

ESTTA Tracking number: **ESTTA83821**

Filing date: **06/05/2006**

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

Proceeding	91170575
Party	Defendant Summit Environmental Corporation Inc. Summit Environmental Corporation Inc. 133 E Tyler Street Longview, TX 75601
Correspondence Address	TERRY L CLARK HARNES DICKY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195
Submission	Motion to Dismiss - Rule 12(b)
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Date	06/05/2006
Attachments	2006-06-05 Motion to Dismiss.pdf ( 23 pages )(481369 bytes )

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

<b>CENTRAL MFG. CO.</b>	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.911170575
	)	Serial No. 76/224,677
<b>SUMMIT ENVIRONMENTAL CORPORATION INC</b>	)	Mark: FIREPOWER
	)	Filing Date: March 9, 2005
Applicant.	)	
	)	

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**MOTION TO DISMISS**

Summit Environmental Corporation, Inc., ("Summit") moves to dismiss the Notice of Opposition filed by Leo Stoller on behalf of "Central Mfg. Co." under Trademark Rule 2.116(a) and Rules 10(a), 11(b) and 12(b) of the Federal Rules of Civil Procedure on the basis that the Notice of Opposition was filed deliberately under a false name or, in the alternative, to the extent that "Central Mfg. Co." exists, it is a different entity than the one that filed the Request for an Extension of Time to Oppose for Good Cause.

On December 7, 2005, "Leo Stoller" as "President" of "Central Mfg. Co." filed a First 90 Day Request for Extension of Time to Oppose for Good Cause on behalf of:

Central Mfg. Co. P.O. Box 35189, Chicago, Illinois 60707-0189, UNITED STATES, a corporation organized under the laws of Delaware

See Exhibit 1. Subsequently, on March 31, 2006, a Notice of Opposition signed by "Leo Stoller" was filed on behalf of "CENTRAL MFG. CO., 7115 W. North Avenue #272, Oak Park, Illinois 60602."

However, as noted by Judge Lindberg of the United States District Court for the Northern District of Illinois in dismissing an action brought on behalf of "Central Mfg. Co."

and as admitted by Mr. Leo Soller in at least two other opposition proceedings (Central Mfg. Co. v. Surgical Navigation Technologies, Inc., Opposition No. 91167658 and Central Mfg. Co. v. Invitrogen Corporation, Opposition No. 91167706), there is no corporation organized under the laws of Delaware under the name "Central Mfg. Co." See Central Mfg. Co. v. Pure Fishing, Inc. et al, Slip Copy 2005 WL 3090988 (N.D. Ill.) (copy attached as Exhibit 2). At the time he filed both the Request for Extension of Time on December 7, 2005 and when he filed the Notice of Opposition in this proceeding on March 31, 2006, Mr. Leo Stoller knew full well that Central Mfg. Co. did not exist and that it was misleading to file papers with the Trademark Trial and Appeal Board on behalf of that non-existent entity. The Court's decision in the Pure Fishing lawsuit issued on November 16, 2005. In that decision, the Court indicated that "Since the inception of this case and unquestionably prior to filing the amended complaint [on May 26, 2005], Mr. Stoller knew that he had not incorporated Central Mfg. Co." Slip Copy 2005 WL 3090988, pg. 5 (N.D. Ill.).

The filing of the Request for Extension of Time to Oppose and the Notice of Opposition were filed knowing that Central Mfg. Co. did not exist. Mr. Leo Stoller deliberately filed the Request for Extension of Time to Oppose and the Notice of Opposition in the name of a non-existent corporation because the trademark registrations that are the basis for the Notice of Opposition are, according to the records of the United States Patent and Trademark Office, owned of record by "Central Mfg. Co.," the non-existent legal entity, pursuant to an assignment recorded on September 1, 1997 (see Trademark Assignment Abstracts of Title attached as Exhibit 3).

As observed by the Seventh Circuit in dismissing a civil action brought under a false name:

We have noted that [m]isconduct may exhibit such flagrant contempt for the court and its processes that to allow the offending party to continue to invoke the judicial mechanism for its own benefit would raise concerns about the integrity and credibility of the civil justice system that transcend the interests of the parties immediately before the court. *Id.* Filing a case under a false name deliberately, and without sufficient justification, certainly qualifies as flagrant contempt for the judicial process and amounts to behavior that transcends the interests of the parties in the underlying action. Dotson v. Bravo, 321 F.3d 663 (7th Cir. 2003).

