

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE, BEFORE
THE TRADEMARK TRIAL AND APPEALS BOARD

R.A. BRANDS, L.L.C.
Opposer,

Vs.

FREDERIC REMINGTON ® TRUST 1861
Applicant.

Opposition No. 91159969

MOTION TO DISMISS OPPOSITION

Assigned to Jyll S. Tayler, Attorney



MOTION TO DISMISS OPPOSITION NO. 91159969

05-10-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #/6

Applicant in the matter of Application Serial No. 76, 080, 812, for Entertainment, in International Class 041 , and Whose **Mark is registered** upon the U.S.P.T.O. Principal Register at No. 1941902; **hereby moves the Board to dismiss this frivolous opposition** pursuant to Federal Rules of Procedure, Rule 12(b) and the corollary Trademark Rule _____. For **opposition's failure to state a Claim** upon which relief can be granted **due to Opposer's lack of standing**, as Opposer has no registration in class 041, or use in that Class that predates Applicant's Application. See Opposer's **NOTICE OF OPPOSITION** paragraph 3 e.g., "Opposer's goods" are "guns" not ENTERTAINMENT... SHOWS.

Further, Opposer's claims in Opposer's **NOTICE OF OPPOSITION** paragraphs 6,7, and 8 "lack any relevance" as Applicant's and Opposer's Marks are **both distinguished registered Marks and they are not competing in the same Class of Goods, 041, (emphasis added)**. Opposer's paragraph 3 reference to a registration No. 2,591,799. That purports to TTAB the Opposer is "organizing and conducting entertainment exhibitions in the form of automobile racing," is PATENTLY FALSE. Opposer's mark appears as a "CAR/DRIVER SPONSER ONLY" on a racecar in decal form as "REMINGTON."

ARMS

This is PAID FOR ADVERTISING only, not motion picture or television production of shows, nor is it relevant to the putting on of such events.

In addition, this opposition is over 120 days from the date of publication. Note, although opposer mailed the opposition on the 120th day. It was "**not filed**" at the TTAB Mail Rcpt. Dt. #22 until the 122nd day. Thus, this opposition is **not** only frivolous it was **not** filed "**WITHIN**" the **120 day rule** pursuant to 37 CFR 2.102 (c); and applicant did **not** grant an extension; and **no** extraordinary circumstances exist.

LAW: The facts, as presented by Opposer's own **NOTICE OF OPPOSITION** at paragraphs 3,6,7 and 8 "on its face", established there is no **genuine issue of fact or law**.


Opposer's NOTICE further establishes **Opposer cannot prove the existence of any essential elements** for which Opposer will bear the burden of proof. See Celotex v. Catrett, 477 U.S., 317,322 through 324 (1986).

There is no controversy due to fact the **Opposer has no standing** to oppose, because **Opposer cannot suffer future injury**. Thus, the opposition must be dismissed. See Whitmore v. Arkansas, 110 S. Ct 1717, 1723 (1990). This opposition is also untimely and the application must be registered.

WHEREFORE, Applicant respectfully prays the registration sought by Applicant be sustained and a CERTIFICATE OF REGISTRATION issued forthwith and post haste in accordance with "expedited Application" fees paid.

ATTACHMENT (S): Opposer's NOTICE OF OPPOSITION, consisting 3 pages, in class.

DATED: April 10th 2004


_____, for the trust
S.H. Yoo, Trustee, in propria persona
Frederic Remington® Trust 1861

CERTIFICATE OF MAILING

I herby certify the foregoing **Motion to dismiss** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Assigned Attorney: Jyll S. Taylor at the United States Trademark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on the 10th day of April, 2004. Copy to Opposer R A BRANDS, L.L.C. ONE WEST FOURTH STREET Winston- Salem, North Carolina 27101 Telephone (336) 721-3747 Facsimile (336) 721-3336 E-mail Rspringer@wcsr.com

726-6991



M. Lim

Attachment: NOTICE OF OPPOSITION

P. 04
Etta B

*Rec'd 1/8 mail
4-23-04*

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

IN THE MATTER OF Application Serial No. 76/080,812, filed November 2, 1999
PUBLISHED IN THE OFFICIAL GAZETTE of November 25, 2003

U.S. PATENT AND TRADEMARK OFFICE

RA BRANDS, LLC)

Opposer,)

v.)

