TTAB

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PETITION FEES ENCLOSED

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

11-04-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

RA BRANDS, LLC, f.k.a. REMINGTON LICENSING CORP (RLC), REMINGTON ARMS CO. INC. (RACI)

Opposer,

v.

FREDERIC REMINGTON TRUST 1861,

Applicant.

Consolidated Opposition Nos. 91152945 76080801
91153093
91153719
91159969
91159998
91160031
91160041
91160064

PETITION TO THE DIRECTOR: FOR EMERGENCY INJUNCTIVE RELIEF FROM THE BOARD'S POST MARKED 10/13/05 DECISION AND ORDERS ABSENT JURISDICTION BEGINNING 7/28/05 FILING DATE OF APPLICANT'S PETITION FOR RELILEF FROM TTAB CLEAR ERROR & ABUSE OF DISCRETION DECISION & ORDER OF 6/30/05, IN THE MATTER OF 91152945, ET., AL,:

Applicant Frederic Remington, in pro se hereby submits pursuant to TBMP §905 (e)(2) It's **Petition to Director** and TBMP §905 (g) **Motion to Stay.**

The TTAB decision of 10/07/05 (Postmarked 10/13/05) in clear error wrongly decided three issues: 1) it's own clear error by issuing another decision and order absent jurisdiction (Petition Pending Director Ruling), 2) it's own abuse of discretion by issuing another decision and order absent jurisdiction (Petition Pending Director Ruling), 3) it's own lack of jurisdiction by issuing another decision and order absent jurisdiction (Petition Pending Director Ruling) in the matter after Applicant's 7/28/05 Petition to the Director was filed , vesting jurisdiction solely in the Director on the very issues decided in the 10/13/05 2nd decision and orders. Thus, the Applicant respectfully requests the Director to intervene ordering the quiet immediate issuance of Applicant's long over due registrations in oppositions that but for

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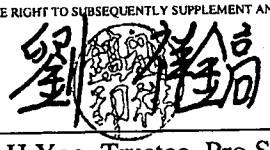
frivolous litigators and their inflicted technicalities should've registered **"years ago" in the interests of the United States, American Commerce, and the Applicant IP owner.**

Dated: 11/04/05

FREDERIC REMINGTON®TRUST 1861

APPLICANT RESERVES THE RIGHT TO SUBSEQUENTLY SUPPLEMENT AND AMEND PETITION AND OR MOTION TO STAY



,for the Trust

S H Yoo, Trustee, Pro Se
C/o Dean Shideler, Consultant
3539 Rolston Street
Fort Wayne, Indiana 46805-1537

CERTIFICATE OF MAILING AND SERVICE

I hereby certify the forgoing PETITION TO THE DIRECTOR & MOTION TO STAY. Pursuant to TBMP §905 (e)(2) AND §905 (g) FROM TTAB INTERLOCUTORY ORDER postmarked 10/13/2005, with fee enclosed is being deposited with the United States Postal Service as EXPRESS Mail #EQ299175059 US, is being deposited with the United States Postal Service postage prepaid, in an envelope addressed to Commissioner Lynne Beresford, United States Patent & Trademark Office, Commissioner of Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, postage prepaid, in an envelope addressed to the United States Trademark Office, Board of Appeals, United Sates Trademark Office, Board of Appeals, 500 Dulany St. Alexandria, VA 22314-5702 copy to opposer. Womble, Carlyle, Sandridge, & Rice One West 4 th St, Winston-Salem, NC 27101 on Nov. 4, 2005

Dated: November 4, 2005

M Lim

To Commissioner, Our Honor

EXPRESS MAIL NO. EQ 003387650 US
PETITION FEES ENCLOSED

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

RA BRANDS, LLC, f.k.a. REMINGTON LICENSING CORP (RLC), REMINGTON ARMS CO. INC. (RACI) Opposer, v. FREDERIC REMINGTON TRUST 1861, Applicant.	**Consolidated Opposition Nos.** **91152945** 91153093 91153719 91159969 91159998 91160031 91160041 91160064

PETITION TO THE DIRECTOR & MOTION TO STAY, PURSUANT TO TBMP § 905 (e)(2) and § 905 (g) FROM TTAB INTERLOCUTORY ORDER DATED 6/30/2005.

