glen . . . . . MA 3940
Painted Pony
Robertson, John . . . . . MR 4478
Palo Duro
Hochster, Jeffrey . . . ER J31-35/MR 4436
Hochster, Leonard
Olsen, John . . . . . MR 4436
Panhandle Slim
Hochster, Jeffrey . . . ER J31-35/MR 4436
Hochster, Leonard
Olsen, John . . . . . MR 4436
Paramount Brand
Austin, Gig . . . . . EB 212
Cox, Craig
Parker Enterprises
Parker, Kathy . . . . . PB 703
Parker, Sonny
Partrade Trading Corp.
Cook, Glen . . . . . ER D35-37
Harrell, Robert . . . . . ER H42
Woods, Suzanne
Gibbs, Richard . . . . . ER H44
Watson, Roy . . . . . ER H48-50
Party Kils & Equestrian Gifts
Biesel, Becky . . . . . PB 102
Pat Dahnke Designs
Dahnke, Patricia . . . . . ER K49
Patricia Wolf
Robertson, John . . . . . MR 4478
PBR Outerwear
Mizrahi, Roland . . . . . MR 4429
PBR/Total Impact
Morgan, Dave . . . . . MR 4460
Peaces
Yost, Del . . . . . MA 3018
Peleteria Jalisco
Gold, Rafael . . . . . ER G56-57
Levy, Elias . . . . . PB 338
Ramos, Gilberto
Pelham Ascot Sport Boots
Prunty, Dianna . . . . . PB 217
Pendleton Coats
Levy, Frank . . . . . ER F38-40/MR 4482
Pendleton Woolen Mills
Kearns, Mike . . . . . ER J56-57
Performer's 1st Choice
Corn, Shane . . . . . PB 101-202
Perri's Leather
Perri, Carla . . . . . MR 3341
Peyote Bird Designs
Alexander, Mark . . . . . PB 605
Phoenix Performance Products
Rosenfeld, Stan . . . . . EB 438
Picture Warehouse

Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-September 7-9, 2002

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with show fee.

TONY SUGDEN — EXHIBITOR NAME

OAK TREE FARMS — COMPANY NAME - LIST ONLY ONE

**IMPORTANT-DIRECTORY & CATEGORY INFORMATION

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PHONE #: (805) 684 6248 E-MAIL: TSUGDEN@EVOLUTIONSLLC.COM

PHONE #: ( ) WEBSITE:

FAX #: (805) 684 6348

PERMANENT ROOM #: TEMPORARY SPACE #: (We will fill in) EXPO ROOM (ER) J 37

EXPO BOOTH (EB)

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*EVOLUTIONS		101 &
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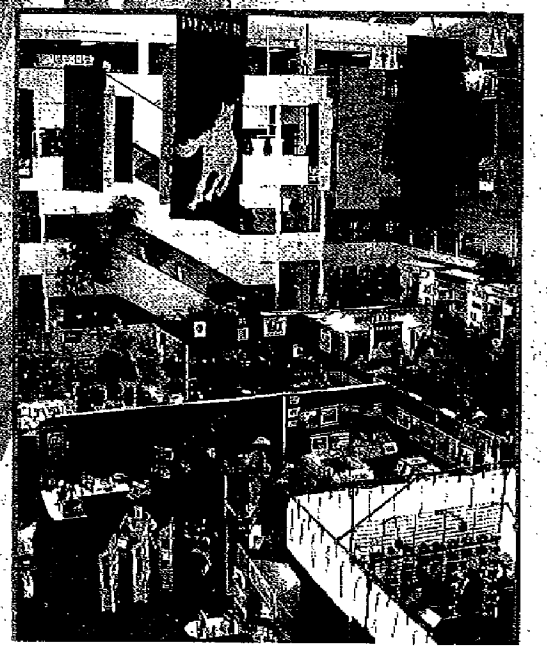
DENVER INTERNATIONAL WESTERN/ENGLISH APPAREL & EQUIPMENT MARKET