FREDERIC REMINGTON TRUST 1861,)

Applicant.)

03-28-2004

U.S. Patent & TM Office/TM Mail Rept Dt. #22

Opposition No. _____

NOTICE OF OPPOSITION

RA BRANDS, LLC ("Opposer"), a limited liability company organized and existing under the laws of the State of Delaware, located and doing business at 870 Remington Drive, Madison, North Carolina 27025, believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same.

As grounds of opposition, Opposer alleges that:

1. On November 2, 1999, Applicant, Frederic Remington Trust 1861 ("Applicant"), filed a United States Trademark Application to register the mark FREDERIC REMINGTON ("Applicant's Mark") and the application was assigned Serial No. 76/080,812 by the United States Patent and Trademark Office (the "Application").

2. Applicant's Application was published for opposition in the November 25, 2003 Official Gazette in respect of the following services:

Entertainment, namely production of motion pictures and television shows in International Class 041.

03/29/2004 JBR00KS1 00000038 500517 76080812

01 FC:6402 300.00 DA

Attachment "A"

3. RA Brands, LLC ("Opposer") is the owner of numerous federal registrations for the trademark REMINGTON ("Opposer's Mark") for use with outdoor sporting goods, including hunting and fishing equipment and related services ("Opposer's Goods and Services"), including a registration for REMINGTON RACING for "organizing and conducting entertainment exhibitions in the nature of automobile racing" (Reg. No. 2,591,799).

4. Opposer's Marks distinguish Opposer's Goods and Services from the products of others.

5. Opposer's Mark has attained wide public recognition as an identification of the source of Opposer's Goods and Services, and Opposer's Mark distinguishes Opposer's Goods and Services from the products of others.

6. Applicant's Mark is confusingly similar to Opposer's Marks and is likely to cause confusion or to cause mistake or to deceive the public.

7. Applicant's Mark dilutes Opposer's famous mark in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §112(c).

8. Opposer will be damaged and irreparably injured if registration is granted to Applicant for Applicant's Mark.

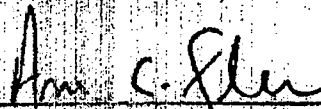
9. For the reasons set forth above, registration of Applicant's Mark should be denied.

A duplicate copy of this Notice is enclosed. The Commissioner is hereby authorized to charge the required fee of \$300 to Deposit Account No. 50-0517. The Commissioner is also hereby authorized to charge any deficiency in the payment of the required fee or credit any overpayment to Deposit Account No. 50-0517.

WHEREFORE, Opposer respectfully prays that the registration sought by Applicant be refused and that this opposition be sustained in favor of Opposer.

This the 24th day of March, 2004.

WOMBLE CARLYLE SANDRIDGE & RICE
A Professional Limited Liability Company



Randel S. Springer
Anne C. Fleeson
Attorneys for Opposer RA Brands, LLC
One West Fourth Street
Winston-Salem, North Carolina 27101
Telephone: (336) 721-3747
Facsimile: (336) 726-6991
E-Mail: RSpringer@wcsr.com

Certificate of Mailing

I hereby certify that the foregoing Notice of Opposition is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the Commissioner for Trademarks, United States Patent and Trademark Office, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on the 24th day of March, 2004.

Louis O'Brien

For future reference:

*TTAB Please Clarify;
IS this CERTIFICATE
sufficient per Rule 2.18?*

To: UNITED STATES DEPARTMENT OF COMMERCE

From: FREDERIC REMINGTON® TRUST 1861
S. H. Yoo, Trustee, in pro per
C/O Dean Shideler, Consultant
3539 Rolston Street
Fort Wayne, IN 46805-1537

Mailed: February 26, 2004

Applicant No. 76,080,804
Class 41 Correct

Applicant No. 76,080,812
Class 38 (?) Correct
Class 41 (?) Incorrect?

