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

Proceeding	91162348
Party	Defendant Sport Supply Group, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SARA LEE GLOBAL FINANCE, L.L.C.,

Opposer,

vs.

SPORT SUPPLY GROUP, INC.,

Applicant.

Opposition No. 91162348

**APPLICANT'S MOTION TO COMPEL, TO SUSPEND
THE PROCEEDINGS AND TO RESET THE TRIAL DATES,
and
APPLICANT'S CONDITIONAL MOTION FOR RECONSIDERATION**

COMES NOW the Applicant, Sport Supply Group, Inc. [hereinafter "Sport Supply" or "Applicant"], through its undersigned counsel, and hereby moves for an Order from the Trademark Trial and Appeal Board (the "Board") compelling Opposer to serve responses to Applicant's interrogatories and document requests and to produce responsive documents. Additionally, Applicant requests that the Board suspend these proceedings and reset the discovery and trial dates upon lifting the suspension.

Only to the extent deemed necessary by the Board, Applicant requests reconsideration of the Board's March 27, 2009 Order regarding the close of Applicant's discovery period vis a vis the opening of the testimony period.

In further support of this Motion, Applicant states as follows:

I. Background and Argument

On February 13, 2009, Applicant served written discovery on Opposer, including Applicant's First Set of Interrogatories and Applicant's First Set of Requests for Production of Documents.¹ See Applicant's interrogatories and document requests, attached hereto as Exhibit A. Responses to these discovery requests were due to be served thirty-five (35) days later, or by March 20, 2009. See 37 C.F.R. §§2.119(c) and 2.120(a); and TBMP §§113.05 and 403.03.

To date, Opposer has not served responses to Applicant's written discovery. Applicant's counsel has raised this delinquency with Opposer's counsel by phone and email; however, Opposer has not served the responses and Opposer's counsel has not provided a date by when the responses would be served.

Accordingly, Applicant files the present Motion to compel and respectfully requests that Opposer be ordered to respond to Applicant's interrogatories and document requests without the privilege of interposing any objections, and to mail its document production to Applicant's counsel.²

¹ Applicant also served Applicant's First Request for Admissions on February 13, 2009. Since Opposer has not timely served responses, Applicant understands that "the requests will stand admitted (automatically)" by operation of law. See Trademark Trial and Appeal Board Manual of Practice ("TBMP") §527.04 and §411.01. Thus, Applicant does not move the Board relative to Opposer's responses to Applicant's First Request for Admissions.

² A "party which fails to respond to a request for discovery during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits." TBMP § 403.03 and §527.03. See also *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448 (TTAB 1979) ("a party who fails to respond to a request for discovery during the time allowed therefore is deemed to have forfeited his right to object to the request on its merits unless he can show that failure to timely respond was the result of excusable neglect"); *MacMillan Bloedel Ltd. v. Arrow-M Corp.*, 203 USPQ 952 (TTAB 1979) (same); and *Crane Co. v. Shimano Industrial Co.*, 184 USPQ 691 (TTAB 1975) (same).

Pursuant to Rule 2.120(e) of the Trademark Rules of Practice, Applicant's counsel states that he has made a good faith effort to resolve with the other party or the attorney therefor the issues presented in the motion, and has been unable to reach agreement.

**II. Request for Suspension and/or
Conditional Request for Reconsideration of Board's March 27 Order**

Applicant understands that this proceeding will be suspended based on the filing of this Motion to Compel, pursuant to Trademark Rule 2.120(e)(2). Nevertheless, Applicant requests that the proceeding be suspended to allow the Board to consider the present Motion (and any responsive filings), to issue an Order and, if appropriate, to allow Opposer time to comply with any such Order.

Applicant further understands that, upon resumption, the two week discovery period (for Applicant only) and the trial dates will be reset such that the two week discovery period (for Applicant only) will close two weeks after the deadline for Opposer to serve discovery responses and that the opening of the first testimony period will be set for two months after the close of Applicant's discovery period; and Applicant respectfully requests this relief. Nevertheless, and only to the extent deemed necessary by the Board, Applicant seeks reconsideration of that portion of the March 27, 2009 Order which did not extend the trial schedule, for the following reasons.

On February 13, 2009, Applicant filed a "Motion for Extension of Discovery Period for Applicant Only to Take Follow up Discovery", which sought an order extending the discovery period for Applicant only. The length of the requested extension was two (2) weeks from the date of the Order on said motion or the service of Applicant's discovery responses, which was to occur later in time.

On March 27, 2009, the Board granted Applicant's Motion and set the close of Applicant's discovery period for April 10, 2009. However, the Order did not reset the testimony periods ("Trial dates remain as set in the Board's January 12, 2009 order"). Accordingly, Opposer's testimony period opens on April 14, 2009 – just two (2) business days after Applicant's extended discovery period closes. Applicant submits that the Order should have reset the trial dates, as well. *See* TBMP §509.02 ("The resetting of the closing date for discovery will result in the automatic rescheduling of the testimony periods by the Board."). Otherwise, any discovery responses would be served after the close of Opposer's testimony period. Not only would this preclude pre-trial preparation, but, since a party cannot compel an opposing party to respond to discovery after the first testimony period has opened, Applicant would be without recourse should Opposer fail to respond to the discovery.

III. Conclusion

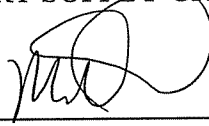
For all the foregoing reasons, Applicant respectfully requests that the Board GRANT Applicant's Motion to Compel; and issue an Order to: 1) compel Opposer to immediately serve answers to interrogatories and responses to document requests, *without* the privilege of interposing any objections; 2) compel Opposer to serve its document production by mail on counsel for Applicant at Opposer's expense, 3) advise Opposer that the failure to timely serve responses and documents in accordance therewith, or otherwise comply with any discovery order the Board may issue, subjects Opposer to judgment by default; 4) suspend these proceedings; and 5) reset the discovery and trial dates, as follows: reset the close of Applicant's discovery period for two weeks after the deadline for Opposer to serve its discovery responses, and reset the opening of the trial period for two months after the close of Applicant's discovery period.

Respectfully Submitted,

SPORT SUPPLY GROUP, INC

April 10, 2009

By:



Simor L. Moskowitz
Matthew J. Cuccias
JACOBSON HOLMAN, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of April, 2009, a true copy of the foregoing Applicant's Motion to Compel, to Suspend the Proceedings and to Reset the Trial Dates, and Applicant's Conditional Motion for Reconsideration was served by first-class mail, postage prepaid, upon counsel for Applicant:

Joshua S. Bish, Esquire
Reed Smith, LLP
435 Sixth Avenue
Pittsburgh, Pennsylvania 15219-1886



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

SARA LEE GLOBAL FINANCE, L.L.C.,

Opposer,

vs.