Applicant Frederic Remington, in pro se hereby submits pursuant to TBMP §905 (e)(2) it's **Petition to Director** and TBMP §905(g) **Motion For Stay**.

The TTAB decision of 6/30/05 clearly ***wrongly decided three issues*** 1) That Interlocutory Skoro could sanction Applicant, and 2) Applicant's Dispositive Motion RE: issue that opposers have NO related goods. 3) The dead bang fatal issue Opposers **un**timely filed many oppositions, TBMP/TTAB mandates this to be fatal default. *See applications files.*

Thus, pursuant to these fact and TBMP Rules the oppositions must be dismissed. The Applicant moves the Director to *set aside the order* of 6/30/05, and grant the relief sought by applicant's dispositive motions, and register.

Further, Applicant moves the Director to *issue a stay* suspending the proceeding. Because ***the sanction of right to object to discovery*** (answer without objection) is at this time improper and unwarranted by facts and Rules, *see applications files* record, such order inappropriately allows opposers to obtain the same kind of information which "they" misused in the '87-'95 litigation i.e., to take business customers from applicant by disparagement or deceiving, trade secrets, overly burdensome, and irrelevant records & information via a fishing trip ***outside the scope*** of discovery ***for an opposition proceeding*** at a minimum.

I RELEVANT BACKGROUND:

A. In oppositions Nos 9115 9969, 9115,9998, 9116,0031, 9116,0041, 91150064, Applicant timely filed dispositive motions, however Interlocutory Attorney L. M. Skoro both ***failed to submit these motions to TTAB Panel*** [of three or more] see TBMP §102.03, and ***did not suspend the proceeding retroactively*** to the filing date of the dispositive motions, see TBMP § 510.3(a), also *see Application files* (37 CFR § 2.122 (b). ***The dispositive motions were not resolved by the panel of judges*** until 6/30/05.

In oppositions No.(s) 9115 3719, 9115 3093 opposer never served upon applicant a request for discovery until 10/5/04 (after consolidation 7/06/04) and ***well after*** Applicant's dispositive motions, ***note*** until June 30, 2005, (See application files) these motions were not adjudicated by a 3 judge minimum panel of the TTAB as ***required*** by TBMP ***[Rule]*** §102.03, it is ***not optional*** to the Interlocutory nor is it *"the better procedure was to have them decided by a three judge panel,"* per 6/30/05 panel opinion page 2, [Skoro egregiously violated Rule §102.03 & 510.03 (a) *eight* times] the Interlocutory Skoro ***decisions*** on applicant potentially dispositive motions are