REMINGTON CORPORATION, L.L.C.

vs.

FREDERIC REMINGTON® TRUST 1861
Attorney, TTAB (Assigned Jyll S. Taylor)

S. H. Yoo, Trustee, FREDERIC REMINGTON® TRUST 1861, in pro per

Dear Ms. Taylor;

Pro per Applicant hereby requests clarification as to why it appears Application No.(s) 76,080,804 and 76,080,812 seem to have been given to the same Class 041.

Meanwhile our only record from TTAB shows 804, mail date 9/11/00 action No. 1, amending to Class 041 – educational services in the nature of classes and seminars relating to FREDERIC REMINGTON.®

Additionally updated to include entertainment in the nature of on-going variety television programs, organizing cultural event and activities, commemorative events and ceremonies.

In TTAB 812 mail date 9/11/00, action No. 1, page 3, shows clarification by amending to Class 38, cable radio and television broadcasting, and video broadcasting. Additionally updated to include entertainment, namely production of motion pictures and television shows. Appears on status: 12/10/03 with file date of 11/02/99. However, the class reflected 12/10/03 is Class 41 not Class 38(?).

Thus, both 76,080,804 & 812 now show Class 41 (?). Shouldn't 812 be Class 38? And 804 is Class 41?

Please do clarify this so Applicant may proceed accordingly.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE,
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD

RA BRANDS, LLC)
Opposer,) OPPOSITION NO. 91152945
v.)
FREDERIC REMINGTON® TRUST 1861,) MOTION TO DISMISS OPPOSITION
Applicant.) (Assigned to Jyll S. Taylor, attorney)

Applicant in the matter of application Serial No. 76,080,801 for backpacks in International Class 018, and who's mark is REGISTERED upon the U.S.P.T.O. Principal Register at No. 1941902, hereby moves the Board to dismiss this frivolous opposition pursuant to Federal Rules of Procedure, Rule 12 (b) and the corollary Trademark Rules of Practice, Rule _____, for failure to state a claim upon which relief can be granted due to opposer's lack of standing. Again, we find the same opposers, who in 1986-1995, made the same Lanham Act, Sec. 43 (a) 15 U.S.C. § 112 (c) claims of confusion, dilution, and public deception; Lost, resulting in Frederic Remington® being registered upon the principal register at No. 1941902. This prima facie evidence, acts as a barr pursuant to the Doctrines of res judicatta and collateral estoppel in this opposition.

Further, it is clear that the instant opposition is a naked attempt to cause unnecessary expense to applicant and to unfairly eliminate opposer's competition by legal fiat in contravention of the Doctrines of Fair Trade; Monopoly.

05-10-2005
U.S. Patent & TMO for TM Mail Rept Dt. #78

Opposer's claims in opposer's NOTICE OF OPPOSITION paragraph(s) 3, 6, 7 and 8 lack any relevance.

LAW:

The facts as presented by the opposer's own NOTICE OF OPPOSITION at paragraph(s) 3, 6, 7 and 8 "on it's face," establish there is no genuine issue of fact or law.

Both Applicant's and Opposer's marks' are distinguished REGISTERED marks, (emphasis added). Registration No. 1941902 Frederic Remington® in like goods and like International Classes as opposer's is prima facie evidence, and establishes opposer can not prove the existence of any essential element, for which the opposer will bear the burden of proof. *See Celotex Corp v. Catrett*, 477, U.S. 317, 322 through 324 (1986).

There is no controversy due to the fact opposer has no standing to oppose; because, opposer can not suffer future injury. Thus, the opposition must be dismissed. *See Whitmore v. Arkansas*, 110 S. Ct. 1717, 1723 (1990).