SPORT SUPPLY GROUP, INC.,

Applicant.

Opposition No. 91162348

**OPPOSER'S MOTION TO COMPEL, TO SUSPEND
THE PROCEEDINGS AND TO RESET THE TRIAL DATES**

Exhibit A

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

SARA LEE GLOBAL FINANCE, L.L.C,

Opposer,

vs.

SPORT SUPPLY GROUP, INC.

Applicant.

Opposition No. 91162348

APPLICANT'S FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. P. 33, and Rule 2.120 of the Trademark Rules of Practice, Applicant, requests that Opposer answer, in writing and under oath, the interrogatories propounded below. Such responses must be made within thirty (30) days of service of these interrogatories, in accordance with the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

INTRODUCTION AND DEFINITIONS

A. As used herein, the term "person(s)" includes not only natural persons, officers, managing agents, supervisory personnel, and employees, but also includes, without limitation, firms, partnerships, associations, corporations and other legal entities, divisions, departments or other units thereof.

B. "Applicant" shall mean the nominal Applicant, Sport Supply Group, Inc.

C. "Opposer" shall mean the nominal Opposer, SARA LEE GLOBAL FINANCE, L.L.C., and any predecessor(s) or successor(s) in interest (including but not limited to, HBI Branded Apparel Enterprises, LLC), and any partnership and/or corporation in which SARA LEE GLOBAL FINANCE, L.L.C. have an ownership interest and/or controls and which use Opposer's Marks in any way, as well as all divisions, franchisees, sub-franchisors, affiliated sales associates, licensees,

parent, subsidiary, affiliated or related companies thereof, and the partners, principals, directors, officers, agents and employees thereof. When an answer is supplied with respect to any predecessor or successor in interest, division, franchisees, sub-franchisors, affiliated sales associates, licensee, parent, subsidiary, affiliated or related company, this fact should be stated and such entity should be fully identified by name and principal place of business.

D. As used herein, the term "Opposer's Marks" shall refer individually and/or collectively to the marks pleaded in the Notice of Opposition filed in this proceeding in any and all formats, used alone or in combination with any other word(s) or design(s), or symbol(s) as used by Opposer.

E. As used herein, the term "Applicant Mark" refers to the mark of Application Serial No. 76/494,961.

F. As used herein, the term "document" is used in its broadest sense and means all documents, electronically-stored information, and tangible things listed or referred to in Rule 34(a)(1)(A) and (B) of the Federal Rules of Civil Procedure.

G. As used herein, "communication" is used in its broadest sense, to include, without limitation, the following:

- (1) any document, as defined in paragraph F, above; and
- (2) any conversation, discussion, dialogue, conference, report, message, account, interview, exchange, and/or consultation, whether oral or written.

H. "Identify" or "identification" with respect to a person, means provide the person's:

- (1) name;
- (2) last known residential address;

- (3) last known business address;
- (4) last known employer or business affiliation; and
- (5) occupation and business position held.

I. "Identify" or "identification" with respect to a company, partnership, firm, corporation or other non-juristic person, shall mean provide:

- (1) the name;
- (2) if incorporated, the place of incorporation;
- (3) if unincorporated, the name of the partners and/or principals; and
- (4) the address of such entity's principal place of business.

J. "Identify" or "identification" with respect to a document, shall mean provide:

(1) the identity of the person or persons who prepared it, the sender, and all recipient(s), if any;

- (2) the title of the document;
- (3) a description of the general nature of its subject matter(s);
- (4) the date of preparation;
- (5) the date and manner of distribution and publication, if any;
- (6) the location of each copy, and the identity of the present custodian; and
- (7) the identity of the person or persons who can identify and/or authenticate it.

K. "Identify" or "identification" with respect to an act, occurrence, circumstance, or event (collectively "act"), shall mean providing:

- (1) a description of the act;
- (2) the date(s) the act occurred;

- (3) where the act occurred;
- (4) the identity of the person or persons performing said act (or, in the case of an omission, the identity of the person or persons failing to act);
- (5) the identity of all persons who have any knowledge or information, about or regarding the act, including the identity of each witness to the act;
- (6) when the act, or omission, first became known to Opposer; and
- (7) the circumstances and manner in which knowledge of the act was first obtained by Opposer.

L. "Identify" or "identification" with respect to goods, products, or services shall mean:

- (1) state the common descriptive name of said good, product or service;
- (2) state the model number, identify the manufacturer and location of manufacture thereof;
- (3) provide a detailed description of the purpose, function, and/or application of said good, product or service; and
- (4) describe in detail the channels of trade in which such product or service is sold and/or rendered.

M. "Identify" or "identification" with respect to a search, survey, poll, or other investigation (collectively "search") shall mean:

- (1) state the date and location of the search;
- (2) identify and describe all documents examined or investigated in connection with the search;

(3) if applicable, state the size of the sample surveyed, how that sample was selected, and the questions asked;

(4) identify each person(s) who conducted the search;

(5) state all results and conclusions of the search, including, if applicable, each answer to each question posed;

(6) with respect to a search or similar investigation, identify each reference disclosed by providing the mark or name which is the subject of such reference, the owner of the mark or name, the Applicant or applicant, the registration or serial number, and the goods and services listed in, or in connection with, such reference;

(7) identify each person who rendered any conclusions or opinion relating to such search;

(8) identify each person to whom the results, in whole or in part, of such search and/or any conclusion or opinion relating to such search, were communicated, and the date(s) of such communication;

(9) identify each person who has knowledge or information with respect to the search; and

(10) identify all documents which contain any results of, and/or refer or relate in any way to, such search.

N. "Advertising" and/or "promotional materials" shall mean, without limitation, advertisements, including advertising copy, advertising slicks, and line art; product packaging, labels, brochures, photographs, product sheets, point of sale displays, audio or video tapes; catalogues or other product guide books; signage, price lists, warranty information, and/or any other document or

material used and/or distributed to promote and/or solicit business, shipments, sales, and/or orders of products or services of Opposer.

O. "Identify" or "identification" with respect to "channels of trade" with respect to a product or service shall mean, without limitation:

- (1) describe the circumstances surrounding the sale, distribution and/or rendition of such product/service; and
- (2) state whether sales are through any one, or more, of the following means:
 - (a) retail,
 - (b) wholesale,
 - (c) direct mail,
 - (d) mail order,
 - (e) catalogue,
 - (f) subscription,
 - (g) visits by salespersons,
 - (h) direct contact with customers,
 - (i) provision of sample goods or services,
 - (j) trade shows,
 - (k) other means, and if so, describe the nature of the sale,
 - (l) any combination of the above sub-sections (a) through (k) inclusive,

of this definition, and if so, identify the applicable channels.

