

TTAB

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



06-24-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #26

In the matter of Application Serial No. 76/024,587

NEW BALANCE ATHLETIC SHOE, INC.,  
Opposer,

Opposition No. 91/122,837

v.

H. John Campaign,  
Applicant.

Certificate of First Class Mailing (37 CFR 1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: BOX TTAB NO FEE, Commissioner for Trademarks, on the date set forth below.

June 21, 2002

Date of Signature and of Mail Deposit

By:

Thomas V. Smurzynski

Thomas V. Smurzynski  
Reg. No. 24,798  
Attorney for Opposer

02 JUL - 3 AM 8:33  
TRADEMARK TRIAL AND APPEAL BOARD

BOX TTAB NO FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

NOTICE OF RELIANCE BY OPPOSER

Opposer, New Balance Athletic Shoe, Inc., hereby files a Notice of Reliance, during its testimony period, on the following enclosed material being offered into evidence in accordance with the Trademark Rules of Practice, Section 2.122(d) and Section 2.120 (j).

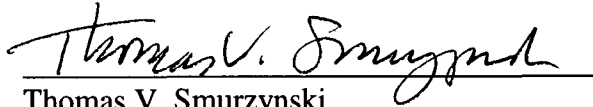
- (a) a certified copy of Reg. No. 664,453, showing status and title;
- (b) a certified copy of Reg. No. 1,251,718, showing status and title; and

14

- (c) Applicant's Responses to Opposer's First Set Of Interrogatories to Applicant (Interrogatories Nos. 1-5).

LAHIVE & COCKFIELD, LLP

Date: June 21, 2002



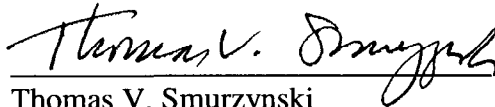
Thomas V. Smurzynski

Attorney for Opposer

NEW BALANCE ATHLETIC SHOE, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF RELIANCE BY OPPOSER was served by first-class mail, postage prepaid, on Applicant, H. John Campaign, Esq., The Bar Building, 36 West 44<sup>th</sup> Street, New York, NY, 10036, on this 21<sup>st</sup> day of June, 2002.



Thomas V. Smurzynski

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

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In the matter of Application Serial No. 76/024,587 :  
: NEW BALANCE ATHLETIC SHOE, INC., :  
: Opposer, :Opp. No. 122,837  
: v. :  
: H. JOHN CAMPAIGN, :  
: Applicant. :  
:

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APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF  
INTERROGATORIES TO APPLICANT

INTERROGATORY NO. 1

Describe in detail the basis for applicant stating in his application that he had a *bona fide* intention to use the mark of Serial No. 76/024,587 in commerce with the goods of Serial No. 76/024,587.

RESPONSE

Applicant's long lasting love affair with the name "FLEXIBLE FLYERS" and a belief that it will be a most appropriate trademark for footwear, particularly basketball shoes.

INTERROGATORY NO. 2

Describe in detail the basis for Applicant stating in his application that he had a *bona fide* intention to license the use of the mark of Serial No. 76/024,587 in commerce on or in connection with the goods of Serial No. 76/024,587.

RESPONSE

Provided that registration of "FLEXIBLE FLYERS" could be obtained for such goods, applicant had every intention in the world of contacting a manufacturer of footwear for the purpose of manufacturing the goods and/or using the trademark "FLEXIBLE FLYERS" thereon.

INTERROGATORY NO. 3

Describe Applicant's past and present experience in the manufacture or sale of footwear.

RESPONSE

None.

REQUEST NO. 4

Identify any party who is, or was, a "related company" of Applicant (in accordance with the definition in 15 U.S.C. § 1127) with respect to the mark of Serial No. 76/024,587, and describe the relationship between Applicant and such related company.

RESPONSE

None.

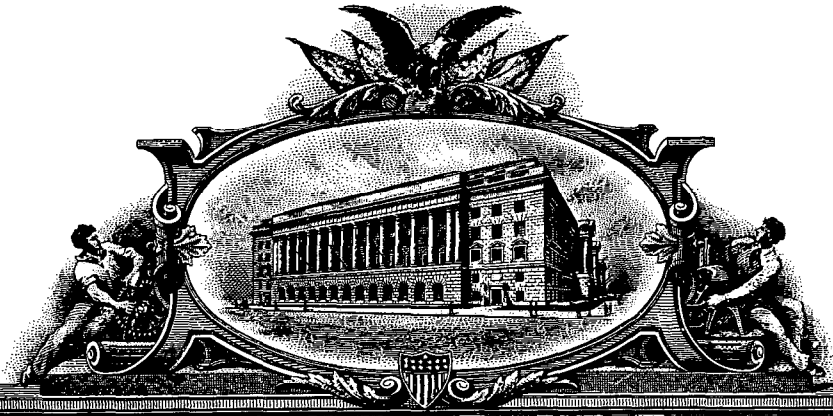
INTERROGATORY NO. 5

Describe Applicant's past or present relationship with any user or registrant of marks incorporating FLYER or FLYERS.

RESPONSE

None.

815470



# THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**UNITED STATES DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

May 14, 2002

THE ATTACHED U.S. TRADEMARK REGISTRATION 664,453 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *July 15, 1958*  
2nd RENEWAL FOR A TERM OF 10 YEARS FROM *July 15, 1998*  
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

*NEW BALANCE ATHLETIC SHOE, INC.*  
*A MA CORP*



By Authority of the  
**COMMISSIONER OF PATENTS AND TRADEMARKS**

**P. R. GRANT**  
Certifying Officer

# United States Patent Office

664,453  
Registered July 15, 1958

## PRINCIPAL REGISTER Trademark

Ser. No. 34,352, filed July 25, 1957

### "P-F" FLYERS

The B. F. Goodrich Company (New York corporation)  
500 S. Main St.  
Akron 18, Ohio

For: FOOTWEAR—NAMELY, RUBBER-SOLED  
CANVAS FOOTWEAR—in CLASS 39.  
First use May 1, 1957; in commerce May 1, 1957.  
Owner of Reg. No. 429,057.

815470



**THE UNITED STATES OF AMERICA**

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**UNITED STATES DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**May 14, 2002**

**THE ATTACHED U.S. TRADEMARK REGISTRATION 1,251,718 IS  
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND  
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN  
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES  
PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 20 YEARS FROM *September 20, 1983*  
SECTION 8 & 15**

**SAID RECORDS SHOW TITLE TO BE IN:  
*NEW BALANCE ATHLETIC SHOE, INC.*  
*A MA CORP***



**By Authority of the  
COMMISSIONER OF PATENTS AND TRADEMARKS**

**P. R. GRANT  
Certifying Officer**

**Int. Cls.: 25 and 28**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 1,251,718**

**Registered Sep. 20, 1983**

**TRADEMARK**  
**Principal Register**

**P F FLYERS**

Brookfield Athletic Shoe Company, Inc.  
(Massachusetts corporation)  
15 Mechanic St.  
East Brookfield, Mass. 01515

For: FOOTWEAR, ATHLETIC SHOES, in  
CLASS 25 (U.S. Cl. 39).

First use Feb. 11, 1982; in commerce Feb. 11,  
1982.

For: SPORTING ARTICLES—NAMELY,  
SKATES, in CLASS 28 (U.S. Cl. 22).

First use Feb. 11, 1982; in commerce Feb. 11,  
1982.

Owner of U.S. Reg. Nos. 714,774, 933,273 and  
others.

Ser. No. 359,705, filed Apr. 14, 1982.

FRANCIE R. GOROWITZ, Examining Attorney