TTAB

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

R A BRANDS, LLC Opposer,	)	OPPOSITION NO. 91160031
v.	)	**MOTION TO DISMISS OPPOSITION**
FREDERIC REMINGTON® TRUST 1861, Applicant.	)	(Assigned to Jyll S. Taylor, attorney)

Applicant in the matter of application Serial No. 76,080,806 for Paper Goods in International Class 016, 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 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 estopel 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.

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

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 **not** only frivolous it was **not** file "**WITHIN**" the **120 days 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 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.

This 5th day of May, 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 SERVICE

I hereby certify the foregoing Notice to TTAB No. 91160031 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 at the United States Trademark Office, Board of Appeals, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on the 7th day of June 2004, with copy to opposer:

- ☑ RAB counsel Randall S. Springer, One West Fourth Street, Winston-Salem,. North Carolina 27101 Phone (336) 721-3747, Fax (336) 726-6991.
- ☐ RPC counsel Joel K. Bedol, 60 Main Street, Bridgeport, CT 06604
- ☐ USPS GREEN LABEL TRACKING No._____
- ☐ FED-EX No._____
- ☑ FIRST CLASS MAIL_____

M. Lim

Examiner please see the 11/02/99 original 200 plus page Full Color class 016 filing by courier Fish & Nieve law offices N.Y. hand delievered to Janis C. Long 11/02/99, in Trademark Services, TTAB, presumed of file.

Thank you.