P. As used herein, "media" or "medium" shall be construed to comprise newspapers, consumer magazines, trade publications, trade shows, catalogues, electronic communications, the

Internet, and any means of audio or video transmission, and "identify" or "identification" with respect to "media" or "medium" shall mean, without limitation:

(1) provide, for each print medium: the name of the publication or print media; the date; volume number; geographical area and size of circulation; and if directed to a particular trade, industry, or type of reader/customer, describe such trade/ industry/reader;

(2) provide, for each audio and video transmission (including radio and television): the station and/or network on which such transmission was broadcast; the geographical area of broadcast; and the date of each broadcast;

(3) provide, for each direct mailing or other direct distribution: the geographic area and dates of such distribution; the number of such mailings/direct distributions sent or disseminated; a general description of the persons to whom distributed; and if a mailing list was used, the source and identification of each such mailing list;

(4) identify, for each medium referring or relating in any way to Opposer's products or services, the specifically referenced product(s) or service(s) and mark(s) therefor; and

(5) identify the persons employed or associated with Opposer who have most knowledge of same.

Q. "Identify" or "identification" with respect to any advertisement or promotional materials shall mean:

(1) identify the medium in which such advertisement/promotional material was published, broadcast or otherwise disseminated;

(2) identify each person who created, ordered, distributed and/or placed such advertisement;

(3) state where, when, and to whom said advertisement or promotional material, and/or copies of same, were distributed, and the number of copies distributed at each such place and time; and

(4) identify documents which would show when and where the advertisement was placed/broadcast/distributed and the costs thereof, including an identification of the advertisement itself.

R. "Identify" or "identification" with respect to "price" or "cost", shall mean, without limitation, the retail (or suggested retail), and wholesale, price or cost to the purchaser of the subject product and/or service.

S. "Identify" or "identification" with respect to a retail outlet or store shall mean:

- (1) the retail outlet or store name;
- (2) the address of the retail outlet or store;
- (3) the owner(s) of the retail outlet or store;
- (4) the date on which the retail outlet or store was first opened to the public; and
- (5) to identify the products, services, and business offered or rendered by or from such retail outlet or store.

T. "Identify" or "identification" with respect to an agreement, an assignment, license, understanding, or other contract or grant or transfer of rights, (collectively "agreement") shall mean:

- (1) identify the type of agreement, *e.g.* "assignment", "license", "consent to use", "distributorship agreement", etc.;
- (2) state the date and term of duration of the agreement, and whether such still is in effect;

- (3) identify the geographic scope of the agreement;
- (4) identify the parties to the agreement;
- (5) state whether the agreement is oral or in writing;
- (6) describe in detail any rights and/or property transferred by the agreement,

including whether the goodwill in any business, in whole or in part, was transferred as part of, or in connection with, the agreement and, if so, describe in detail the nature and extent of any goodwill assigned, licensed, granted, or transferred;

(7) if the agreement is a trademark or service mark license, identify the manner of control which is, or was, to be exercised with respect to the quality and character of the goods or services, on or in connection with which any affected mark was to be, or has been, used under such agreement;

(8) state whether the assignor, licensor, grantor, transferor still was doing business at the time of the assignment, license, understanding, grant, transfer;

(9) state whether the assignment/grant/transfer was one in bankruptcy;

(10) state whether the agreement was recorded in the Patent and Trademark Office or any other public record and, if so, state the date and place of such recordation(s);

(11) state in detail the conditions and terms of such agreement;

(12) identify all documents which evidence or refer or relate in any way to such agreement, including the agreement itself, if in writing;

(13) identify each person who drafted and/or participated in any way in the negotiations and/or drafting of the agreement, and/or who approved the same; and

(14) identify each person involved in or who has participated in the enforcement and/or execution of the agreement.

U. "Identify" or "identification" with respect to any objection or complaint regarding the use of a name or mark, lawsuit, opposition, cancellation, or other *inter partes* proceeding, shall mean identify:

(1) the person making the objection or complaint and/or on whose behalf the objection or complaint was made and/or who brought such lawsuit, opposition, cancellation or other *inter partes* proceeding;

(2) the date when such objections, complaint, lawsuit, opposition, cancellation or other proceeding was made and/or instituted;

(3) with respect to any lawsuit or proceeding, the parties thereto;

(4) the civil action or docket number and/or other identifying indicator used by the tribunal before whom such was brought;

(5) the court or other tribunal before whom the proceeding was brought;

(6) the trademark(s) and/or service mark(s) at issue; and

(7) the disposition and/or resolution of such objection, complaint or proceeding;

V. "Identify" or "identification" with respect to "expert witness", shall mean, without limitation:

(1) identify such person;

(2) describe the qualifications for such expert;

(3) identify all articles, books or other publications authored in whole or in part by such expert;

(4) identify all documents which such expert has reviewed and/or upon which such expert may rely in connection with his or her testimony; and

(5) provide all of the information set forth in Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure.

W. "Identify" or "identification" with respect to a trademark or service mark registration or application shall mean:

(1) the identification of the agency or office and when filed, and/or who issued such registration;

(2) the names of the applicant and Applicant;

(3) the serial and registration number;

(4) the filing and issue date(s);

(5) the present status thereof;

(6) if registration was refused, the reason(s) for such refusal;

(7) identify all documents referring to such registration/application filed in connection with such registration or application including the registration/application itself.

(8) identify whether any assignment or other documents have been received, and if so, what and when in connection with such registration application.

X. "Identify" or "identification" with respect to an instance of confusion or mistake and/or an instance where a person thought, arrived or otherwise indicated a belief there may be an association between the parties herein and/or other products or businesses means state:

(1) the identity of the person(s) confused or mistaken;

(2) the details of such event, including the “mistake” made and the substance of the “confusion”;

(3) the date and place of such event and/or instance of mistake or confusion;

(4) a description of the details of the manner in which such confusion, mistake, belief, assumption or indication was communicated or came to the attention of Opposer;

(5) the details of the response or communication, if any, made by or on behalf of Opposer, directly or indirectly, to the person so confused or mistaken or who communicated such confusion or mistake to Opposer;

(6) the identity of each person having knowledge of such confusion or mistake;
and

(7) the identity of all documents and communications which refer or relate in any way to such confusion or mistake.

Y. As used herein, “and” or “or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

AA. As used herein, “referring or relating to” means comprising, relating to, referring to or in any way relevant within the meaning of Rule 26(b)(1) of the Federal Rules of Civil Procedure.

BB. If Opposer is aware that a document or a group of documents once existed, but has been destroyed, in addition to the identification of the document as described herein, Opposer also is requested to state when the document or group of documents was destroyed, who destroyed it, why it was destroyed, and the circumstances under which it was destroyed.

