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

Proceeding	92050200
Party	Plaintiff Game Sportswear, Ltd.
Correspondence Address	Thomas A. Gallagher 107 Barclay Drive Stamford, CT 06903 UNITED STATES tomgallagher@mac.com
Submission	Request for Discovery Conference
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Date	05/27/2009
Attachments	Discovery_Memo.pdf (5 pages)(229451 bytes)

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

In the matter of trademark Registration No.: **2720097**

For the mark: **GAME**

Registered: **May 27, 2003**

Game Sportswear, Ltd.,)	
Petitioner)	
)	
v.)	Cancellation No. 92050200
)	
Vandous E. Stripling,)	
Registrant)	

MEMORANDUM FOR DISCOVERY CONFERENCE

In view of the upcoming Discovery Conference scheduled for June 3, 2009, the Petitioner would like to set forth facts regarding attempted settlement talks and attempted informal discovery.

In December 2008, the undersigned spoke by telephone with the Registrant and indicated that settlement was possible if the Registrant could provide certain information upon which a settlement might be structured. This information included:

- i) specimens showing use of the mark on the goods listed in the registration (preferably digital photos of the goods bearing the mark);
- ii) a description of the Registrant's customers, e.g. retailers, wholesalers, individuals, corporations, other organizations that Registrant has sold to and the same for customers that Registrant intends to sell to;
- iii) an identification of the states in which Registrant has sold his product and the states in which the Registrant intends to sell his product; and
- iv) approximate volume of sales over the last 5 years, listing sales per state.

The Registrant agreed to provide this information but never did. Following the Interlocutory Decision of March 3, 2009, the Petitioner contacted the Registrant and

reiterated its request for the information listed above. Registrant refused to provide the information¹.

At the Discovery Conference, the Registrant intends to request the same information a third time as a first round of discovery with the hope that the information may be used to structure a settlement. However, Registrant reserves the right to pursue formal discovery including interrogatories, document requests, depositions, and requests to admit, should a settlement not be reached in a timely manner.

Certificate of Service

A true copy of this Memorandum was served on the Registrant by e-mail addressed to game97@juno.com.

Respectfully submitted,

/tag/

By: _____
Thomas A. Gallagher
Attorney for Petitioner

107 Barclay Drive
Stamford, CT 06903

203-329-9898

May 27, 2009

¹ Instead, the Registrant supplied a copy of a marketing flyer and a pdf showing artwork for ten different versions of the mark GAME. These are attached as an exhibit to this memorandum.

EXHIBIT

GAME APPAREL GROUP, INC.

Background:

In 1998, I set out to answer the demand for a brand of athletic apparel that merged both sports and fashion into one style while still representing the athlete. By the end of 2000 with 3 NBA players, 2 Rap artists and 1 Olympic athlete wearing Game apparel, we were being sold in 132 stores in 16 states and two countries Japan and Mexico. However, all of that would change on September 11th 2001.

At that time I was serving the 9th of my 13 year career in the US Air Force and due to the terrorist attacks I was forced to slow the growth of the business and the brand. For the next four years we filled only small sporting goods shops, specialty stores, trade shows and sporting events orders in an effort to keep the brand in action. In July 2005 I resigned from the Air Force move back home to Texas and began the quest to make the brand into a global name. The first step was to incorporate from a sole proprietorship and redesign the Game line. The second step was to find a partner that could handle the fulfillment and distribution for the brand while we focused on design marketing and sales. During the February 2007 MAGIC Show in Las Vegas we met with four different manufactures and begun serious negotiations with two of them. However, negotiations hit a snag and talks broke down with both companies.

Company:

Game Apparel Group, Inc. is a Texas based privately held Athletic Apparel and Footwear Company founded by Van Stripling engaged in the development, marketing and sales of Game branded apparel and accessories. Game, the name sake and signature brand is a well-made sophisticated athletic and performance apparel that is both comfortable and stylish with a fashion forward vision that reflects an urban sensibility and style. Unlike other brands, Game speaks to and for the consumer with an attitude that is competitive, assertive and challenging. Game represents all athletes and every fiery soul who possesses the heart, passion and all around determination and unrelenting desire to be the best at whatever they do!

Our mission is “to become the most demanded sports brand by people of all ages and lifestyles”. Through a unique and diverse product line that is both fashionable and functional we challenge existing brands and give consumers what they want and demand. A brand that truly “Makes a Statement”!

Products:

Game Apparel Group, Inc. designs and sales high quality branded athletic and performance apparel and accessories for men, women and children across all sports categories. Our products are sold to small sporting goods stores, specialty retailers, at trade shows and sporting events and personal one on one sales. The line of apparel, branded with the Game name and stylized logos consist of a tightly edited collection including performance and casual sportswear, knitwear and caps inspired by both sports and fashion.

Target Market:

Game's target market is athletes and entertainers of all ages and lifestyles worldwide that seek quality apparel with style, functionality, comfort and attitude. The primary market serves as a tool for penetrating Games' secondary market, the general public. Through socialization and as an information resource our primary market aids in the marketing of and establishing Game as a must have brand.

Competitors:

Nike, Adidas, Reebok, Under Armour, Fila, New Balance, Converse, Vans

Web Address:

www.gamesportsapparel.com (Old web site taken down to make way for new site)

www.gameathletics.com (New web address/site to up July 2009)

Intellectual Property:

The company's intellectual property currently consists of the GAME® and the GAME +LOGO® registered trademarks.

