

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

Mark: UGLY SPORT (Stylized)

Attorney Docket No.: KSHAK62674

Application Serial No: 78/226,093

International Class: 25

Filed: March 16, 2003

Applicants: Brian Peulicke and Steven Peulicke

Published for Opposition: October 5, 2004

Official Gazette: Page TM240

SHAKESPEARE COMPANY, LLC, a
Delaware limited liability company,

Opposition No. _____

Opposer,

NOTICE OF OPPOSITION

v.

BRIAN PEULICKE, an individual, and
STEVEN PEULICKE, an individual,

Applicants.

NOTICE OF OPPOSITION

11/17/2006 THOMAS2 00000001 78226093

Seattle, Washington 98101

01 FC:6402

300.00 OP

November 3, 2004

TO THE COMMISSIONER FOR TRADEMARKS
TRADEMARK TRIAL AND APPEAL BOARD

Shakespeare Company, LLC, a limited liability company, organized and existing under the laws of the State of Delaware, and having a place of business at 3801 Westmore Drive, Columbia, South Carolina 29223 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark UGLY SPORT (Stylized) for some of the goods claimed by U.S. Application Serial No. 78/226,093, filed March 16, 2003, and hereby opposes the same.

As grounds for the Opposition, Opposer alleges as follows:

1. On information and belief, Brian Peulicke is an individual having an address of



1
2 834 Lakeville Circle, Petaluma, California 94954, and Steven Peulicke is an individual having an
3 address of 67710 Medano Road, Cathedral City, California 92234 (hereinafter "Applicants").

4 2. Continuously, since long prior to any date upon which Applicants can rely, Opposer
5 has used the trademark UGLY STIK in association with the sale of clothing, fishing rods, fishing
6 tackle, and fishing products.

7 3. Opposer is the owner of U.S. Trademark Registration No. 1,064,566 for the mark
8 UGLY STIK for fishing rods in International Class 28. Said registration issued April 26, 1977, and
9 is currently, valid, subsisting, and incontestable.

10 4. Opposer is the owner of U.S. Trademark Registration No. 2,546,533 for the mark
11 UGLY STIK for clothing, namely, shirts, t-shirts, and hats in International Class 25. Said
12 registration issued March 12, 2002, and is currently valid and subsisting.

13 5. Opposer is also the owner of a family of marks that include as their distinctive and
14 common feature the mark UGLY STIK. Opposer's family of marks have become well-known and
15 well-recognized by the use of the common element UGLY STIK and serve to identify Opposer as the
16 source of a variety of products sold in the fishing goods industry, rendering the mark UGLY STIK a
17 common and distinctive component of a family of marks.

18 6. Opposer will be damaged by the registration sought by Applicants insofar as the
19 registration will be *prima facie* evidence of the validity of the registration, Applicants' ownership of
20 the mark UGLY SPORT (Stylized), and Applicants' exclusive right to use the mark UGLY SPORT
21 (Stylized) in association with some of the goods claimed by Application Serial No. 78/226,093
22 when, in fact, Applicants are not entitled to such rights by virtue of Opposer's prior and continuous
23 use of the mark UGLY STIK in association with fishing products in the same channels of trade in
24 which some of the goods claimed by Application Serial No. 78/226,093 would be sold.

25 7. The mark UGLY SPORT (Stylized) shown by Application Serial No. 78/226,093,
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1 when used in association with some of the goods claimed by said application, so resembles
2 Opposer's mark UGLY STIK as to be likely to cause confusion, or to cause mistake, or to deceive
3 within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).
4

5 8. As a result of Opposer's long-term, substantial, and widespread use of the mark
6 UGLY STIK, the mark UGLY STIK has become famous, and is thus a valuable symbol that serves
7 to identify Opposer as the source of all goods and services identified by or promoted with the mark.

8 9. The mark UGLY STIK previously used by Opposer and shown by the registrations
9 identified by Paragraph Nos. 3-4 herein became famous prior to any date upon which Applicants can
10 show use of the mark UGLY SPORT.

11 10. The mark shown by Application Serial No. 78/226,093 when used in association with
12 some of the goods claimed by Application Serial No. 78/226,093 so resembles Opposer's famous
13 mark UGLY STIK previously used and registered by Opposer and shown by the registrations
14 identified by Paragraph Nos. 3-4 herein as to be likely to falsely suggest a connection between
15 Opposer and Applicants in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

16 11. The mark shown by Application Serial No. 78/226,093 so resembles Opposer's
17 famous mark UGLY STIK when used in association with some of the goods claimed by Application
18 Serial No. 78/226,093 as to cause dilution of the distinctive quality of Opposer's mark UGLY STIK
19 in violation of 15 U.S.C. § 1125(c).

20 12. Based upon the foregoing, registration of the mark UGLY SPORT (Stylized) shown
21 by Application Serial No. 78/226,093 for some of the goods claimed by said application, filed
22 March 16, 2003, is likely to cause injury and damage to Opposer.

23 WHEREFORE, Opposer respectfully requests that the registration of the mark UGLY
24 SPORT (Stylized) shown by Application Serial No. 78/226,093 be denied pursuant to Section 2(d) of
25 the Lanham Act, 15 U.S.C. § 1052(d), Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), and
26

1 Section 43 of the Lanham Act, 15 U.S.C. § 1125(c), and that this opposition be sustained.

2 Accompanying the duplicate signed copies of this Notice of Opposition is our Check
3 No. 159197 for the required filing fee in the amount of \$300.00 (\$300.00 per class).

4 Please charge any excess fees to Deposit Account No. 03-1740 of Opposer's counsel noted below.

5 Please direct all correspondence to Cindy L. Caditz of Christensen O'Connor Johnson
6 Kindness^{PLLC} at the following address:

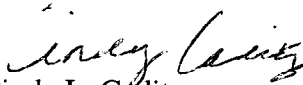
7
8 Cindy L. Caditz
9 Christensen O'Connor Johnson Kindness^{PLLC}
10 1420 Fifth Avenue, Suite 2800
11 Seattle, WA 98101-2347

12 Please direct all telephone calls to Cindy L. Caditz at 206-682-8100.

13 DATED this 3rd day of November, 2004.

14 Respectfully submitted,

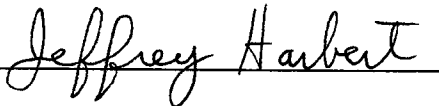
15 CHRISTENSEN O'CONNOR
16 JOHNSON KINDNESS^{PLLC}

17 
18 Cindy L. Caditz
19 Attorneys for Opposer

20 **CERTIFICATE OF MAILING**

21 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial
22 No. 78/226,093 for the mark UGLY SPORT (Stylized) is being deposited with the U.S. Postal
23 Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to
24 the Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive,
25 Arlington, VA 22202-3513, on the below date.

26 Date: November 3, 2004

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CLC:jh