by TBMP Rule void & a nullity, hence the orders and sanctions based thereupon are a continuation of and solely based upon Interlocutory Skoro's original decisions in multiple violation of Rule §102.03 & §510.03 among others. Therefore, all resulting orders and sanctions being based upon the initial (Rule violative) infected Interlocutory reasoning including all opposer subsequent pleadings to those infected decisions, orders, and sanctions are void and a nullity as well post the filing of applicant dispositive motions. Everything negative to applicant is errantly based upon those initial barred by Rule §102.03 decisions coupled with the Rule §510.03.(a) violations. The proper remedy being to suspend the proceedings retroactive to the dispositive motion filings of applicant. Further [after applicant Rule 12(b) dispositives] the record reflects applicant was in fact Interlocutory instructed to submit the potentially dispositive Motions For Judgment On The Pleadings, so the aggressive panel posture as to applicant here somehow construed as delaying or at fault is unwarranted, just plain dead bang wrong. The Board in its writings within [its] 6/30/05 decision concurs Rule §102.03 was ***in fact*** violated by the Interlocutory. The panel apparently chose at applicant's expense not to face the issue, provide the warranted relief to applicant nor confront the one causing the entire mess in the first place, Interlocutory Skoro. The panel apparently chooses instead by it's decision to condone the Interlocutory Rule violations, [all eight of them] as born out in the panel's own recitals. This after first at page 3, concurring ***in fact*** Interlocutory Rule §102.03 violations ***had occurred*** not once but four times, prima facie Rule 510.03 (a) **violations were *inflicted*** four times as well. Instead of remedying the violations, and the then based upon those violations subsequently opposer created ***ultra virus*** record [by Rule] irrelevant to a panel decision but in this case egregiously relied upon. *See the application files*, i.e., the panel per the Interlocutory Rule violations must suspend the proceedings back to applicant's original filing dates of its Rule 12(b) Dispositive Motions as those motions per Rule ***suspended*** the proceedings at filing. Instead the

panel in contravention of the Rules proceeds 6/30/05 to enter a decision ***predicated on*** the misleadingly false *application files record,* this false record directly ***attributable to*** the original Interlocutory Rule violations. The Interlocutory's decisions (all void and a nullity) afforded Opposer pleadings (predicated upon the infected decisions) the ability to burden *the application files* record with infected Motions To Compel, Motions For Sanctions, Motions For Default, etc. all of which is erroneous and misleading. Hence, applicant is without remedy from the panel and appeals now to the Commissioner the panel's 6/30/05, Rule §102.03 and Rule 510.03 (a) violation biased writings, decision, orders, unwarranted sanctions to include all opposer's to **no** effect filings, post the Interlocutory's Rule violations. All having been egregiously and errantly considered, given weight even within the panel's Rule violations flawed decision, (all of which occurred post applicant's filing potentially dispositive motions). The panel's findings, opinion, and decision, order, sanction, and threat the panel ***admittedly based*** upon the above enumerated infected same. When the Board ***fails*** to take exception to multiple Interlocutory TBMP Rule violations [in the instant cases 8 violations, 4 in §102.03 and 4 in Rule 510.03 (a)] there can be ***no hope*** for any decision based upon ***facts*** or ***in the interest of justice*** before this agency. Here the Interlocutory was blatantly wrong, and did commit Rule violations in the enumerated multiples. The panel decision is not factual, nor is it in the interest of justice; it is biased by and based upon the activity of others of record, thus *prima facie* as *in fact* having taken place ***after*** applicant's filing of dispositive motions. In Opposition No. 9115 2945, opposer served two sets of discovery one on June 4, 2003, and one on 10/05/2004; on 4/27/04, the TTAB Interlocutory ***converted*** Applicant's "Motion to Dismiss" to a motion for summary judgment. Thus from 4/27/04 to June 30, 2005 a requisite panel of three TTAB judges per §102.03, did not adjudicate applicant's dispositive motions, not withstanding the Interlocutory attorney's illegal actions, *see application files.*

B. Inter alia, Applicant has raised the issue ***in all*** of its dispositive motions of opposers **can not be damaged** as **NO** confusion exists as to the service, connections or sponsorship of the ***goods.*** Further all of the probative facts (evidence is in the pleadings necessary to rule on the motion) *see application files.*

The factors that determine "confusion" include:

- proof of actual confusion
- [Oppesers have for 20 years, (losing to FR in 1987'oppositions), offered no proof of confusion as it is non-existent]
- strength of the established mark
- [FREDERIC REMINGTON® is The Presidents' Art© that is strength ,recognition & collectability worldwide]
- proximity of the goods in the marketplace
- [FR®Mark markets to exclusive educated influential "A" list clients via direct sales est'd over 36 years vs. RA/RP Rem®Mark deep discounter store front sales channels]
- similarity of the marks' sound
- [Already determined, (FR® is Reg. Mark), previously prevailing against same Opposers]
- appearance and meaning
- [See Rem. v. Rem. Financial, LLC both Remington®'s stipulated to no confusion, withdrew with prejudice]
- how the goods are marketed
- [36 yrs. "A" list client direct sales vs. deep discounters retail store front sales channels]
- type of product and how discerning the customer is
- [FR® enjoys influential, educated clients, Rem® enjoys price point shoppers]
- intent behind selecting the mark
- [N/A already registered]
- likelihood of expansion in the market of the goods
- [normal expansion of applicants goods, applicant is famous for the goods in Class 16 flatworks/art]

The fact channels utilized in commerce by applicant and opposer(s) are ***not*** the same in addition to ***the fact*** there are ***NO like goods*** in all but one application (those like goods being back packs) render the 6/30/05 panel's decision based writing as to the ***possibility of confusion of the public*** at page 6, in appearance entirely off point, and just plain wrong. Applicant offers in a single indisputable example herein, wherein the Board at page 7, of its 6/30/05 decision, appears to errantly declare [it] **cannot *dispose of any of the oppositions*** by applicant dispositive motion [this is wrong such disposal is warranted, and in the interest of justice] in the face of

enforcement needed against ***epidemic*** domestic and global ***counterfeiting*** of all American ***"famous"*** IP, all American IP owners under attack need ***swift*** registrations for enforcement purposes. See *application files at make special.* Of Note: Applicant is a legally determined ***"famous"*** Mark for it's flatworks/artworks, i.e., it's flatworks in Class 16 papergoods is opposed by ***non-famous*** RAB's Remington Racing® Mark (which appears to have inadvertently made it to the principal register in place of the supplemental), used confusingly as ***paid advertisement*** in the form of plastic decals on racecars [appearing on the racecars as ***Remington Arms]*** not ***Remington Racing*** [actually Remington Racing appears nowhere in commerce], apparently Remington Racing though registered is merely a euphemism for ***Remington Arms,*** which is decaled in plastic onto racing cars as paid for advertisement. *See attached racecar.* Either way ***the two*** (***Remington Racing*** or Remington Arms) are "descriptive," marks descriptive of there ***good.s*** Inasmuch as ***"famous"*** Mark FR® is an "arbitrary" mark distinguished by ***goods,*** it's Class 16 flatworks/art, (and by TBMP Rule), as such ***shall register.*** FR® Class16 is *prima facie* proof FR® ***goods*** distinguish the Mark, *see application files.* Dismissals of opposition in Classes 16 flatworks/art; 33 Tequila; and 12 extruded plastic auto parts by the Board in favor of applicant registering in those classes ***is in the interest of justice***, allowing for swift criminal enforcement against terrorists and organized crime counterfeiters and traffickers. FR® ***is famous*** for it's ***flatworks,*** for which it is legally determined to be a ***"famous"*** Mark. RAB which also is legally determined to be ***"famous"*** for it's ***guns***, or ROVCAL (RP) who sells electric shavers, but is legally determined ***not*** a famous Mark. Interestingly the TTAB is able to split hairs to determine the two opposers may use and register the identical mark Remington®, even produce and sell the identical products, via identical channels in commerce.

II. ARGUMENTS:

The TTAB opinion dated 6/30/05, is ***dead bang wrong*** as to the issues[1] of 1) discovery/sanctions, and 2.) Applicant's dispositive motions. 3) opposers untimely filed oppositions are TBMP/TTAB mandate fatal.

A. Interlocutory attorney Skoro's sanction of ***applicant will answer discovery without objection*** pursuant to TBMP § 527.01 (c) also see NO FEAR INC. V. RULE 54 USPQ2d 1551 (TTAB 2000') was ***illegal*** *ab initio*, as at all times relevant the proceedings were suspended pending dispositive motions decision by a panel of judges, see TBMP §102.03 (a panel of judges must rule) and § 510.03 (a) (proceedings suspended retroactively.) Thus, it is wrong for the TTAB to impose discovery sanctions until all pending dispositive motions are resolved by a panel of judges, and then **opposer must serve a new set of discovery** If applicant then fails to answer a proper motion to compel may be warranted. This however did ***not*** happen here.