The filing of documents with the Board on behalf of a non-existent entity was not a simple mistake made by a hurried lawyer or unsophisticated person acting *pro per*. Mr. Leo Stoller describes himself on his own "blog" as "the nation's most renowned Intellectual Property Entrepreneur with over 30 years in the field of trademarks, licensing and enforcement, expert witness testimony, trademark valuation." See attached Exhibit 4.

The Trademark Trial and Appeal Board and the federal courts in Chicago, Illinois are quite familiar with Mr. Leo Stoller. Mr. Leo Stoller and his "companies" have filed hundreds of extensions of time to oppose and numerous Notices of Opposition with the Board. On at least six occasions the TTAB has admonished or sanctioned Mr. Leo Stoller or one of his corporations. See S Industries Inc. v. Lamb-Weston, Inc., 45 USPQ2d 1293 (TTAB 1997); S Industries Inc. v. S&W Sign Co., Opposition No. 91102907 (order of December 16, 1999); Central Mfg. Inc. v. Third Millenium Technology, Inc., 61 USPQ2d 1210 (TTAB 2001); S Industries Inc. v. Casablanca Industries, Inc., Cancellation No. 24,330 (order of October 2, 2002); S Industries Inc. v. JL Audio, Inc., Opposition No. 91110672 (order of May 13, 2003; and Central Mfg. Inc. v. Medtronic Soamor Danek Inc., Opposition Nos. 91154585 and 91154617 (order of February 19, 2004).

In the words of Judge Coar of the United States District Court for the Northern District of Illinois:

Indeed, as several judges (including this one) have previously noted, Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation. See e.g., *S Indus., Inc. v. Stone Age Equip., Inc.* 49 U.S.P.Q.2d 1071 (N.D. Ill. 1998) (Castillo, J.) (Stoller spawned "litigation lacking in merit and approaching harassment"); *S. Indus., Inc. v. Hobbico*, 940 F.Supp. 210, 211 (N.D. Ill. 1996) (Shadur, J.) (Stoller "appears to have entered into a new industry-that of instituting federal litigation"). Unlike a public corporation, which would be accountable to its shareholders, Stoller's corporate entities appear impervious to Stoller's repeated losses in federal courts in this district and beyond. A search of the court filing system discloses that Plaintiff and one or more of his corporate entities have been involved in at least 49 cases in this district alone. [Footnote omitted] Of these, at least 47 purport to involve trademark infringement. At least 13 of these cases have been reported in online legal databases such as LEXIS and Westlaw. No court has ever found infringement of any trademark allegedly held by Stoller or his related companies in any reported opinion. In fact, courts in this district have ordered Stoller or his corporate entities to pay defendants' attorney' fees and costs in at least six reported cases [citations omitted]. Central Mfg. Co., v. George Brett, Slip Copy 2005 WL 2445898 (N.D. Ill.).

Mr. Leo Stoller knew full well that Central Mfg. Co. did not exist but was unwilling to accept the consequences of the fact that the trademark registrations on which he wanted to base the opposition in this matter were owned by a non-existent entity.

After being confronted by the fact that Central Mfg. Co. did not exist in the Pure Fishing matter, Central Mfg. Co. conveniently became a "d/b/a" of Central Mfg. Inc. In fact, in February, 2006, Mr. Stoller filed in New Castle County, Delaware, for registration of "Central Mfg. Co." as a trade name of Central Mfg. Inc. (See Exhibit 5). Even if the Board were to accept for the sake of this motion that at the time the Notice of Opposition was filed, "Central Mfg. Co." was a d/b/a of Central Mfg. Inc., that fact should have been disclosed in the Notice of Opposition and it was misleading to omit it.

In any event, the Request for Extension of Time to Oppose filed on December 7, 2005 was clearly filed on behalf of Central Mfg. Co., a corporation organized and existing under the laws of Delaware. To the extent that the Notice of Opposition was filed on behalf of Central Mfg. Inc. d/b/a Central Mfg. Co., it was filed on behalf of a different entity from the one that obtained the Extension of Time and the Notice of Opposition should be dismissed on the basis that TBMP §206.01 was violated.

For the foregoing reasons, Summit respectfully requests that the Board dismiss the Notice of Opposition because it was filed deliberately under a false name or, in the alternative, to the extent that "Central Mfg. Co." exists, a different entity filed the Notice of Opposition than the one that filed the Request for an Extension of Time to Oppose.

