



TTAB

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

Russell Asset Management, Inc. and)
Russell Corporation)

Opposers,)

vs.)

Rawlings Sporting Goods Company, Inc.)

Applicant.)

Opposition No. 91164768

Serial No.: 76/435,188

ANSWER TO NOTICE OF OPPOSITION

Box TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

COMES NOW the Applicant, Rawlings Sporting Goods Company, Inc., through its attorneys, and hereby submits its Answer to the Notice of Opposition filed by the Opposers, Russell Asset Management, Inc. and Russell Corporation, in the above-referenced proceeding, with the following numbered paragraphs corresponding to the numbers of the paragraphs of the Notice of Opposition:

1. Denied.
2. Applicant admits that Applicant's application for registration of the mark SB and Design includes a declaration of actual use on "sporting goods, namely softballs and baseballs, gloves, bats, softball and batter's gloves, and protective equipment, namely leg guards, catcher's

Certificate of Mailing Under 37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Box TTAB NO FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on:

Date: May 14, 2005
Signature: Christina A. Pence
Printed Name: Christina A. Pence

The Director is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-4409.



05-18-2005

_masks, and chest protectors.” Applicant is without sufficient knowledge or information to form a belief as to the remaining allegations of paragraph 2 and, therefore, denies the same.

3. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 3 and, therefore, denies the same.

4. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 4 and, therefore, denies the same.

5. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 5 and, therefore, denies the same.

6. Applicant admits that U.S. Trademark Registration No. 1,504,121 for the mark SB-12L is on the Principal Register of the United States Patent and Trademark Office, which issued on September 13, 1988. Applicant further admits that the face of the Registration Certificate states that the mark was first used in commerce at least as early as December 12, 1957 and is registered for softballs in International Class 28. Applicant also admits that the records of the United States Patent and Trademark Office indicate that an affidavit of incontestability was accepted by the United States Patent and Trademark Office on February 1, 1995.

Applicant admits that U.S. Trademark Registration No. 2,264,640 for the mark SB-12ST is on the Principal Register of the United States Patent and Trademark Office, which issued on July 27, 1999. Applicant further admits that the face of the Registration Certificate states that the mark was first used in commerce at least as early as January 1, 1992 and is registered for softballs in International Class 28. Applicant also admits that the records of the United States Patent and Trademark Office indicate that an affidavit of incontestability was accepted by the United States Patent and Trademark Office on December 22, 2004. Applicant is

without sufficient knowledge or information to form a belief as to the remaining allegations of paragraph 6 and, therefore, denies the same.

7. Applicant admits that an assignment from SGG Trademarks, LLC to Russell Asset Management, Inc. for Registration No. 1,504,121 was recorded as reel/frame 2710/0150 in the United States Patent and Trademark Office on September 4, 2003. Applicant is without sufficient knowledge or information to form a belief as to the remaining allegations of paragraph 7 and, therefore, denies the same.

8. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 8 and, therefore, denies the same.

9. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 9 and, therefore, denies the same.

10. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 10 and, therefore, denies the same.

11. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 11 and, therefore, denies the same.

12. Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 12 and, therefore, denies the same.

13. Denied.

14. Denied.

15. Applicant is without sufficient knowledge or information to form a belief as to Opposers' belief regarding the use and registration by the Applicant of the mark for which registration is sought. Applicant otherwise denies the allegations of paragraph 15 of the Notice of Opposition.

16. Admitted.

17. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark SB and Design is not confusingly similar to the pleaded marks of Opposer. The marks are different in appearance, sound and connotation so as to avoid any likelihood of confusion.

18. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark SB and Design is not confusingly similar to the pleaded marks of Opposer. The only similarity in the marks is the use of the descriptive letters "SB," which have been disclaimed by Applicant, and the overall differences in the marks are sufficient to avoid a likelihood of confusion.

WHEREFORE, having fully answered, Applicant prays that the Notice of Opposition be dismissed in its entirety, that the Board enter judgment in its favor and against Opposer, and that the registration issue to Applicant for Application Serial No. 76/435,188.

Respectfully submitted,

STINSON MORRISON HECKER LLP

By: 

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Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Answer to Notice of Opposition was served upon Opposer by depositing the same in the United States mail, first class postage prepaid, on this 16th day of May, 2005, addressed to:

Nathan W. Johnson
BRADLEY ARANT ROSE & WHITE LLP
1819 Fifth Avenue North
Birmingham, Alabama 35203-2104
Attorney for Opposers

A handwritten signature in black ink, appearing to read 'Penny R. Slicer', written over a horizontal line.

Penny R. Slicer, Reg. No. 34,017
Attorney for Applicant

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