Further note in opposition Nos 9115 9969, 9115 9998, 9116 0031, 9116 0041, 91160064. The opposer ***never filed*** a motion to compel discovery for Interlocutory attorney Skoro to base a sanction upon in these oppositions, not withstanding ***the fact*** the proceedings were [by Rule] suspended at all times relevant.

B. The TTAB panel opinion is incorrect, as the record clearly has enough ***fact*** (evidence) to resolve the issue of whether there is any relativeness/relatedness of the parties goods, which would likely cause confusion as to the source of the goods. See TTAB opinion 6/30/05, pages 5,6,7, *and the applications files.*

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[1] The TTAB's opinion ruled in controvention to TBMP § 306.04 as oppositions Nos 9115 2945, 9115 3719 were filed 125 days after publication, and oppositon No. 9115 3093, was filed 122 days after publication. Thus all of the initial oppositions should not have been included at all, as they were not filed within 120 days. Note the five day mail box rule does not apply to the last extension of time. Also note there was no extraordinary circumstances for the last extensions. See application file and TTAB opinion 6/30/05 at p.8. The TTAB opinion is dead bang wrong. See TTAB opinion 6/30/05, page 7-12.

The facts plainly show NO commonality between the parties goods, e.g., ***No one*** would be *confused* about [who is] the source, connection or sponsorship here of a bottle of Tequila (Ser. No. 76080802), as one would not associate guns with drinking hard liquor, the channels are wholly apart as well. In Short ***no one*** would be *confused* about the source of applicant's goods as there is NO commonality/relatedness between a party ***famous*** for ***guns*** and one who is ***famous*** for ***art works*** depicting life in early America.

Lastly the descriptive mark Remington Racing is only associated with Remington Arms sponsorship of a racing car for purposes of paid advertisement for [it's] guns, and gun related sports equipment. NOTE: both Remington Racing and Remington Arms are "descriptive marks." NOTE: Frederic Remington is an "arbitrary mark."

The TTAB has had ***all the necessary facts to*** summarily dismiss all the oppositions, because opposers can never show, any genuine likelihood of sustaining their oppositions as the two registered marks are diametrically opposite in what they are independently ***famous for*** e.g., manufacture of things that kill (Remington Arms), and art works which depict life. (Frederic Remington).

The TTAB has said that there is no confusion between the two identical marks Remington® (Remington Arms) and Remington® (Remington Products) RE: guns and gun related sporting goods vs. electric shavers. NOTE: When one is out on a hunting trip, one might carry a cordless shaver along.

CONCLUSION

In as much as it is the opposer here [R A BRANDS, LLC] being the only party having in fact refused altogether to answer or provide any portion of applicant discovery, not simply objecting to portions thereof. Applicant would believe then it perhaps a bit terse, and hardly in the interest of justice, to have subjected the applicant to such Rule violative infected thinking at both the Interlocutory and Board panel levels in these factually obvious frivolous oppositions. ***Most especially when it is the applicant only that has in fact responded*** to each and every opposer interrogatory and document request though [per Rule] applicant was under no obligation whatsoever to so do. The only party being damaged here is Frederic Remington® by having to defend against clearly frivolous oppositions amidst epidemic level global and domestic counterfeiting of American IP. Applicant has applied in earnest good faith to bolster protection for its "famous" Mark, and rights associated therewith, to defend against counterfeiters both foreign and their domestic facilitators. Opposers merely "sport-litigate" here in all oppositions having ***no genuine interest in the outcome,*** intentionally delaying critical registration for goods so apart from their own they cannot possibly prevail. Worse opposers have enjoyed to date ***oppositions not filed timely,*** continued TTAB entertaining of such dead oppositions as if timely, is another multiple of egregious TBMP Rule violations prejudicing the applicant, and applicant's registered "famous" Mark with incontestability. At a time in America where Under Secretary Jon Dudas travels speaking even to our children in schools to instill front line defenses of respect for American IP, our President declares war on the counterfeiting epidemic calling for harsh, swift, and vigorous criminal counterfeiting prosecutions with imprisonment.