Respectfully Submitted,

SUMMIT ENVIRONMENTAL CORPORATION, INC.

Date: June 5, 2006

By: 

Terry L. Clark

David R. Haarz

HARNESS, DICKEY & PIERCE, P.L.C.

11730 Plaza America Drive

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Reston, Virginia 20190

Telephone – 703-668-8000

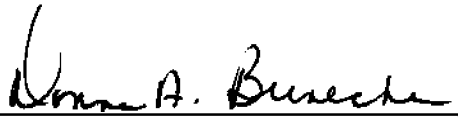
Facsimile – 703-668-8200

Attorneys for Summit Environmental Corporation, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was delivered via First Class Mail, postage prepaid, to the following individual on this 5th day of June, 2006:

Leo Stoller  
Central Mfg. Co.  
7115 W North Avenue #272  
Oak Park, IL 60302

By:   
Donna A. Bernecker  
Assistant to Terry L. Clark  
HARNESS, DICKEY & PIERCE, P.L.C.  
11730 Plaza America Drive, Suite 600  
Reston, VA 20190  
Tel: (703) 668-8000  
Fax: (703) 668-8200

## **EXHIBIT 1.**



ESTTA Tracking number: **ESTTA56493**

Filing date: **12/07/2005**

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

Applicant: **Summit Environmental Corporation Inc.**  
Application Serial Number: **78583526**  
Application Filing Date: **03/09/2005**  
Mark: **FIREPOWER**  
Date of Publication: **12/06/2005**

**First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, Central Mfg. Co., P.O. Box 35189, Chicago, IL 60707-0189, UNITED STATES, a corporation organized under the laws of Delaware, respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown.

Potential opposer believes that good cause is established for this request by:

- The potential opposer needs additional time to investigate the claim

The time within which to file a notice of opposition is set to expire on 01/05/2006. Central Mfg. Co. respectfully requests that the time period within which to file an opposition be extended until 04/05/2006.

Respectfully submitted,

/Leo Stoller/

12/07/2005

**Leo Stoller**

**President**

**Central Mfg. Co.**

**P.O. Box 35189**

**Chicago, IL 60707-0189**

**UNITED STATES**

**ldms4@hotmail.com**

**773-589-0340**

## **EXHIBIT 2.**

Westlaw

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(Cite as: Slip Copy)

Briefs and Other Related Documents  
Only the Westlaw citation is currently available.

United States District Court, N.D. Illinois.  
CENTRAL MFG. CO.

v.

PURE FISHING, INC., et al  
No. 05 C 725.

Nov. 16, 2005.

Timothy C. Meece of Banner & Witcoff Ltd., and  
Lance G Johnson of Roylance, Abrams, Berdo and  
Goodman LLP, represented the defendant Pure  
Fishing.

GEORGE W. LINDBERG, District Judge.

\*1 Plaintiff's case is dismissed with prejudice and a  
default judgment is entered against each of the  
counter-defendants.

[For further details see text below.]

#### STATEMENT

This case is a striking example of gross misconduct  
by counter-defendant and plaintiff's principle, Leo  
Stoller, and his counsel, Peter Woods. Their  
conduct constitutes a flagrant contempt for this  
Court and mandates the harsh sanctions of dismissal  
of this case with prejudice as to plaintiff and entry  
of default judgment as to each counter-defendant.

#### I. Factual Background

Leo Stoller, a counter-defendant and purported sole  
shareholder of plaintiff Central Mfg. Co. and each  
of the counter-defendants, is a frequent litigant  
within this district. <sup>FN1</sup> Mr. Stoller, a non-lawyer,  
has earned a reputation for initiating spurious and  
vexatious federal litigation. See e.g. *Central Mfg.*