CC. With respect to each document withheld on the ground of a claim of attorney-client privilege or the work product doctrine, identify such document in accordance with these definitions and instructions, and state in detail the basis and nature of such claim of privilege.

DD. These interrogatories shall be deemed to be continuing, requiring Opposer to serve upon Applicant amended or supplemental answers promptly after Opposer has acquired additional knowledge or information relating in any way to such interrogatories.

EE. With respect to any interrogatory which is asserted to be overbroad, or unduly burdensome, state all information requested which can be provided without undue burden, and/or which is relevant or might lead to the discovery of admissible evidence.

FF. Unless otherwise indicated, all discovery requests should be interpreted as referring to activities within the United States and/or interstate commerce and/or commerce which is regulatable by the Congress.

GG. "Pro Sports, Inc." shall mean the New Jersey corporation which filed trademark application Serial No. 75/896,424.

HH. "C Mark" shall mean any mark comprised of the letter "C", where the letter "C" is either alone, with a design element, or (if with other letters/words) differentiated from the other letters/words.

II. "Opposer's Goods" shall mean the goods listed in the registrations and applications Opposer pleaded in the Notice of Opposition.

INTERROGATORIES

1. State in detail the factual basis for Opposer's allegation in paragraph 1 of the Notice of Opposition that "Opposer is now, and its predecessors in interest and licensees have been engaged in the manufacture, distribution, and sale of men's, women's, and children's athletic apparel and other related products specifically directed to the field of athletics and sports."
2. State in detail the factual basis for Opposer's allegation in paragraph 2 of the Notice of Opposition that Opposer is the record owner of the registrations identified in paragraph 2 for the CHAMPION and C LOGO marks used alone and in conjunction with other words and design marks.
3. State in detail the factual basis for Opposer's allegation in paragraph 2 of the Notice of Opposition that the registrations identified in paragraph 2 of the Notice of Opposition "are valid and subsisting, unrevoked, and uncanceled, and Opposer is the owner of them and the marks shown thereby and all of the business and goodwill represented thereby".
4. State in detail the factual basis for Opposer's allegation in paragraph 4 of the Notice of Opposition that "[f]or many years, and long prior to Applicant's filing date, Opposer, Opposer's predecessors in interest, and Opposer's licensees have continuously used the CHAMPION Trademarks in interstate commerce throughout the United States for the purpose of identifying Opposer's products and to distinguish those goods from the products of other manufactures [sic]."
5. State in detail the factual basis for Opposer's allegation in paragraph 5 of the Notice of Opposition that "[e]ver since the adoption and use of the CHAMPION Trademarks as aforesaid, Opposer, Opposer's predecessors in interest, and Opposer's licensees have widely and extensively advertised and sold goods bearing said CHAMPION Trademarks. As a consequence of same, the consuming public and trade have come to recognize and do recognize the CHAMPION Trademark

[sic] as being used by Opposer or by a single source, and to associate and identify said mark and name with Opposer or with a single source, and Opposer derives substantial goods will and value from the aforesaid identification by the consuming public and trade.”

6. State in detail the factual basis for Opposer's allegation in paragraph 6 of the Notice of Opposition that the goods and services identified in the opposed application “are identical and closely related to the goods for which Opposer has registrations and upon which it uses, and applied to use the CHAMPION Trademarks.”

7. State in detail the factual basis for Opposer's allegation in paragraph 7 of the Notice of Opposition that “Opposer’s CHAMPION Trademarks and Applicant’s CHAMPION BARBELL and Design mark is confusingly similar in sight, sound and meaning; and is likely to cause confusion and mistake and to deceive, with consequent injury to Opposer, the consuming public, and the trade.”

8. State in detail the factual basis for Opposer's allegation in paragraph 8 of the Notice of Opposition that “Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant’s mark sought to be registered, and will give color and exclusive statutory right to Applicant in violation and derogation of prior and superior rights of Opposer.”

9. Identify each judicial or administrative proceeding involving Opposer in which the adverse party used and/or attempted to register any mark for tires that consisted of or contained the word "CHAMPION" or a “C” Logo and for each identified proceeding, state: (a) whether it is currently pending, was settled, or was disposed of by the entry of judgment or dismissal; (b) the marks involved; (c) if settled or disposed of by the entry of judgment or dismissal, whether the

adverse party uses or registered the subject mark; and (d) if settled, the materials terms of any settlement, co-existence, or other agreement between Opposer and the adverse party.

10. Identify each person known to Opposer to have used and/or attempted to register any mark for clothing or athletic equipment (or accessories) that consisted of or contained the word "CHAMPION" or a "C" Logo and for each such user, state: (a) the mark used and the goods on which it was used; (b) the nature, duration, and extent of the use; (c) whether Opposer took any action against the user and the use and, if so, the nature and result of such action; and (d) whether the use continues at present.

11. If Opposer authorized or permitted any third party to use Opposer's Marks, or any mark comprising the word "champion" or a "C Mark", through license, other authorization, or by failure to assert its trademark or service mark rights against any third party, then identify each such third party, the third party's service mark or trademark, the means by which the third party was authorized or permitted to use the mark, the term during which the third party was, is or will be able to use Opposer's Mark or similar mark, the geographic area in which the third party was, is or will be able to use Opposer's Mark or similar mark and all documents relating thereto.

12. State whether Opposer contends in this opposition that the Opposer's Marks, or any subset of Opposer's Marks, are famous in the United States and, if so, state: (a) which of Opposer's Marks Opposer contends is famous; (b) the goods and/or services for which Opposer contends each identified mark is famous; and (c) the factual basis for that contention.

13. State in round United States dollars the annual sales of treadmills, elliptical trainers and stationary exercise bikes under any of Opposer's Marks since 2000.

14. With respect to each of the Opposer's Marks, state whether there have been any periods when any mark has not been used by Opposer in connection with any of Opposer's Goods and, with respect to each such period of non-use, identify the goods and state: (I) the reason for the non-use of the mark; (ii) the duration of the period(s) of non-use of the mark; and (iii) whether use of the mark was resumed.

15. For each of Opposer's Marks, identify each product and/or service in connection with which the mark has been used, and identify:

(a) the period of time during which that mark has been used with said product/service;

(b) if the use was by a person other than Opposer, identify that person, and state in detail the basis upon which Opposer claims such use inures, or will inure, to its benefit;

(c) the annual sales of such product/service (in dollars and unit volume) from the date of first use of Opposer's Mark in connection with such product/service, through the present;

(d) each price/fee charged and/or paid to Opposer for such products/services; and

(e) each state in which such product and/or service has been sold under or in connection with Opposer's Mark.