September 7-9, 2002



MD's Choice
D'Agosta, Ralph ..... ER H43-46
Menage a Trois by Kippy's
Kipperman, Bob ..... MR 4467
Merle's Frames
Creech, Jerry ..... MR 1140
Meyda Lodge Lamps
Kellogg, Bonnie ..... MR 1370
Michael Garman Productions
Garman, Mary Pat ..... EB 100
Michael Strong Leather Products
Strong, Michael ..... ER G34
Michel Jordi
Marold, Dave ..... MR 4634
Mid West Garment Co.
Gibson, Brian ..... MR 3747
Midwest of Cannon Falls
Doherty, Kevin ..... MR 1156
Midwestern Sport Togs
Gameson, Lloyd ..... MR 3742
Milano Hat Co. Inc.
House, Gene ..... EB 301
Milano Jr., John ..... MR 3170
Thompson, James
Minnetonka Moccasin Co.
Tait, Jack ..... MR 3546
Mitchies Matchings
Nelson, Deborah ..... MR 3584
MKR Rugs
Kellogg, Chris ..... MR 1367
Mohair Council of America
Langford, Mark ..... ER H49
Monarch Robes
Jolly, Kathy ..... MR 4474
Montana Cincha Co.
Franklin, Floyd ..... EB 309
Franklin, Rosie
Montana Clothing Co.
Levy, Frank ..... MR 4482
Montana Lifestyles
Barden, J. Todd ..... ER K52
Salo, Scott
Montana Silversmiths
Barden, J. Todd ..... ER K52
Branson, Joe
Salo, Scott
Montana Time
Barden, J. Todd ..... ER K52
Salo, Scott
Montana Wax and Wood
Kellogg, Bonnie ..... MR 1370
Montecarlo Hats
Cury, Samir ..... ER J51
Moon West Trading Co.
Pinera, Jorge ..... EB 206
R'de Ruelas, Lorena
Morey's Gifts
Morey, Bill ..... EB 308
Morey, Jo Ellen
Morris Kaye & Sons
Kaye, Joel ..... MR 4483
Moses Sales
Zuege, Calvin ..... ER K53
Zuege, Craig
Moss Brothers
Atwood, Sharon ..... EB 310
Newman, George
Cahoon, Calvin ..... EB 409
Muck Boot Company
Hahn, Brad ..... ER G32
Bullock, Lloyd ..... MR 3238 & 3530
Kesner, Darel
Murphy Sales
Murphy, Robert (Bob) ..... EB 201
Native Wisdom
Rodman, Alpine ..... ER J50-52
Rodman, Sue
Natural Ride ™
Robinson, Bill ..... EB 107
Romero, Jim
Van Scoyk, Jeffry
New World Trading
Keith, Char B. ..... EB 412/MR 1518
Newlon Sales Company
Newlon, Kendall ..... EB 107
No Bull
Cahoon, Calvin ..... EB 409
Nocona Belt Co.
Eddins, David ..... ER G51
Walkingshaw, Cay ..... ER G53
Eddins, Mickey ..... MR 3830
Johnson, Keldon
Nocona Boot Co.
Broughton, Mark ..... MR 3134
Keiter, Jim
Martin, Jim
Piper, Scott
Nordic Lights
Levy, Frank ..... MR 4482
Nortex Apparel Sales Co.
Bein, Ron ..... MR 4435
Northern Apparel Group
Levy, Frank ..... MR 4482
Nutra Pet
Sulzbach, Fred ..... EB 116
Oak Tree Farms
Sugden, Tony ..... ER J37
Oakcroft Inc.
VandenBosch, Adam ..... ER F38-40
Oasis-Frontier Corp.
Von Gunten, Ron ..... EB 306
Odyssey Creations
Keith, Char B. ..... EB 412/MR 1518
Ojibwa Birchbark Crafts
Rodman, Alpine ..... ER J50-52
Olathe Boots
Walkingshaw, Cay ..... ER G53
Shackelford, Bill ..... ER H53
Shackelford, Kim

EXHIBIT H

to

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Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-September 8-10, 2001

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with show fee.