*Co. et al. v. Brett*, 2005 WL 2445898 (N.D.Ill.  
Sept. 30, 2005) (Coar, J.) ("Stoller appears to be  
running an industry that produces often spurious,  
vexatious, and harassing federal litigation."); *S.  
Indus. Inc. v. Stone Age Equip., Inc.*, 12 F.Supp.2d  
796 (N.D.Ill.1998) (Castillo, J.) (Stoller initiates "  
litigation lacking in merit and approaching  
harassment."); *S. Indus. Inc. v. Hobbico, Inc.*, 940  
F.Supp. 210, 211 (N.D.Ill.1996) (Shadur, J.)  
(Stoller "appears to have entered into a new  
industry-that of instituting federal litigation.").  
Additionally, Mr. Stoller or his entities have been  
ordered to pay their opponent's attorneys' fees in at  
least seven reported cases. See e.g. *Central Mfg.  
Co. et al. v. Brett*, 2005 WL 2445898 (N.D.Ill.  
Sept. 30, 2005) (Coar, J.); *S Indus., Inc. v. Ecolab  
Inc.*, 1999 WL 162785 (N.D.Ill. Mar. 16, 1999)  
(Gottschall, J.); *S Indus., Inc. v. Stone Age Equip.,  
Inc.*, 12 F.Supp.2d 796, 798-99, 819-20  
(N.D.Ill.1998) (Castillo, J.); *S Indus., Inc. v. Centra  
2000, Inc.*, 1998 WL 157067 (N.D.Ill.Mar.31, 1998)  
(Lindberg, J.), *aff'd* by 249 F.3d 625, 627-29 (7th  
Cir.2001); *S Indus., Inc. v. Diamond Multimedia  
Sys., Inc.*, 991 F.Supp. 1012 (N.D.Ill.1998)  
(Andersen, J.); *S Indus., Inc. v. Diamond  
Multimedia Sys., Inc.*, 17 F.Supp.2d 775  
(N.D.Ill.1998) (Andersen, J.); *S Indus., Inc. v.  
Diamond Multimedia Sys., Inc.*, 1998 WL 641347  
(N.D.Ill. Sept. 10, 1998) (Andersen, J.); *S Indus.,  
Inc. v. Kimberly-Clark Corp.*, 1996 WL 388427  
(N.D.Ill. July 9, 1996) (Shadur, J.); *S Indus., Inc. v.  
Hobbico, Inc.*, 940 F.Supp. 210, 212 (N.D.Ill.1996)  
(Shadur, J.).

FN1. Since 1988, Leo Stoller, individually  
or through one of his many wholly-owned  
corporate entities, has been involved in at  
least 49 cases in the Northern District of  
Illinois.

In keeping with Mr. Stoller's reputation, his actions  
in the instant litigation have been vexatious and  
sanctionable. As background, a brief explanation of

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Mr. Stoller's "business" is necessary. For more than a decade, Mr. Stoller has been creating and operating various wholly-owned corporate entities including, *inter alia*, S. Industries, Inc., Central Manufacturing Co., Central Manufacturing Inc., Sentra Industries, Inc., Stealth Industries, Inc., and Rentamark.com. Mr. Stoller admits that he is the chief operating officer, president, and where applicable, sole shareholder for each of these corporate entities. Individually and through these wholly-owned entities, Mr. Stoller applies for and has obtained trademark registrations for hundreds of words and phrases including the term "Stealth," which is at issue in the instant case. As part of his "business," Mr. Stoller issues cease and desist letters to companies that market products bearing some version of the names and terms he has purportedly trademarked. In those letters, Mr. Stoller threatens to file an infringement action unless the targeted companies pay him a licensing fees for the use of the allegedly trademarked terms.

\*2 In the mid and late 1990s, Mr. Stoller initiated a number of infringement lawsuits on behalf of S. Industries, Inc., stating that he and/or S. Industries Inc. owned the exclusive rights to various trademarks, including ones for the term "Stealth." As discussed above, many of those suits were unsuccessful and resulted in the imposition of sanctions against S. Industries, Inc. and Mr. Stoller. Seemingly to avoid possible forfeiture of one or more of the trademark registrations to judgments creditors of S. Industries, Inc., Mr. Stoller purportedly transferred S. Industries Inc.'s rights in those marks to Central Mfg. Co.

Thereafter, Mr. Stoller began a new round of infringement lawsuits on behalf of Central Mfg. Co., the new alleged owner of exclusive title for various "Stealth" marks. *See e.g. Central Mfg. Co. et al. v. Brett*, 2005 WL 2445898 (N.D.Ill. Sept. 30, 2005) (Coar, J.). Mr. Stoller and Central Mfg. Co. initiated the instant trademark infringement action on February 4, 2005. Throughout the initial complaint, Central Mfg. Co. maintained that it was a Delaware Corporation. Mr. Stoller and Central Mfg. Co. also stated that they held the rights to the federal trademark registrations for the term "Stealth," which served as the sole basis for their complaint.