16. Identify each survey, search or other investigation conducted and/or obtained with respect to Opposer's Marks, Applicant's Mark, any mark comprised of the word "champion" or the "C Mark" and/or the actual, potential, or intended market, and/or the actual, potential, or intended customers of, or consumers for, the services to be offered and/or rendered under or in connection with Opposer's Marks and/or Applicant's Mark.

17. For each of Opposer's Marks:

(a) State the volume (in dollars) of advertising under and/or in connection with Opposer's Mark on an annual basis since such advertising commenced.

(b) Identify (by year) each medium in which Opposer's Mark has been listed, advertised, promoted, offered for sale and/or sold, and/or in which the products sold or services offered under Opposer's Mark has been listed, advertised, promoted, offered for sale and/or sold.

18. Identify (by year) each broker, sales representative, distributor, wholesaler, each retail outlet, trade show, catalog, and Internet web site and/or other electronic means, to and/or through which Opposer's goods and/or services have been advertised, promoted, offered for sale, shipped, distributed and/or sold, under or in connection with each of Opposer's Marks.

19. Identify each agreement, assignment, license, contract, consent grant, or transfer of rights which concerns, refers or relates to any of Opposer's Marks and/or any rights in connection with such marks.

20. (a) Identify each person who participated in the selection, creation, and/or decision to adopt and/or to use each of Opposer's Marks; and

(b) Describe in detail the reasons for and/or relating to the selection and adoption of each of Opposer's Marks.

21. (a) Identify all persons employed by Opposer, and/or persons affiliated with, or contracted by Opposer, responsible for advertising any of Opposer's Marks and/or the goods/services sold or advertised under any of Opposer's Marks; and

(b) Identify the person(s) responsible for, or if there is no such person with the most knowledge of, the marketing of goods/services sold in connection with each of Opposer's

Marks. (As used in this interrogatory, the term "marketing" includes but is not limited to, the customers, channels of trade, and type(s) of outlets where such goods are or will be offered for sale and/or sold.)

22. Identify the date and circumstances under which Opposer first became aware of Applicant's Mark; the actual or possible use in any manner by Applicant of Applicant's Mark; and the goods/services sold under the Applicant's Mark.

23. Identify each and every trademark and service mark registration you believe relevant to this proceeding, including for each, the reason(s) why you believe such to be relevant.

24. (a) Is Opposer aware of any instance of actual confusion or mistake regarding it and Applicant, their respective goods, services, or businesses, and/or any of Opposer's Marks and Applicant's Mark?

(b) Has Opposer received any communication addressed or directed to, or which mentions, refers or relates in any way to, Applicant, Applicant's Mark and/or Applicant's products or services?

(c) Is Opposer aware of any instance where any person thought, assumed or otherwise indicated a belief that there is or may be an association between Applicant and Opposer, Applicant's Mark and Opposer's Marks, and/or the respective products or services or businesses of Applicant and Opposer?

25. (a) If the answer to Interrogatory No. 24(a), above, is other than an unqualified negative, identify each instance of confusion or mistake.

(b) If the answer to Interrogatory No. 24(b), above, is other than an unqualified negative, identify each such communication to which that interrogatory refers.

(c) If the answer to Interrogatory No. 24(c), above, is other than an unqualified negative, identify each such instance where any person thought, assumed or otherwise indicated a belief that there is or may be an association between Applicant and Opposer and/or their respective products, services or businesses.

26. Identify each objection, complaint, lawsuit, opposition, cancellation and other *inter partes* proceeding involving any of Opposer's Marks and/or with respect to, and/or in which Opposer asserted any rights therein.

27. Identify each expert witness who has been consulted and/or who may be called by Opposer to testify in this proceeding.

28. Identify, by request number, each request in Applicant's First Request for Production of Documents served in this opposition for which (a) Opposer has not or will not produce any documents; and/or (b) there are no responsive documents in Opposer's possession, custody or control.

29. If Opposer's response to Request No. 2 of Applicant's First Request for Admissions, served concurrently herewith, is anything other than an unqualified admission, identify the documents produced by Opposer which are not business records of Opposer kept in the normal course of Opposer's business.

30. If Opposer's response to Request No. 3 of Applicant's First Request for Admissions, served concurrently herewith, is anything other than an unqualified admission, identify the documents produced by Opposer which are not admissible as evidence in this proceeding.

31. Describe the relationship, if any, between Opposer and Pro Sports, Inc.

32. Identify the person(s) with the most knowledge regarding Opposer's use of each of Opposer's Marks.

SPORT SUPPLY GROUP

By: 

Simor L. Moskowitz
Matthew J. Cuccias
JACOBSON HOLMAN, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
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February 13, 2009

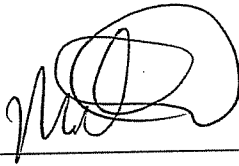
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Applicant's First Set of Interrogatories to be served by first-class mail, postage prepaid, upon counsel for Opposer:

Joshua S. Bish, Esq.
REED SMITH LLP
435 Sixth Avenue
Pittsburgh, PA 15219-1886

on this 13th day of February, 2009



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

SARA LEE GLOBAL FINANCE, L.L.C,

Opposer,

vs.

SPORT SUPPLY GROUP, INC.

Applicant.

Opposition No. 91162348

*APPLICANT'S FIRST REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS*

Pursuant to Fed. R. Civ. P. 34, and 37 C.F.R. § 2.120(d), Applicant requests that Opposer, within thirty (30) days after service of these requests, produce for inspection and copying the documents and tangible things identified below:

INTRODUCTION AND DEFINITIONS

A. The Introduction and Definitions forming a part of Applicant's First Set of Interrogatories are incorporated herein by reference.

B. These instructions are continuing and to the extent that the responses may be enlarged or supplemented by information acquired by Opposer subsequent to the service of answers hereto, Opposer is requested promptly thereafter to serve supplemental answers reflecting such changes, where required by the Federal Rules of Civil Procedure.

C. Opposer shall designate in its responses with respect to each document requested, whether any documents responsive to the request exist; whether such documents will be produced by Opposer, when and where the documents will be produced, and where such documents usually are kept in the regular course of business.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

1. The documents requested to be identified in, or otherwise responsive to, Applicant's First Set of Interrogatories, served on Opposer concurrently herewith.
2. The documents identified in response to Applicant's First Set of Interrogatories, served on Opposer concurrently herewith.
3. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 1 of the Notice of Opposition that "Opposer is now, and its predecessors in interest and licensees have been engaged in the manufacture, distribution, and sale of men's, women's, and children's athletic apparel and other related products specifically directed to the field of athletics and sports."
4. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 2 of the Notice of Opposition that Opposer is the record owner of the registrations identified therein for the CHAMPION and C LOGO marks used alone and in conjunction with other words and design marks.
5. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 2 of the Notice of Opposition that the registrations identified in paragraph 2 of the Notice of Opposition "are valid and subsisting, unrevoked, and uncanceled, and Opposer is the owner of them and the marks shown thereby and all of the business and goodwill represented thereby"
6. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 4 of the Notice of Opposition that "[f]or many years, and long prior to Applicant's filing date, Opposer, Opposer's predecessors in interest, and

Opposer's licensees have continuously used the CHAMPION Trademarks in interstate commerce throughout the United States for the purpose of identifying Opposer's products and to distinguish those goods from the products of other manufactures [sic]."

7. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 5 of the Notice of Opposition that "[e]ver since the adoption and use of the CHAMPION Trademarks as aforesaid, Opposer, Opposer's predecessors in interest, and Opposer's licensees have widely and extensively advertised and sold goods bearing said CHAMPION Trademarks. As a consequence of same, the consuming public and trade have come to recognize and do recognize the CHAMPION Trademark [sic] as being used by Opposer or by a single source, and to associate and identify said mark and name with Opposer or with a single source, and Opposer derives substantial goods will and value from the aforesaid identification by the consuming public and trade."

8. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 6 of the Notice of Opposition that the goods and services identified in the opposed application "are identical and closely related to the goods for which Opposer has registrations and upon which it uses, and applied to use the CHAMPION Trademarks."

9. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 7 of the Notice of Opposition that Opposer's CHAMPION Trademarks and Applicant's CHAMPION BARBELL and Design mark is confusingly similar in sight, sound and meaning; and is likely to cause confusion and mistake and to deceive, with consequent injury to Opposer, the consuming public, and the trade.

10. All documents relating or referring to, or evidencing, reflecting, or constituting, the factual basis for Opposer's allegation in paragraph 8 of the Notice of Opposition that "Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, and will give color and exclusive statutory right to Applicant in violation and derogation of prior and superior rights of Opposer."

11. All documents which do, or may support, any claims or defenses of Opposer herein, and/or which Opposer believes would be admissible evidence on its behalf at the trial of this proceeding.

12. All documents referring or relating to the selection, availability, adoption, creation, design, proposals to use, attempt to register, or registration of Opposer's Marks, including without limitation search reports, opinion letters, or documents relating to communications concerning all such topics.

13. All mailing lists, other customer and/or client lists of Opposer with respect to the products and/or services sold and/or offered in connection with Opposer's Marks.

14. Documents sufficient to identify the persons or entities in the chain of distribution of goods sold under each of Opposer's Marks, including but not limited to the outlets, sales representatives, brokers, wholesalers, retailers, and distributors of Opposer's products and services sold under or in connection with Opposer's Marks.

15. All documents referring or relating directly or indirectly to Applicant or to communications with or concerning Applicant.

16. All documents relating and/or referring to the channels of trade through which products bearing Opposer's Marks have been sold/offered, including but not limited to documents describing the types and/or classes of customers to whom Opposer does or intends to advertise, promote, and/or sell Opposer's products/services.

17. All documents which list, show, explain or describe the products sold and/or services offered by Opposer under any of Opposer's Marks and/or planned to be offered and/or sold under Opposer's Marks, including without limitation, each catalogue, brochure, or other printed materials or video/audio tapes.

18. A sample (or if due to the physical size of same, in lieu thereof a photograph sufficiently legible to show the product and any writing or marks thereon) of each product sold and/or intended to be sold under Opposer's Marks, and each display, owner's manual, tag, label, warranty, insert, and any other material included and/or intended to be included with such product when offered for sale, sold, and/or shipped in interstate commerce.

19. A sample of each sign, brochure, website, handbill, stationery, advertisement, business card, identification card, display, pre-printed contract or form, decal, badge, label, and other advertising, promotional, and/or printed materials on which Opposer's Mark has been displayed or has appeared.

20. A sample of each advertisement (including, but not limited to, television and/or radio commercials or spots) and promotional material (including, but not limited to audio and video tapes and CD's, Internet web site(s) and other material intended for viewing and/or listening by computer or other machine), bearing, mentioning or displaying Opposer's Marks and/or the products/services sold or intended to be sold and/or offered for sale by Opposer under Opposer's Marks.

21. For each mark identified in response to Interrogatory No. 15 of Applicant's First Set of Interrogatories, served concurrently herewith, produce a sample of each of the products and the packaging therefor, for each year from the date of first use of said mark to the present.
22. All documents which refer or relate to Applicant's products.
23. All documents which evidence, support, and/or show the assertions in ¶1 of the Notice of Opposition.
24. All documents which evidence, support, and/or show the assertions in ¶2 of the Notice of Opposition.
25. All documents which evidence, support, and/or show the assertions in ¶3 of the Notice of Opposition.
26. All documents which evidence, support, and/or show the assertions in ¶4 of the Notice of Opposition.
27. All documents which evidence, support, and/or show the assertions in ¶5 of the Notice of Opposition.
28. All documents which evidence, support, and/or show the assertions in the last sentence of ¶6 of the Notice of Opposition.
29. All documents which evidence, support, and/or show the assertions in ¶7 of the Notice of Opposition.
30. All documents which evidence, support, and/or show the assertions in ¶8 of the Notice of Opposition.
31. All documents relating to the use of Opposer's Marks in any communication medium, including but not limited to a sample of each sign, brochure, handbill, advertisements, identification

card, pre-printed contract or form, tag, decal, badge, label, display, web page, point-of-purchase displays, bulletin board, and other advertising, promotional, and/or printed or electronic materials on which Opposer's Marks appears, whether or not such material actually has ever been used, displayed, distributed, or disseminated.

32. All documents relating to the price of each of the goods sold under each of Opposer's Marks.

33. All documents referring or relating to Opposer's Marks that have been filed with or received from any federal, state or local government office or regulatory agency, including without limitation all documents filed to obtain registration of Opposer's Marks.

34. All documents relied upon, either in whole or in part, as a basis for each opinion to be rendered by:

- a. each expert witness that Opposer will or may call; and
- b. each person from whom Opposer has obtained, or will obtain, statements or affidavits, or who is expected to give testimony in this case.

35. All documents constituting and/or comprising any opinion(s), report(s), statistics and/or affidavits furnished by:

- a. each expert witness that Opposer will or may call; and
- b. each person from whom Opposer has obtained, or will obtain, statements or affidavits, or who is expected to give testimony in this case.

36. All documents shown to or reviewed by each expert witness that Opposer will or may call in this proceeding.

37. All documents which evidence, support, refer, or relate to any search, survey, poll, or investigation referring or relating to any of Opposer's Marks, the services/products sold and/or offered, or to be sold and/or offered, under any of Opposer's Marks, and/or to the actual and/or intended customers for the products and/or services promoted or sold or to be promoted or sold under any of Opposer's Marks.