EXHIBITOR NAME: TONY SUGDEN | COMPANY NAME - LIST ONLY ONE: OAK TREE FARMS

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*STAGECOACH		101 &
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Oak Tree Farms
Sugden, Tony . . . . . MA 3030
Oasis-Frontier Corp.
Von Gunten, Ron . . . . . PB 535
Odyssey Creations
Keith, Charlotte . . . . . PB 328/MR 1518
Of Another Time
Little, Connie . . . MR 2326-2320/MR 2329
Ojibwa Birch Bark Basketry
Rodman, Alpine . . . . . ER B30-34
Rodman, Sue
Oklahoma Casting
Fairchild, William . . . . . ER E36
Olathe Boot Co.
Shackelford, Bill . . . . . ER G47-49
Shackelford, Kim
Walkingshaw, Dennis . . . . . ER G51-53
Anderson, Michael . . . . . ER H40
Myers, Wayne
Old El Paso Shirtworks
Ruddock, John . . . . . EB 125
Ruddock, James . . . . . PB 454
Old Gringo Boots
Tarut, Ernie . . . . . ER K48-50
Old Mill Whips
Dahle, Marilyn . . . . . ER J54-55
Old West Boots
Walkingshaw, Cay . . . . . ER G51-53
Old West Cowboy Boots Corp.
Gupta, Kiran . . . . . MR 3235
Old West Signs
Little, Connie . . . MR 2326-2320/MR 2329
Old West Wire Art
Gates, Julie . . . . . MR 1455-1454
Old West-Jama Corp.
Kesner, Darel . . . . . MB 204/MR 3238
Olympia Furs
Levy, Frank . . . . . ER F38-40/MR 4482
Olympian
Hood, Todd . . . . . PB 101-202
Omni Leather Inc.
Edrich, Eric . . . . . EB 424
Stein, Morey
On Your Back
Berger, Ronna . . . . . MR 3380
Oooh! By Linda
Eisen, Stuart (Stuie) . . . . . MR 3383
Oralx Corp.
Satterthwaite, Lynn . . . . . PB 116
Ott Ranch Equipment
Beagley, Jerry . . . . . ER J36-38
Outback Crusher
Walrous, Gary . . . . . PB 657
Outback Trading Co.
Singleton, Bob . . . . . MR 3161
King, Wilson . . . . . PB 302/MR 3161
Outfitters Supply Inc.
Barnett, Russ . . . . . PB 223
Mc Intyre, Blaine
Outlaw Cowboy Furniture
Carney, Lise . . . . . MA 3922
Outrigger by Renegade
Clark, R. Scott . . . . . MR 3739
Oxbow Tack

Ozark Leather Co.
Kramer, Dennis . . . . . EB 101
von Rosenberg, Glenn
von Rosenberg, Karl
Ozark Mountain Mktg.
Borg-Caldwell, Lisa . . . . . PB 515
Miller, Brenda
P A Originals
Levy, Frank . . . . . ER F38-40/MR 4482
Pacific Teaze
Martin, Pam . . . . . MR 3342
Pagano West
Amey, Hal . . . . . EB 111/MR 4448
Pagano, Frank . . . . . MR 4448
Paint Rock Designs
Hathcock, H. Glen . . . . . MA 3940
Painted Pony
Robertson, John . . . . . MR 4478
Palo Duro
Hochster, Jeffrey . . . ER J31-35/MR 4436
Hochster, Leonard
Olsen, John . . . . . MR 4436
Panhandle Slim
Hochster, Jeffrey . . . ER J31-35/MR 4436
Hochster, Leonard
Olsen, John . . . . . MR 4436
Paramount Brand
Austin, Gig . . . . . EB 212
Cox, Craig
Parker Enterprises
Parker, Kathy . . . . . PB 703
Parker, Sonny
Partrade Trading Corp.
Cook, Glen . . . . . ER D35-37
Harrell, Robert . . . . . ER H42
Woods, Suzanne
Gibbs, Richard . . . . . ER H44
Watson, Roy . . . . . ER H48-50
Party Kils & Equestrian Gifts
Biesel, Becky . . . . . PB 102
Pat Dahnke Designs
Dahnke, Patricia . . . . . ER K49
Patricia Wolf
Robertson, John . . . . . MR 4478
PBR Outerwear
Mizrahi, Roland . . . . . MR 4429
PBR/Total Impact
Morgan, Dave . . . . . MR 4460
Peaces
Yost, Del . . . . . MA 3018
Peleteria Jalisco
Gold, Rafael . . . . . ER G56-57
Levy, Elias . . . . . PB 338
Ramos, Gilberto
Pelham Ascot Sport Boots
Prunty, Dianna . . . . . PB 217
Pendleton Coats
Levy, Frank . . . . . ER F38-40/MR 4482
Pendleton Woolen Mills
Kearns, Mike . . . . . ER J56-57
Performer's 1st Choice
Corn, Shane . . . . . PB 101-202
Perri's Leather
Perri, Carla . . . . . MR 3341
Peyote Bird Designs
Alexander, Mark . . . . . PB 605
Phoenix Performance Products
Rosenfeld, Stan . . . . . EB 438
Picture Warehouse

Denver International Western/English Apparel & Equipment Market

EXHIBITOR CONTRACT-September 7-9, 2002

Western & English Sales Association

EXHIBITOR BADGE: FREE: Your badge is included with show fee.