WHEREFORE, Applicant respectfully prays that the registration sought by Applicant be sustained and a CERTIFICATE OF REGISTRATION issue forthe withe post haste in accordance with "expedited application" fees paid.

Attachment(s): 1. Opposer's NOTICE OF OPPOSITION; Consisting of 3 pages,
in Class 018. 2. Corporate letter to CEO & Opposer's board, e.g. constructive notice.

This 31st day of January, 2004.

for the trust

S. H. Yoo, Trustee, in propria persona
Frederic Remington® Trust 1861
C/O Dean Shideler, Consultant
3539 Rolston Street
Ft. Wayne, Indiana 46805-1537

CERTIFICATE OF MAILING

I hereby certify that the foregoing Motion to Dismiss is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the Assigned Attorney Jyll S. Taylor at the United States Patent and Trademark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on the 31st day of January, 2004. Copy to Opposer.

M. Lim

(336) 721-3336 fax
Date May 4, 2004
COPY - 2nd Service
Submitted to Opposer by fax
transmission on the above date

M. Lim
R Springer@wcsr.com

Law: The facts, as presented by Opposer's own **NOTICE OF OPPOSITION** at paragraphs 3, 6, 7 and 8, "on it's face", establish there is **no genuine issue of fact or law**. Opposer's NOTICE further establishes Opposer cannot prove the existence of any essential elements for which Opposer will bear the burden of proof. See Celotex Corp v. Catrett, 477 U.S., 317,322 through 324 (1986).

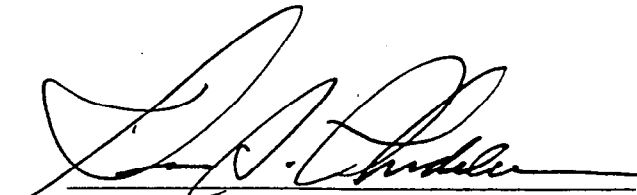
There is no controversy due to fact Opposer has no standing to oppose, because Opposer cannot suffer future injury. Thus, the opposition must be dismissed. See Whitmore v. Arkansas, 110 S.Ct. 1717, 1723 (1990).

WHEREFORE, Applicant respectfully prays the registration sought by Applicant be sustained and a CERTIFICATE OF REGISTRATION issued forthwith and post haste in accordance with "expedited Application" fees paid.

ATTACHMENT (1): Opposer's NOTICE OF OPPOSITION, consisting of 3 pages, in Class 033.

DATED: February 14, 2004
Fort Wayne, Indiana

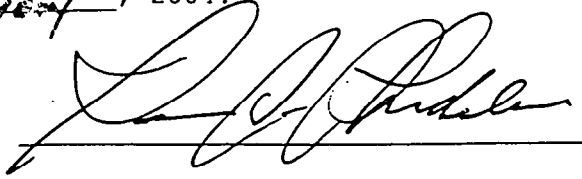
FREDERIC REMINGTON TRUST 1861

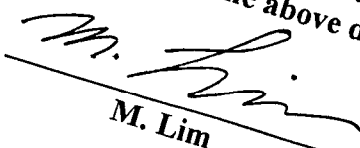


Dean S. Shideler, in propria persona
THE TRUST
3539 Rolston
Fort Wayne, IN 46805-1537
Telephone: (260) 471-6111
Facsimile: (260) 484-6773
Email: d_shideler@juno.com

CERTIFICATE OF MAILING

I hereby certify the foregoing Motion to Dismiss Opposition No. 91153719 is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Assigned Attorney, Jyll S. Taylor, at the United States Patent and Trade Mark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513; and, as First Class Mail, postage prepaid, to Gottlieb, Rackman & Reisman, Attorneys for Opposer, RA Brands, LLC, 270 Madison Avenue, New York, New York 10016-0601 on the 14th day of February, 2004.



