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

In the matter of trademark application
Serial No. 76/449,114 for "C THE POWER"
Published in the Official Gazette on August 5, 2003



04-05-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

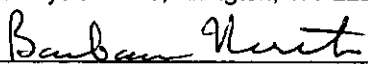
_____)
RIDDELL, INC. and RIDMARK)
CORPORATION,)
)
Opposers,)
)
v.)
)
CENTURY INCORPORATED,)
)
Applicant.)
_____)

Opposition No.:

Box TTAB-FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 76/449,114, filed September 13, 2002 in the name of Century Incorporated ("Applicant"), published in the Official Gazette of August 5, 2003 for the mark "C THE POWER", Riddell, Inc. and Ridmark Corporation ("Opposers") believe they will be damaged by registration of said alleged trademark, and hereby oppose same. The grounds for opposition are as follows:

<p><u>Certification of Mailing:</u> I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Box TTAB WITH FEE, Assistant Commissioner of Trademarks; 2900 Crystal Drive; Arlington, VA 22202-3513.</p>	
<p>April 1, 2004</p>	<p> _____ Barbara North</p>

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1. Riddell, Inc. is a corporation duly organized and existing under the laws of the State of Illinois, and having its address at 3670 North Milwaukee Avenue, Chicago, IL 60641.

2. Ridmark Corporation is a corporation duly organized and existing under the laws of the State of Delaware, and having its address at 3670 North Milwaukee Avenue, Chicago, IL 60641.

3. Opposers are engaged in the manufacture, distribution, marketing, sale, advertising and promotion of a variety of sporting goods and sports equipment.

4. Prior to the filing date of the application proposed herein, Opposers continuously have used the names and marks **POWER** and **POWER PAC** both with and without designs (hereinafter collectively referred to as the "**POWER** Marks") to identify and designate a variety of goods, including, but not limited to, sports equipment, and to distinguish those goods from those of others. Since Opposers' initial use of its **POWER** Mark(s), Opposers have continuously used, advertised, promoted and offered their goods under the **POWER** Marks to the public through various channels of trade in interstate commerce, with the result that customers have come to know and recognize Opposers' **POWER** Marks and to associate same with Opposers and/or the goods advertised, marketed, distributed, manufactured and/or sold by or on behalf of Opposers Riddell, Inc. and Ridmark Corporation.

5. Opposers are the owners of, and will rely upon herein, the following U.S. trademark registrations:

MARK	REG. NO.	DATE	GOODS/SERVICES
POWER	1,537,482	2/5/87	Baseball equipment, namely catcher's protective equipment, namely facemask and shin guards; batting gloves; catcher's gloves; baseball fielder's gloves; baseball bats; softball bats; hockey equipment, namely shin guards, shoulder pads, hockey sticks, hockey gloves; balls, namely baseballs, volleyballs, soccer balls, softballs, and golf balls.
POWER	1,922,193	9/26/95	Athletic equipment, namely hockey protective pads for various parts of the body, namely shoulder pads, elbow pads, rib pads, spine pads, shin guards, and goalie cup supporters
POWER & Design	2,039,625	2/25/97	Baseball equipment, namely catcher's protective equipment, namely facemask and shin guards; batting gloves; catcher's gloves; baseball fielder's gloves; hockey equipment, namely shin guards, shoulder pads, hockey sticks, hockey gloves; balls, namely volleyballs, soccer balls.
POWER & Design	1,711,910	9/12/89	Athletic equipment, namely, football protective pads for various parts of the body, such as shoulder pads, chest pads and thigh pads.
POWER PAC	1,809,340	9/12/89	Athletic equipment; namely, football protective pads for various parts of the body, such as shoulder pads, chest pads, and thigh pads.

Each of the registrations listed above operates as *prima facie* and/or conclusive evidence of Opposers' ownership of the marks set forth therein and exclusive right to use same in connection with the goods listed in those registrations. See 15 U.S.C. §§ 1065 and 1115(b) (the foregoing are referred to herein as "POWER Registrations").

6. Upon information and belief, on September 13, 2002, Applicant filed an application for registration of the mark "C THE POWER," based on an alleged intention to use same. Said application was assigned Serial No. 76/449,114 and was published for opposition in the Official Gazette of August 5, 2003 identifying the goods as "exercise

equipment, namely, weightlifting benches, weight lifting machines, lower body stretching machines, slant boards, dumbbell racks, weight lifting plate trees, weight lifting gloves, fitness balls, and chin-up/sit-up bars; and boxing and martial arts gear, namely, jump ropes, medicine balls, boxing bags, boxing target mitts, boxing gloves, body shields, head guards for boxing, head guards for marital arts, kick boards, handwraps, shin guards, forearm guards, rib guards, foot guards, mouthguards, athletic supporters, athletic cups, and female groin pads" in class 28.

7. By virtue of Opposers' extensive use in commerce of the POWER Marks and POWER Registrations in the United States, the relevant trade and public have come to associate goods and services bearing its POWER Marks with Opposers.

8. Opposers' first use and/or registration of its POWER Marks in connection with its goods predates Applicant's filing date set forth in its application to register "C THE POWER" herein opposed.

9. The proposed goods of Applicant and the goods of Opposers, offered under the trademark POWER are identical and/or substantially similar and/or related.

10. Applicant's C THE POWER, as applied to the goods set forth in the application herein opposed, so resembles Opposers' POWER Marks and POWER Registrations that it is likely to cause confusion, mistake and/or deception.

11. If Applicant is permitted to register "C THE POWER" for the goods set forth in the application, confusion of the trade and public is likely to result, such confusion resulting in damage and injury to Opposers.

12. Purchasers and potential purchasers, upon seeing Applicant's "C THE POWER" mark used in connection with its goods are likely to believe, in error, that such goods are offered in association or affiliation with or under license from Opposers.

13. If Applicant is permitted to register its mark for the goods set forth in the application herein opposed, confusion of the relevant trade and public resulting in damage and injury to Opposers would be likely to result. Any persons familiar with the goods of Opposers would be likely to assume that Applicant's goods are sponsored by or produced under license from or otherwise affiliated with Opposers. Furthermore, any objection to or fault found with Applicant's goods provided under its mark would necessarily reflect on and seriously injure the reputation that Opposers have established for its services and products sold under its POWER Marks and POWER Registrations.

14. If Applicant were granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposers.

WHEREFORE, Opposers pray that registration of the mark of application No. 76/449,114 be refused and that this opposition be sustained.

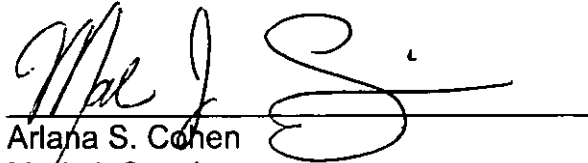
A duplicate copy of this Notice of this Opposition is enclosed herewith.

The filing fee of \$600.00 is enclosed herewith and any additional fees or deficiencies deemed to be due and owing in connection with this opposition may be charged to Deposit Account No. 19-4516 and any overpayment may be credited thereto

DATED: April 1, 2004.

Respectfully submitted,

By:

A handwritten signature in cursive script, appearing to read 'Mark J. Speciner', is written over a horizontal line.

Arlana S. Cohen

Mark J. Speciner

ST. ONGE, STEWARD, JOHNSTON & REENS, LLC

Attorneys for the Opposers

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