

TTAB



09-03-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #58

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

BOLLINGER INDUSTRIES, L.P.,  
Opposer,  
v.  
FITNESS QUEST, INC.,  
Applicant.

Opposition No.: 91150794  
Opposition No.: 91151089

TRADEMARK TRIAL AND  
APPEAL BOARD  
02 SEP - 6 PM 8:44

**OPPOSER'S MOTION TO DISMISS OPPOSITION**

Bollinger Industries, L.P., Opposer in the above-identified consolidated opposition proceeding, hereby moves before this board for an order dismissing the oppositions without prejudice.

Bollinger initiated the oppositions to Fitness Quest's applications to register ROCK and ROCK FIT based, in part, upon Bollinger's trademark rights in ROCK FITNESS and ROCK BARBELL & FITNESS. In its answers, Fitness Quest raised affirmative defenses and asserted that Bollinger lacked standing on each opposition.

**CERTIFICATE OF MAILING**  
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, 2900 Crystal Drive, Arlington, VA 22202-3513, on  
August 28 2002.  
*Bruce Terry*  
L. Bruce Terry, Reg. No. 38,336

*2*

Bollinger now admits that it lacks standing on each of these oppositions. While Bollinger had standing when filing the Motions of Opposition, Bollinger has since sold all its rights to ROCK, ROCK FIT, and the underlying marks ROCK FITNESS and ROCK BARBELL & FITNESS.

Lacking standing, Bollinger requests that the oppositions be dismissed without prejudice, as the merits of the controversy have not been settled.

Respectfully submitted,

**Decker, Jones, McMackin, McClane,  
Hall & Bates PC**

Dated: Aug. 24, 2012

  
Geoffrey A. Mantooth  
email: gmantooth@deckerjones.com  
Burnett Plaza  
801 Cherry Street, Suite 2000  
Fort Worth, Texas 76102  
(817) 336-2400  
(817) 336-3043 Fax

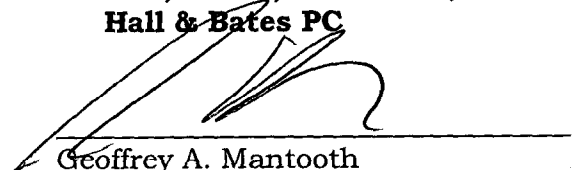
Attorneys for Opposer  
**Bollinger Industries, L.P.**

**CERTIFICATE OF CONFERENCE**

L. Bruce Terry, an attorney for Opposer, has conferred by telephone on several occasions with Susan Clady, attorney for Applicant, and has sent a proposed Stipulation of Dismissal to her. However, no agreement has been reached.

**Decker, Jones, McMackin, McClane,  
Hall & Bates PC**

Dated: Aug. 28, 2002



Geoffrey A. Mantooth  
email: gmantooth@deckerjones.com  
Burnett Plaza  
801 Cherry Street, Suite 2000  
Fort Worth, Texas 76102  
(817) 336-2400  
(817) 336-3043 Fax

Attorneys for Opposer  
**Bollinger Industries, L.P.**

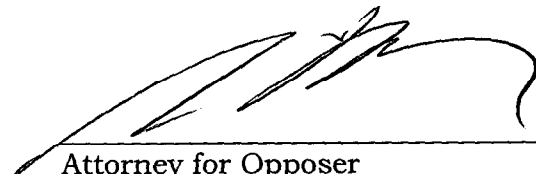
**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing OPPOSER'S MOTION TO DISMISS OPPOSITION was served via U.S. first class mail, postage prepaid, on August 28, 2002, upon the following:

**BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP**

Susan E. Clady  
2300 BP Tower  
200 Public Square  
Cleveland, OH 44114-2378

Attorneys for Applicant  
**Fitness Quest Inc.**



---

Attorney for Opposer  
**Bollinger Industries, L.P.**