For counterfeiting of American IP by organized crime, terrorists, and their willing foreign and domestic facilitators. Fighting amongst ourselves in the Office serves the enemies of the United States, not American IP or commerce/our economy. FREDERIC REMINGTON® is symbolic of the oval office and the presidency. FR® counterfeited is a slap in America's face. Register applicant for enforcement needs. *See application files re: made special specifically for enforcement needs.*

APPLICANT RESERVES THE RIGHT TO SUBSEQUENTLY SUPPLEMENT AND AMEND PETITION AND OR MOTION TO STAY

Dated: 7/28/2005

FREDERIC REMINGTON®TRUST 1861

,for the Trust

S. H. Yoo, Trustee, Pro Se
C/o Dean Shideler, Consultant
3539 Rolston Street
Fort Wayne, Indiana 46805-1537

Bluetooth

CERTIFICATE OF MAILING AND SERVICE

I hereby certify the foregoing PETITION TO THE DIRECTOR & MOTION TO STAY. PURSUANT TO TBMP §905 (e)(2) AND §905 (g) FROM TTAB INTERLOCUTORY ORDER DATED 6/30/2005. Fees enclosed is being deposited with the United States Postal Service as EXPRESS Mail # EQ 003387650 US, postage prepaid, in an envelope addressed to the United States Trademark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on the 28th day of July 2005, with copy to opposer: Womble, Carlyle, Sandridge & Rice, Randel S. Springer, One West Fourth Street, Winston-Salem, N.C. 27101

Dated: July 28, 2005

M. Lim

This was sent to TTAB 7-29-05

[redacted] TTAB

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

RA BRANDS, LLC, f.k.a. REMINGTON LICENSING CORP (RLC), REMINGTON ARMS CO. INC. (RACI)

Opposer,

v.

FREDERIC REMINGTON TRUST-1861;

Applicant.

Consolidated Opposition Nos.

91152945 - 76080801
91153093 - 76080805
91153719 - 76080802
91159969 - 76080812
91159998 - 76080808
91160031 - 76080806
91160041 - 76080804
91160064 - 76080809

MOTION TO TTAB TO STAY RE: PETITION TO THE DIRECTOR & MOTION TO STAY. PURSUANT TO TBMP § 905 (e)(2) and § 905 (g) FROM TTAB INTERLOCUTORY ORDER DATED 6/30/2005.

Applicant Frederic Remington, in pro se hereby submits pursuant to TBMP §905 (e)(2) its **Petition to Director** and TBMP §905(g) **Motion For Stay**.

Applicant, FREDERIC REMINGTON® TRUST 1861, in pro se, hereby submits pursuant to TBMP §905(g) its **Motion For Stay**, from the 6/30/05 Board Decision, and to suspend the proceedings pending the determination and findings of the Director pursuant TBMP §905 (e)(2) the Petitioner's review of the 6/30/05 TTAB decision.

Dated: July 29, 2005

FREDERIC REMINGTON® TRUST 1861

劉祥鎬

for the Trust

S. H. Yoo, Trustee
C/o Dean Shideler Consultant
3539 Rolston Street
Fort Wayne, IN 46805

08-03-2005
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RA

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c/o Dean Shideler
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FROM: Frederi[illegible] Trust 1861

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C.O.D. NO. OR USED FOR: Petition to commissioner fee

Re: 91152945 and 91162629 for relief from 6/30/05 deceis

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