38. All documents which evidence, support, refer, or relate to any search, survey, poll, or investigation referring or relating to Applicant's Mark, the products sold and/or offered, or to be sold and/or offered, under Applicant's Mark, and/or to the actual and/or intended customers for the products and/or services promoted or sold or to be promoted or sold under Applicant's Mark.

39. All promotional materials, whether tangible or electronic, which have been produced, drafted, proposed for use, or which otherwise exist, including mock-ups for same, which display, bear, refer or relate, in any way, to any of Opposer's Marks.

40. With respect to each product with which Opposer's Marks has been used, documents sufficient to show whether or not Opposer's use of the mark in connection with each such product has been continuous since the date of first use.

41. With respect to the earliest date on which Opposer will rely in this proceeding to establish Opposer's rights in Opposer's Mark, all documents which evidence, support, refer, or relate to such claim or rights in Opposer's Marks by Opposer as of that date.

42. All documents which evidence, support, refer, or relate to any license, assignment, agreement, understanding, or other grant or transfer of rights referring or relating to any of Opposer's Marks.

43. All documents embodying, describing, or summarizing any budgets, marketing plans, or business plans in connection with products or services sold or rendered, or to be sold or rendered, under any of Opposer's Marks.

44. All documents which refer or relate to, or comment upon, any actual, potential and/or likelihood of confusion between Applicant's mark and any of Opposer's Marks and/or the goods/services sold or offered for sale under those marks.

45. All documents constituting or relating to Opposer's policy regarding the retention or destruction of documents and things.

46. A complete copy of each version of each of Opposer's web site(s), including but not limited to the HTML code for same, from the creation of the web site through the present.

47. A complete copy of each version of each of the website found at www.championusa.com, including but not limited to the HTML code for same, from the creation of the web site through the present.

48. A complete copy of each version of each of the website found at www.championsports.com, including but not limited to the HTML code for same, from the creation of the web site through the present.

49. All documents which evidence, relate or refer to when Opposer first learned of Applicant.

50. All documents which evidence, relate or refer to when Opposer first learned of Applicant's Mark.

51. All documents which evidence, relate or refer to when Opposer first learned of Applicant's adoption of Applicant's Mark.

52. Each document which shows, evidences, or supports the claim that Applicant's mark, as used in connection with Applicant's goods and services, is confusingly similar to Opposer's Marks so as to be likely to cause confusion, mistake or to deceive.

53. Each document which shows, evidences, or supports any claim that Opposer's Marks are famous.

54. If Opposer contends in this opposition that Opposer's Marks, or any subset of Opposer's Marks, are famous in the United States, then for each such mark, produce documents which identify (a) which of Opposer's Marks Opposer contends is famous; (b) the goods and/or services for which Opposer contends each identified mark is famous; and (c) the factual basis for that contention.

55. Each document which shows, evidences, or supports Opposer's responses to Applicant's First Set of Interrogatories served concurrently herewith.

56. Produce a copy of the certificate of registration for each trademark or service mark registration identified in response to Interrogatory No. 23.

57. For each mark identified by Opposer in response to Interrogatory Number 10, documents sufficient to identify:

- a) the mark;
- b) the goods and/or services in connection with the mark;
- c) the owner of the mark;
- d) the date Opposer became aware of the mark;
- e) what actions, if any, Opposer took with regard to the mark;
- f) when the actions referred to in subparagraph (e) were taken;
- g) and the result of the actions referred to in subparagraph (e).

58. For each mark identified by Opposer in response to Interrogatory Number 11, documents sufficient to identify:

- a) the mark;
- b) the goods and/or services in connection with the mark;
- c) the owner of the mark;
- d) the means by which the third party was authorized or permitted to use the mark; and
- e) the duration of use.

59. For each of Opposer's Marks, produce documents sufficient to showing the channels of distribution through which each good has been sold.

60. Produce all correspondence, memoranda and other documents concerning any instance, whether by written correspondence, telephone call or other communication, in which a person or business entity has inquired about or commented upon (a) any relationship between Applicant's products or services and Opposer's products; (b) any relationship between Applicant or its products and Opposer; (c) any relationship between Opposer or Opposer's products and Applicant or (d) any license, sponsorship or association between Applicant and Opposer.

61. Documents sufficient to show Opposer's annual sales in numbers of units and in gross revenues, for clothing products sold under each of Opposer's Marks, from the date of alleged first use of each of Opposer's Marks to the present.

62. Documents sufficient to show Opposer's annual sales in numbers of units and in gross revenues, for exercise equipment and accessories sold under each of Opposer's Marks, from the date of alleged first use of each of Opposer's Marks to the present.

63. Documents sufficient to show Opposer's annual sales in numbers of units and in gross revenues, for each product sold under each of Opposer's Marks, from the date of alleged first use of each of Opposer's Marks to the present.

64. Documents sufficient to show Opposer's annual sales, in numbers of units and in gross revenues, for each service (if any) offered under each of Opposer's Marks, from the date of alleged first use of each of Opposer's Marks to the present.

65. Produce documents sufficient to establish the amount of money expended by Opposer to advertise or promote each product bearing any of Opposer's Marks, by mark, for each year from the date of first use of said mark through the present.

66. Documents which describe or identify any investigation by Opposer, its representatives, or attorneys as to any use by Applicant of Applicant's Mark.

67. Documents which identify third parties or persons other than Opposer who were or are authorized to use Opposer's Mark.

68. Documents which identify each person or agency which has participated in the creation or distribution of advertisements or promotions of goods/services under any of Opposer's Marks.

69. All documents which refer or relate to any lawsuit, *inter partes* proceeding in the United States Patent and Trademark Office, or any other legal dispute or formal or informal challenge (including, but not limited to documents produced in such proceeding), or cease and desist letter, involving any party other than Applicant herein, concerning rights, or alleged rights, to any of Opposer's Marks.

70. All documents which refer or relate to any lawsuit, *inter partes* proceeding in the United States Patent and Trademark Office, or any other legal dispute or formal or informal

challenge (including, but not limited to documents produced in such proceeding), or cease and desist letter, involving any party other than Applicant herein, that was using or seeking to register a mark Opposer believed to be confusingly similar to Opposer's Marks.

71. All documents which refer or relate to any lawsuit, *inter partes* proceeding in the United States Patent and Trademark Office, or any other legal dispute or formal or informal challenge (including, but not limited to documents produced in such proceeding), or cease and desist letter, involving any party other than Applicant herein, that was using or seeking to register a mark Opposer believed was diluting Opposer's Marks.