Plaintiffs also included, as exhibits to the complaint, copies of trademark registration forms indicating that Central Mfg. Co. held sole title to the disputed "Stealth" trademarks.

Subsequently, Central Mfg. Co. and Mr. Stoller retained additional counsel who filed their appearances on May 19, 2005 and filed an amended complaint on May 24, 2005. Therein, Mr. Stoller removed himself as a named plaintiff and Central Mfg. Co. continued to maintain that it was a Delaware corporation and held sole title to the disputed "Stealth" trademarks. During that same week, Mr. Stoller and his additional attorneys filed a motion with Judge Hart stating that Central Mfg. Co. was a d/b/a of Central Mfg. Inc. *See Columbia Pictures Industries, Inc. v. Stoller et al.*, 05 C 2052. In response to the amended complaint, defendants filed a number of counterclaims, naming Mr. Stoller and various of his wholly-owned corporate entities as counter-defendants. Defendants also filed a motion to dismiss, challenging the legitimacy and corporate status of Central Mfg. Co. In response to defendant's motion to dismiss, Central Mfg. Co. admitted that, contrary to the statements in its initial and amended complaints, it was not a Delaware corporation. In fact, Central Mfg. Co. was not an independent corporate entity. Instead, for the first time in this litigation, Central Mfg. Co. stated that it was a d/b/a/ for Central Mfg. Inc., a Delaware corporation, that was not named in the instant lawsuit. On September 27, 2005, this Court dismissed plaintiff's amended complaint without prejudice.

Prior to a ruling on the motion to dismiss, plaintiff's additional counsel moved to withdraw as counsel for Central Mfg. Co., Mr. Stoller and a number of the corporate counter-defendants, stating that they were no longer being paid and that their continued representation of those parties would violate Illinois Rules of Professional Conduct 3.1, 3.2 and 3.3(a)(1) and (a)(12). <sup>FN2</sup> Mr. Woods did not move to withdraw his appearance on behalf of Central Mfg. Co. The Court scheduled an October 12, 2005 hearing on the motion to withdraw. A few hours before the hearing, plaintiff's additional counsel filed a motion for leave to file a second amended complaint. In light of the allegations in

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plaintiff's additional counsel's motion to withdraw and because Mr. Woods had an appearance on file for Central Mfg. Co., the Court granted the motion to withdraw on October 12, 2005, and gave the corporate counter-defendants until November 2, 2005 to obtain new counsel. The Court reserved ruling on plaintiff's motion for leave to file a second amended complaint and ordered Mr. Woods to either certify that the allegations in the proposed second amended complaint complied with Federal Rule of Civil Procedure ("Rule") 11, or withdraw the proposed second amended complaint by October 21, 2005.

FN2. Rule 3.1 provides, in pertinent part, that "[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good-faith argument for an extension, modification or reversal of existing law." Rule 3.2 provides that "[a] lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client." Rule 3.3(a)(1) provides that a lawyer shall not "make a statement of material fact or law to a tribunal which the later knows or reasonably should know is false." Rule 3.3(a)(12) provides that a lawyer shall not "fail to use reasonable efforts to restrain and prevent a client from doing those things that the lawyer ought not to do."

\*3 Thereafter, the Court began to uncover some of the egregious conduct of Mr. Stoller, individually and on behalf of his corporate entities, and Mr. Woods. The Court held a hearing on November 9, 2005. At the hearing, Mr. Woods admitted to the following conduct:

(1) providing Mr. Stoller with oral authorization to sign his name to pleadings filed with the Court;  
(2) authorizing Mr. Stoller to sign his name to a motion to compel that lacked any evidentiary support and accused this Court of "being an integral part of [a scheme] to defraud the Federal Court and to defraud Leo Stoller out of his valuable trademarks," and accused defense counsel of "

concocting [a] scheme in order to defraud the counter-defendants out of \$100,000 and 30 Federal Trademarks," "tortiously interfer[ing] with Leo Stoller's business banking relationship," and designing "a scheme to purchases a fee award merely for the purpose of asserting a non-meritorious counterclaim;"

(3) authorizing Mr. Stoller to sign his name to the February 4, 2005 attorney appearance form on behalf of Central Mfg. Co. that failed to include his ARDC number;

(4) authorizing Mr. Stoller to sign his name to the February 4, 2005 complaint that repeatedly stated that Central Mfg. Co. is a Delaware corporation, when reasonable inquires as required by Rule 11 would have disclosed that Central Mfg. Co. was not an independent legal entity;

(5) authorizing Mr. Stoller to sign his name to an October 28, 2005 attorney appearance form that failed to include his ARDC number and purported to be on behalf of Central Mfg. Co., after all parties to the case had previously agreed that Central Mfg. Co. was not an independent legal entity;

(6) authorizing Mr. Stoller to sign his name to an October 28, 2005 attorney appearance form on behalf of various corporate counter-defendants without verifying whether those counter-defendants were independent legal entities; and

(7) authorizing Mr. Stoller to sign his name to a Rule 11 Certification, dated October 21, 2005, certifying that the proposed second amended complaint complied with Rule 11.