TONY SUGDEN — EXHIBITOR NAME

OAK TREE FARMS — COMPANY NAME - LIST ONLY ONE

**IMPORTANT-DIRECTORY & CATEGORY INFORMATION

Your show fee includes the listing of your name, phone numbers and space location in the Exhibitor Index of the Market Directory. Companies will be listed in the Company Index. Categories will be listed in the Category Index.

PHONE #: (805) 684 6248 E-MAIL: TSUGDEN@EVOLUTIONSLLC.COM

PHONE #: ( ) WEBSITE:

FAX #: (805) 684 6348

PERMANENT ROOM #: TEMPORARY SPACE #: (We will fill in) EXPO ROOM (ER) J 37

EXPO BOOTH (EB)

IF YOU ARE SHOWING WITH ANOTHER MEMBER/EXHIBITOR, PLEASE INDICATE NAME AND SPACE:

Name: Space #:

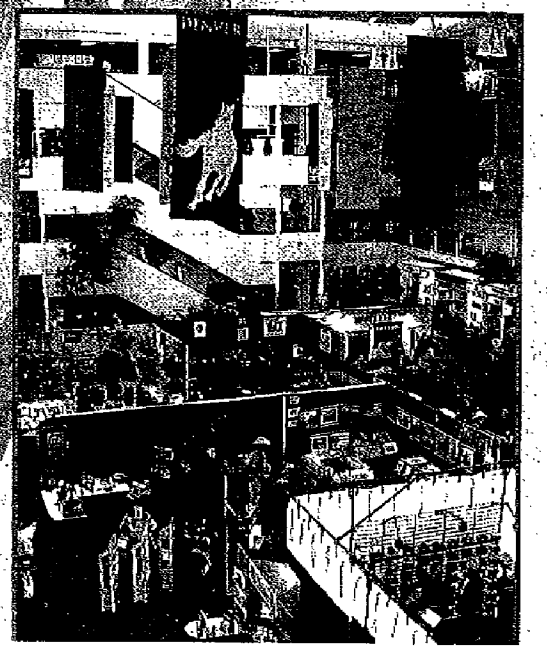
*COMPANIES: PRINT or TYPE companies (not descriptions) to be listed in directory	SIGNAGE: Please refer to Signage Contract to order your exhibit space signage.	CATEGORIES: See page 4 of this contract for category codes.
*OAK TREE FARMS		101 &
*EVOLUTIONS		101 &
*		&
*		&
*		&
*		&
*		&
*		&