(336)-721-3336 fax
Date 5-4-04
COPY - 2nd Service
Submitted to Opposer by fax
transmission on the above date

M. Lim

R Springer@west.com


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE,
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD

REMINGTON CORPORATION, LLC)
Opposer,) OPPOSITION NO. 91152786
v.)
SERIAL NO. 76080800
FREDERIC REMINGTON® TRUST 1861,) (Assigned to Jyll S. Taylor, attorney)
Applicant.)
_____)

Response to Opposers's Notice of Motion for Default judgment against Applicant
Frederic Remington Trust 1861.

Please take Notice that upon the accompanying Memorandum of Points and
Authorities. Applicant Frederic Remington Trust 1861, hereby responds to Opposer's
Motion to enter default judgment as a discovery sanction and asks the TTAB to deny
Opposer's Motion.

Dated this 20th day of February, 2004.


_____ for the trust
S.H. Yoo, Trustee, in pro per
Frederic Remington® Trust 1861
C/O Dean Shideler, Consultant
3539 Rolston Street
Fort Wayne, IN 46805-1537

05-10-2005
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

MEMORANDUM OF POINTS AND AUTHORITIES

The Opposer's MOTION is improper and frivolous.

First: Opposer has request an entry of default, which is a Federal Rule of Civil Procedure (FRCP), Rule 55 (b). However, Applicant has answered Opposer's NOTICE OF OPPOSITION. Therefore, Opposer's MOTION is improper on that ground.

Second: Pursuant to (FRCP), Rule 37 etseq; Opposer must file a MOTION TO COMPEL DISCOVERY contemporaneously with a separate Rule 11 Motion for Sanction, which Opposer has not; Note that the Opposer's November 2003 MOTION TO COMPEL was denied as untimely by the TTAB, see ORDER of 12/16/03. Opposer's failed here to file a new MOTION TO COMPEL.

Third: Opposer's NOTICE OF OPPOSITION is frivolous on its face. As Opposer (s) have no registration in class 36, financial management services and insurance brokerage. Applicant's and Opposers marks are both distinguished REGISTERED marks upon the Principal Register USPTO. Thus, there is no standing or genuine controversy. See Applicant's MOTION TO DISMISS OPPOSITION filed contemporaneously with this response.

(202) 684-3999 fax

Date 5-4-04

COPY - 2nd Service

Submitted to Opposer by fax
transmission on the above date



M. Lim

<ssstern@grr.com>

Attachment: Applicant's Motion for Extension of Time of January 21, 2004

(Interrogatories / Documents).

This 20th day of February, 2004.

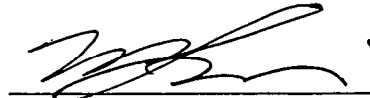


,for the trust

S. H. Yoo, Trustee, in propria persona
Frederic Remington® Trust 1861
C/O Dean Shideler, Consultant
3539 Rolston Street
Ft. Wayne, Indiana 46805-1537

CERTIFICATE OF MAILING

I hereby certify that the foregoing Motion to Dismiss Opposition is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the Assigned Attorney Jyll S. Taylor at the United States Patent and Trademark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on the 20th day of February, 2004. Copy to Opposer.



M. Lim

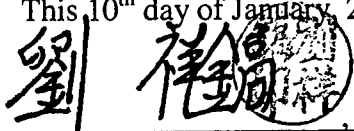
paragraphs 7, 9, 10, and 11, "on it's face," establish **there is no genuine issue of fact or law**. Opposer's NOTICE further establishes opposer can not prove the existence of any essential elements, for which the opposer will bear the burden of proof. *See Celotex Corp v. Catrett*, 477 U.S., 317, 322 through 324 (1986).

There is no controversy due to the fact **opposer has no standing** to oppose. Because opposer can not suffer future injury. Thus, the opposition must be dismissed. *See Whitmore v. Arkansas*, 110 S.Ct. 1717, 1723 (1990).

WHEREFORE, Applicant respectfully prays that the registration sought by Applicant be sustained and a CERTIFICATE OF REGISTRATION issue forthe withe and post haste in accordance with "expedited application" fees paid.