72. All documents which refer or relate to any lawsuit, *inter partes* proceeding in the United States Patent and Trademark Office, or any other legal dispute or formal or informal challenge (including, but not limited to documents produced in such proceeding), or cease and desist letter, involving any party other than Applicant herein, that was using or seeking to register a mark or name Opposer believed to cause a false association with Opposer.

73. All documents which refer, relate or evidence any period of discontinued use of any of Opposer's Marks in connection with any of Opposer's Goods for a period of six (6) months or longer.

74. All documents which refer or relate to Opposer's efforts to police Opposer's Marks.

75. All documents received from third parties in response to Opposer's efforts to police Opposer's Marks.

76. All documents received from parties retained by Opposer in support of Opposer's efforts to police Opposer's Marks.

77. All documents received from clipping services relating to Opposer's Marks.

78. If Opposer denies any of Applicant's Requests for Admission found in Applicant's First Set of Requests for admission, served concurrently herewith, then for each such denied request, produce: each document which shows, evidences, or supports Opposer's reasons for denying same.

79. Documents which identify or describe third parties, other than Applicant herein, using a mark incorporating a mark comprising "champion" in connection with clothing.

80. Documents which identify or describe third parties, other than Applicant herein, using a mark incorporating a mark comprising a "C Mark" in connection with clothing.

81. Documents which identify or describe third parties, other than Applicant herein, using a mark incorporating a mark comprising "champion" in connection with athletic equipment or gear.

82. Documents which identify or describe third parties, other than Applicant herein, using a mark incorporating a mark comprising a "C Mark" in connection with athletic equipment or gear.

83. Documents which identify or describe third parties, other than Applicant herein, using a mark incorporating a mark comprising "champion" in connection with exercise equipment.

84. Documents which identify or describe third parties, other than Applicant herein, using a mark incorporating a mark comprising a "C Mark" in connection with exercise equipment.

85. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 78/397,997 in commerce on or in connection with treadmills when the Statement of Use was filed in said application in 2006.

86. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 78/397,997 in commerce on or in connection with elliptical trainers when the Statement of Use was filed in said application in 2006.

87. All documents relating or referring to, or evidencing, reflecting, or

constituting, use of the mark of Application Serial No. 78/397,997 in commerce on or in connection with stationary exercise bikes when the Statement of Use was filed in said application in 2006.

88. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 78/398,006 in commerce on or in connection with treadmills when the Statement of Use was filed in said application in 2007.

89. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 78/398,006 in commerce on or in connection with elliptical trainers when the Statement of Use was filed in said application in 2007.

90. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 78/398,006 in commerce on or in connection with stationary exercise bikes when the Statement of Use was filed in said application in 2007.

91. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with each good as of the filing date of said application.

92. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with softballs as of the filing date of said application.

93. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with dodgeballs as of the filing date of said application.

94. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with playballs as of the filing date of said application.

95. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with basketballs as of the filing date of said application.

96. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with soccer balls as of the filing date of said application.

97. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with volleyballs as of the filing date of said application.

98. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with footballs as of the filing date of said application.

99. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with baseballs as of the filing date of said application.

100. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with baseball masks as of the filing date of said application.

101. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with chest protectors for sports as of the filing date of said application.

102. All documents relating or referring to, or evidencing, reflecting, or

constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with shinguards for athletic use as of the filing date of said application.

103. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with baseball bases as of the filing date of said application.

104. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with baseball gloves as of the filing date of said application.

105. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with track discus as of the filing date of said application.

106. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with lacrosse sets as of the filing date of said application.

107. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with volleyball nets as of the filing date of said application.

108. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with soccer gloves as of the filing date of said application.

109. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with soccer flags as of the filing date of said application.

110. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with hockey nets as of the filing date of said application.

111. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with badminton rackets as of the filing date of said application.

112. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with tennis rackets as of the filing date of said application.

113. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with tennis balls as of the filing date of said application.

114. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with training balls as of the filing date of said application.

115. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with horseshoes for recreational purposes as of the filing date of said application.

116. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with bowling pins as of the filing date of said application.

117. All documents relating or referring to, or evidencing, reflecting, or

constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with shuffleboard sets as of the filing date of said application.

118. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with bats as of the filing date of said application.

119. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with jump ropes as of the filing date of said application.

120. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with table tennis sets as of the filing date of said application.

121. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with paddles as of the filing date of said application.

122. All documents relating or referring to, or evidencing, reflecting, or constituting, use of the mark of Application Serial No. 75/896,424 in commerce on or in connection with flying discs as of the filing date of said application.

123. Documents sufficient to show the annual sales of treadmills bearing the mark of Application Serial No. 78/397,997, since 2005.

124. Documents sufficient to show the annual sales of elliptical trainers bearing the mark of Application Serial No. 78/397,997, since 2005.

125. Documents sufficient to show the annual sales of stationary exercise bikes bearing the mark of Application Serial No. 78/397,997, since 2005.

126. Documents sufficient to show the annual sales of treadmills bearing the mark of Application Serial No. 78/398,006, since 2005.

127. Documents sufficient to show the annual sales of elliptical trainers bearing the mark of Application Serial No. 78/398,006, since 2005.

128. Documents sufficient to show the annual sales of stationary exercise bikes bearing the mark of Application Serial No. 78/398,006, since 2005.

129. Documents sufficient to describe the relationship, if any, between Opposer and Pro Sports, Inc.

130. All documents relating or referring to, or evidencing, reflecting, or constituting, any communications between Opposer and Pro Sports, Inc.

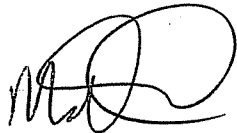
131. All documents relating or referring to, or evidencing, reflecting, or constituting, any agreements and correspondence between Opposer and any third party regarding the use and/or registration in the United States of any mark consisting of or containing the term "champion" or "C Mark" for clothing, athletic equipment, or athletic gear.

132. All documents relating or referring to, or evidencing, reflecting, or constituting, the nature, duration, and extent of the use in the United States by any third party of any mark consisting of or containing the term "champion" or "C Mark" for clothing, athletic equipment, or athletic gear.

133. All documents relating or referring to, or evidencing, reflecting, or constituting, any correspondence between Opposer and any third party in which Opposer has asserted any of Opposer's Marks in support of a claim of likelihood of confusion.

SPORT SUPPLY GROUP, INC.

By: _____


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Attorneys for Applicant

February 13, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Applicant's First Set of Requests for Production of Documents to be served by first-class mail, postage prepaid, upon counsel for Opposer:

Joshua S. Bish, Esq.
REED SMITH LLP
435 Sixth Avenue
Pittsburgh, PA 15219-1886

on this 13th day of February, 2009