PLEASE KEEP COPIES OF ALL CONTRACT PAGES FOR YOUR RECORDS

DENVER ABOVE PAR

DENVER INTERNATIONAL WESTERN/ENGLISH APPAREL & EQUIPMENT MARKET

September 7-9, 2002



MD's Choice
D'Agosta, Ralph ..... ER H43-46
Menage a Trois by Kippy's
Kipperman, Bob ..... MR 4467
Merle's Frames
Creech, Jerry ..... MR 1140
Meyda Lodge Lamps
Kellogg, Bonnie ..... MR 1370
Michael Garman Productions
Garman, Mary Pat ..... EB 100
Michael Strong Leather Products
Strong, Michael ..... ER G34
Michel Jordi
Marold, Dave ..... MR 4634
Mid West Garment Co.
Gibson, Brian ..... MR 3747
Midwest of Cannon Falls
Doherty, Kevin ..... MR 1156
Midwestern Sport Togs
Gameson, Lloyd ..... MR 3742
Milano Hat Co. Inc.
House, Gene ..... EB 301
Milano Jr., John ..... MR 3170
Thompson, James
Minnetonka Moccasin Co.
Tait, Jack ..... MR 3546
Mitchies Matchings
Nelson, Deborah ..... MR 3584
MKR Rugs
Kellogg, Chris ..... MR 1367
Mohair Council of America
Langford, Mark ..... ER H49
Monarch Robes
Jolly, Kathy ..... MR 4474
Montana Cincha Co.
Franklin, Floyd ..... EB 309
Franklin, Rosie
Montana Clothing Co.
Levy, Frank ..... MR 4482
Montana Lifestyles
Barden, J. Todd ..... ER K52
Salo, Scott
Montana Silversmiths
Barden, J. Todd ..... ER K52
Branson, Joe
Salo, Scott
Montana Time
Barden, J. Todd ..... ER K52
Salo, Scott
Montana Wax and Wood
Kellogg, Bonnie ..... MR 1370
Montecarlo Hats
Cury, Samir ..... ER J51
Moon West Trading Co.
Pinera, Jorge ..... EB 206
R'de Ruelas, Lorena
Morey's Gifts
Morey, Bill ..... EB 308
Morey, Jo Ellen
Morris Kaye & Sons
Kaye, Joel ..... MR 4483
Moses Sales
Zuege, Calvin ..... ER K53
Zuege, Craig
Moss Brothers
Atwood, Sharon ..... EB 310
Newman, George
Cahoon, Calvin ..... EB 409
Muck Boot Company
Hahn, Brad ..... ER G32
Bullock, Lloyd ..... MR 3238 & 3530
Kesner, Darel
Murphy Sales
Murphy, Robert (Bob) ..... EB 201
Native Wisdom
Rodman, Alpine ..... ER J50-52
Rodman, Sue
Natural Ride ™
Robinson, Bill ..... EB 107
Romero, Jim
Van Scoyk, Jeffry
New World Trading
Keith, Char B. ..... EB 412/MR 1518
Newlon Sales Company
Newlon, Kendall ..... EB 107
No Bull
Cahoon, Calvin ..... EB 409
Nocona Belt Co.
Eddins, David ..... ER G51
Walkingshaw, Cay ..... ER G53
Eddins, Mickey ..... MR 3830
Johnson, Keldon
Nocona Boot Co.
Broughton, Mark ..... MR 3134
Keiter, Jim
Martin, Jim
Piper, Scott
Nordic Lights
Levy, Frank ..... MR 4482
Nortex Apparel Sales Co.
Bein, Ron ..... MR 4435
Northern Apparel Group
Levy, Frank ..... MR 4482
Nutra Pet
Sulzbach, Fred ..... EB 116
Oak Tree Farms
Sugden, Tony ..... ER J37
Oakcroft Inc.
VandenBosch, Adam ..... ER F38-40
Oasis-Frontier Corp.
Von Gunten, Ron ..... EB 306
Odyssey Creations
Keith, Char B. ..... EB 412/MR 1518
Ojibwa Birchbark Crafts
Rodman, Alpine ..... ER J50-52
Olathe Boots
Walkingshaw, Cay ..... ER G53
Shackelford, Bill ..... ER H53
Shackelford, Kim

EXHIBIT I

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

DEADLINE FOR ORDER IS JAN 5

COPY

THE WSA SHOW

February 23-26, 2001 • Sands Expo Convention Center • Las Vegas, Nevada

PRINT CLEARLY — CONTRACT WILL BE RETURNED IF ALL INFORMATION IS NOT COMPLETE

CONTACT INFO

CONTRACTING EXHIBITOR: Roger Orozco
INDIVIDUAL CONTRACTUALLY RESPONSIBLE FOR BOOTH
(MUST BE A WSA MEMBER)
ADDRESS: 1101 Eugenia Place Ste B
CITY/STATE: Carpinteria CA
ZIP: 93013 PHONE #: 805-684-6248

☐ CHECK HERE FOR BUYER REGISTRATION LIST

COMPANY: Evolutions | BED:STU
ADDRESS: 1101 Eugenia Place Ste B
CITY/STATE: Carpinteria, CA
ZIP: 93013 PHONE #: 805-684-6248
FAX #: 805-684-6348

☐ CHECK HERE IF THIS IS A NEW ADDRESS

PRODUCT

PRODUCT INFORMATION
CHECK ALL APPROPRIATE BOXES & COMPLETE DESCRIPTION BELOW.