ATTACHMENTS(S): Opposer's NOTICE OF OPPOSITION, consisting 3 pages, in Class 36.

This 10th day of January, 2004.

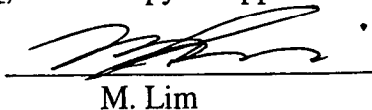


, for the trust

S. H. Yoo, Trustee, in propria persona
Frederic Remington® Trust 1861
C/O Dean Shideler, Consultant
3539 Rolston Street
Ft. Wayne, Indiana 46805-1537

CERTIFICATE OF MAILING

I hereby certify that the foregoing Motion to Dismiss is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the Assigned Attorney Jyll S. Taylor at the United States Patent and Trademark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on the 10 day of January, 2004. Copy to Opposer.



M. Lim

Date 5-4-04

COPY - 2nd Service

Submitted to Opposer by fax
transmission on the above date



M. Lim

(202) 684-3999 fax
Email: <ssstern@grr.com>

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE,
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD**

REMINGTON CORPORATION, LLC)
Opposer,) OPPOSITION NO. 91152629?
v.)
MOTION TO DISMISS OPPOSITION)
FREDERIC REMINGTON® TRUST 1861,) (Assigned to Jyll S. Taylor, attorney)
Applicant.)
_____)



05-10-2005
U.S. Patent & TM Office/TM Mail Rcpt Dt. #78

Applicant in the matter of application Serial No. 76,080,805 for Ribbons & Embroidery in International Class 026, and who's **mark is registered** upon the U.S.P.T.O. Principle Register at No. 1941902, **hereby moves the Board to dismiss this frivolous opposition** pursuant to Federal Rules of Procedure, Rule 12 (b) and the corollary Trademark Rule _____, **for failure to state a claim** upon which relief can be granted **due to opposer's lack of standing**, as opposer has no registration in Class 026, or use in that class that predates applicants' application. See opposer's NOTICE OF OPPOSITION paragraph 6, e.g. "opposer's goods" are ELECTRIC SHAVERS, not Ribbons & Embroidery.

Further, opposer's claims in opposer's NOTICE OF OPPOSITION paragraphs 7, 9, 10, and 11, lack any relevance as applicant's and opposer's marks' are **both distinguished registered marks** and they are not competing in the same Class of Goods; 026, (emphasis added).

LAW:

The facts as presented by the opposer's own NOTICE OF OPPOSITION at

paragraphs 7, 9, 10, and 11, "on it's face," establish **there is no genuine issue of fact or law**. Opposer's NOTICE further establishes opposer can not prove the existence of any essential elements, for which the opposer will bear the burden of proof. *See Celotex Corp v. Catrett*, 477 U.S., 317, 322 through 324 (1986).

There is no controversy due to the fact **opposer has no standing** to oppose. Because opposer can not suffer future injury. Thus, the opposition must be dismissed. *See Whitmore v. Arkansas*, 110 S.Ct. 1717, 1723 (1990).


WHEREFORE, Applicant respectfully prays that the registration sought by Applicant be sustained and a CERTIFICATE OF REGISTRATION issue forthe withe and post haste in accordance with "expedited application" fees paid.

ATTACHMENTS(S): Opposer's NOTICE OF OPPOSITION, consisting 3 pages, in Class 026.

Date 5-4-04


COPY - 2nd Service

Submitted to Opposer by fax transmission on the above date



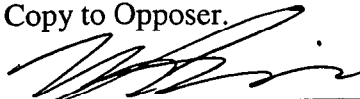
M. Lim

This 31st day of January, 2004.


Trustee 劉祥錫, for the trust
S. H. Yoo, Trustee, in propria persona
Frederic Remington® Trust 1861
C/O Dean Shideler, Consultant
3539 Rolston Street
Ft. Wayne, Indiana 46805-1537

CIFICATE OF MAILING

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M. Lim

fax
(202) 684-3999
L55stern@gvv.com