RETAIL PRICE	MENS SHOES		WOMENS SHOES		OTHER	
☐ 1st Cost	☒ DRESS	☐ ATHLETIC	☐ DRESS	☐ ATHLETIC	☐ JOBBER	☐ FOOTCARE
☐ Under $30	☒ CASUAL	☐ WORK BOOTS	☐ CASUAL	☐ WORK BOOTS	☐ CHILDRENS	☐ PUBLICATION
☐ $30 - $60	☐ COMFORT	☐ JUNIOR	☐ COMFORT	☒ JUNIOR	☐ HANDBAGS	☐ SOFTWARE
☒ $60 - $100	☐ RUGGED	% 90 (MENS)	☐ RUGGED	% 10 (WOMENS)	☐ ACCESSORIES	☐ ASSOCIATION
☐ $100 - $150						
☐ Over $150						

DESCRIBE PRODUCT & CATEGORY PREFERENCE:

SIZE

COST LISTED BELOW INCLUDES BOOTH CARPET ONLY. SEE COVER FOR INFORMATION ON DISPLAYS & FURNISHINGS.

SIZE	COST	SIZE	COST	SIZE	COST
10' x 10'	$ 800.00 ☐	20' x 20'	$3,200.00 ☐	50' x 20'	$ 8,000.00 ☒
10' x 20'	$1,600.00 ☐	20' x 30'	$4,800.00 ☐	50' x 30'	$12,000.00 ☐
10' x 30'	$2,400.00 ☐	20' x 40'	$6,400.00 ☐	50' x 40'	$16,000.00 ☐

PLEASE CALL WSA OFFICE FOR SIZE & COST NOT LISTED ABOVE. **SIZE:** _____ **COST: $** _____

SHOW GUIDE

SHOW GUIDE LISTING - Only listings below will be printed / Company & Brand names only. Print legibly.
18 Characters Max. Three Company and/or Brand listings included with your contract (Additional listings at $5.00 each)

1. BED:STU
2. BEDFORD STU
3. JOKERS WILD
4. KNICKLEBONES
5. OAK TREE FARMS
6. EVOLUTIONS

BADGES

PRE-REGISTRATION AND BADGE REQUESTS — PLEASE PRINT OR TYPE

SALES REPS/ACCOUNT EXECUTIVES
(INDIVIDUAL WSA MEMBERSHIP REQUIRED)

	NAME	WSA #
1.	Roger Orozco	
2.	Tony Sugden	
3.	Suzy Kreber	

EXECUTIVES/COMPANY PERSONNEL ATTENDING
(TITLES MUST BE SPECIFIC)

	NAME	TITLE
1.	Nora Tan	General manager
2.	Silvia Orozco	Operations
3.	Arturo Orozco	Booth Set-Up

PLEASE LIST ADDITIONAL NAMES ON SEPARATE SHEET ATTACHED

PAYMENT

PAYMENT SUMMARY - Full payment must be included.

Booth Fee	$ 8,000
Additional Listings @ $5.00 ea.	$
Additional Signs/Lines @ $5.00 ea.	$ 15
Announcement Cards @ $20 per 100 after 1st 100	$
Directory Ad — include ad reservation form	$
LATE FEE, $100.00 - required after October 1, 2000	$
2001 Membership Dues — include dues form	$ 30
TOTAL — Complete authorization form for Credit Card Payment	$ 8045.00

Checks must be drawn on a U.S. bank. For wire transfer info. call office.

X [signature]
SIGNATURE OF CONTRACTING EXHIBITOR
Please Print Name: Suzanne Kreber

WSA USE ONLY

SN		AC		PD		8/00		RQ	

RETURN TO:
WORLD SHOE ASSOCIATION
20281 SW Birch St., Suite 100
Newport Beach, CA 92660
(949) 851-8451 FAX (949) 851-8523
www.wsashow.com • e-mail info@wsashow.com

RETURN WHITE AND CANARY COPIES — RETAIN PINK COPY FOR YOUR RECORDS

EXHIBIT J

to

DECLARATION OF NORA OROZCO
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT
UNDER 37 C.F.R. SECTION 2.20

Evolutions Footwear Inc.
Customer Open Order Detail Report

Order Report From: 1/01/1997 To: 12/31/1997 Customer From: To: zzzzzz Item From 5 To: 5Z
Sales Rep. No.: 0 Select: All Order Summary by: Detail ☒ Include detail SZR Sort by: Customer Print Time: 12/30/2004 3:07PM Page: 1

S/O No	Ref.	Order Date	Ship Date	Cancel Date	Item#	Color	Item Description	Run	S/O Qty	Unit Price	Shipped Qty	Invoice Date	Shipped Invoice	Open Qty	Disc%	Open S/O Amt	Cust.#
Customer ID: 1BENTO Name:BENTIEN'S TOWN & COUNTRY Tel: (916) 865-5656 Fax: (000) 000-0000 535 TEHAMA STREET ORLAND, CA 95596																	
3787		9/19/97	9/24/97	11/30/97	515021201	BLCK	OT BARRANCA BLACK WAXY	X01	6	19.90	6	9/29/97	2,985				1BENTO
3787		9/19/97	9/24/97	11/30/97	515021502	BRW	OT BARRANCA BROWN NUBI	X02	5	19.90	5	9/29/97	2,985				1BENTO
3787		9/19/97	9/24/97	11/30/97	517007201	BLCK	OT SAHARA (RR-1) BLACK W	X03	6	52.50	6	9/29/97	2,986				1BENTO
3787		9/19/97	9/24/97	11/30/97	517007502	BRW	OT SAHARA (RR-1) BROWN N	X04	5	52.50	5	9/29/97	2,986				1BENTO
****** Total for S/O No.:***			**3787**	***	Customer PO#:		FIELD		**22**		**22**						
Customer ID: 1LITBA Name:LITTLE'S BARN Tel: (860) 642-6901 Fax: (860) 642-6901 43 MANNING ROAD NO. FRANKLIN, CT 06254																	
3788		9/19/97	9/24/97		515021201	BLCK	OT BARRANCA BLACK WAXY	X01	9	19.90	9	9/29/97	2,987				1LITBA
3788		9/19/97	9/24/97		515021502	BRW	OT BARRANCA BROWN NUBI	X02	9	19.90	9	9/29/97	2,987				1LITBA
****** Total for S/O No.:***			**3788**	***	Customer PO#:		FIELD		**18**		**18**						
Customer ID: 1THEMI Name: Tel: (000) 000-0000 Fax: (000) 000-0000																	
3703		9/17/97	10/01/97		515006502	BRW	OT SONORA GW6 BROWN B/	X01	12	50.90	12						1THEMI
3703		9/17/97	10/01/97		515006601	BLCK	OT SONORA GW6 BLACK BA:	X02	12	50.90	12						1THEMI
3703		9/17/97	10/01/97		517021401	BLK	OT LAGUNA BLK	W18	18	19.90	18						1THEMI
3703		9/17/97	10/01/97		517021413	BLK	OT LAGUNA BLK CHERRY	W18	18	19.90	18						1THEMI
****** Total for S/O No.:***			**3703**	***	Customer PO#:		FIELD		**60**		**60**						
Customer ID: 276RAN Name:SEVEN / SIX RANCHWEAR Tel: (802) 525-1196 Fax: (000) 000-0000 RT. 16 BARTON, VT 05822																	
3604		8/04/97	8/04/97		515021206	NAVY	OT BARRANCA NAVY WAXY	X01	3	19.90	3	9/22/97	2,949				276RAN
****** Total for S/O No.:***			**3604**	***	Customer PO#:				**3**		**3**						
4099		12/15/97	12/15/97		515005601	BLCK	OT RIO GW5 BLACK SLOUCH	X01	1	46.50	1	12/15/97	3,560				276RAN
****** Total for S/O No.:***			**4099**	***	Customer PO#:		FIELD		**1**		**1**						
Customer ID: 2ACTIN Name:ACT INTERNATIONAL Tel: (407) 677-8226 Fax: (407) 677-8226 1704 W. CHERYL DR WINTER PARK, FL 32792																	
3626		8/13/97	8/28/97		515001404	WHT	OT OASIS GW1 WHITE FRINC	X01	11	49.90	11	10/23/97	3,159				2ACTIN
3626		8/13/97	8/28/97		515001601	BLCK	OT OASIS GW1 BLACK FRINC	X03	7	49.90	7	9/15/97	2,888				2ACTIN
3626		8/13/97	8/28/97		515001630	RED	OT OASIS GW1 RED FRINGE	X02	4	49.90	4	9/15/97	2,888				2ACTIN
3626		8/13/97	8/28/97		515002404	WHT	OT ADOBE GW2 WHITE FRIN	X05	3	49.90	3	10/23/97	3,159				2ACTIN
3626		8/13/97	8/28/97		515002502	BRW	OT ADOBE GW2 BROWN FRI	X04	4	49.90	4	10/23/97	3,159				2ACTIN
3626		8/13/97	8/28/97		515002601	BLCK	OT ADOBE GW2 BLACK FRIN	X07	2	49.90	4	9/15/97	2,888	-2		-99.80	2ACTIN
3626		8/13/97	8/28/97		515002630	RED	OT ADOBE GW2 RED FRINGE	X06	1	49.90	1	10/23/97	3,159				2ACTIN
****** Total for S/O No.:***			**3626**	***	Customer PO#:		FIELD		**32**		**34**			**-2**			
3915		10/27/97	10/27/97		515001404	WHT	OT OASIS GW1 WHITE FRINC	X01	9	49.90	9	10/27/97	3,180				2ACTIN
3915		10/27/97	10/27/97		515001502	BRW	OT OASIS GW1 BROWN FRIN	X02	3	49.90	3	10/27/97	3,180				2ACTIN

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

Roger Orozco and Nora Orozco, Petitioner,	)	
V.	)	Cancellation No. 92043811
Michael Hwang, Respondent.	)	

DECLARATION OF RUSSELL CHANEY
UNDER 37 C.F.R. SECTION 2.20
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT

I, Russell Chaney, declare as follows:

1. I am Vice-President of Matthew C. Chaney, Inc. ("Boot Village") located at 1692 Clements Bridge Rd., Deptford NJ 08096. I submit this declaration in support of Petitioner's Motion for Summary Judgment in the above-noted matter. This declaration is made based on my personal knowledge of the following facts, and I could and would testify competently thereto if called as a witness.

2. Boot Village operates a retail store in the state of New Jersey and an Internet website and is in the business of selling footwear, including shoes and boots.

3. I have been employed by Boot Village and its predecessors-in-interest since 1971.

4. Boot Village and its predecessors-in-interest have purchased footwear which is branded with the OAK TREE FARMS brand from Petitioner and their predecessors-in-interest since 1995. I have personal knowledge of such purchases.

5. I am aware that the use by Petitioner of the trademark OAK TREE FARMS in connection with footwear has been continuous and has expanded since 1995. Boot Village has used in store point of sale displays featuring OAK TREE Brand footwear as well as using the brand to advertise OAK TREE footwear on the Boot Village website.

6. The trademark OAK TREE FARMS is displayed directly on the containers for the goods as well as being located on tags and imprinted on the bottom of the shoe in same manner as noted in the pictures on the attached Exhibit A.

7. I identify the trademark OAK TREE as being exclusively associated with Petitioner.

8. I have attended trade shows wherein I visited the trade show booth and viewed the displays presented by Petitioner at such shows. At such shows Petitioner displayed and offered for sale footwear marketed and sold under the brand names OAK TREE and OAK TREE FARMS in substantially the same form as the footwear identified in Exhibit A to this Affidavit.

10. I am aware that Petitioner has used the mark OAK TREE (without the word "farms") and that such use began prior to February 10, 2003.

11. In my opinion, consumers who view the marks "OAK TREE

FARMS" or "OAK TREE" in relation to footwear, find the "OAK TREE" portion as the dominant component and the one to which consumers would look to when identifying the source of the goods.

12. Petitioner sells its footwear to the general public without any restrictions as to the conditions of sales or services associated therewith.

13. Due to its distinctive mark, substantial advertising, substantial promotional activities, and extensive sales, Petitioner has achieved widespread consumer recognition and acceptance of Petitioner's Mark for footwear.

14. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

By: Russell Chaney
Russell Chaney, Vice-President

Dated: January 11, 2006

EXHIBIT A

to

DECLARATION OF RUSSELL CHANEY
UNDER 37 C.F.R. SECTION 2.20
IN SUPPORT OF
PETITIONER'S MOTION FOR SUMMARY JUDGMENT

OAK TREE FINE