At the hearing, Mr. Woods also stated that the allegations and information in the above referenced filings came directly from Mr. Stoller. Mr. Stoller provided Mr. Woods with the information included in the above referenced motion to compel and erroneously represented that each of the counter-defendants listed on Mr. Woods' October 28, 2005 appearance form were independent legal entities. Additionally, although not specifically confirmed on the record, it appears that Mr. Stoller may have drafted a number of the pleadings to which he affixed Mr. Woods' name. Furthermore, Mr. Stoller also filed baseless *pro se* motions in his capacity as a counter-defendant. Most notably, Mr. Stoller filed meritless motions to disqualify this Court and defense counsel. Despite repeated

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admonishments by this Court that he was not an attorney and could not represent his corporate entities, Mr. Stoller also filed a pleading on behalf of his corporate counter-defendants.

## II. Legal Analysis

### A. Conduct of the Corporate Counter-defendants

\*4 It is well settled that corporate entities cannot appear before the court *pro se*. See *Scandia Down Corp. v. Euroquilt, Inc.*, 772 F.2d 1423, 1427 (7th Cir.1985). On October 27, 2005, the Court ordered that any corporate counter-defendant that did not have an attorney appearance on file by November 2, 2005 would be defaulted. The next day, Mr. Woods authorized Mr. Stoller to sign his name to and file an attorney appearance on behalf of all of the corporate counter-defendant. That appearance form clearly violates Rule 11(a). Rule 11(a) requires that "[e]very pleading, written motion, and other paper shall be signed by at least one attorney." *Fed.R.Civ.P. 11* (emphasis added). In order to comply with Rule 11, Mr. Woods must personally sign each paper filed with the Court and cannot authorize Mr. Stoller to sign his name to pleadings submitted on behalf of the corporate counter-defendant. See *Dillard v. Washington*, 1996 WL 616664 (N.D.Ill. Oct. 21, 1996) (dismissing a complaint pursuant to Rule 11 because the plaintiff failed to personally sign it).

The appearance form also fails to comply with Rule 11(b). Mr. Woods admitted that he did not verify that each of the counter-defendants listed on the appearance form were independent legal entities. In fact, a number of those entities, most notable Central Mfg. Co., are not legal entities. Further, authorizing the filing on an attorney appearance form on behalf of non-existent corporate entities clearly prejudiced defendants by needlessly increasing the cost of discovery and hampering defendants' ability to identify the true parties in interest in Counterclaim IV. Therefore, because the attorney appearance form filed on behalf of the corporate counter-defendants violates Rule 11(a) and (b), it is stricken. Additionally, the corporate

counter-defendants will not be allowed leave to file an additional attorney appearance form. Based on the admissions of Mr. Woods, he is not qualified to represent the corporate counter-defendants in this litigation, and the counter-defendants cannot represent themselves. Accordingly, default judgment is entered as to each of the corporate counter-defendants for failure to obtain competent representation, despite ample opportunity to do so.

### B. The Conduct of Mr. Woods and Mr. Stoller, Individually and on Behalf of Central Mfg. Co.

Next, the Court addresses the conduct of Mr. Woods and Mr. Stoller, individually and on behalf of Central Mfg. Co. The Court has the inherent authority to dismissed plaintiff's complaint with prejudice and enter a default judgment against Mr. Stoller to rectify abuses to the judicial process. *Dotson v. Bravo*, 321 F.3d 663, 667 (7th Cir.2003). This power is governed by the necessary control a court must have over its docket and includes the imposition of the sanction of dismissal with prejudice. *Id.* As the Seventh Circuit has recognized, "there are species of misconduct that place too high a burden ... for a court to allow a case to continue." *Barnhill v. United States*, 11 F.3d 1360, 1368 (7th Cir.1993). Dismissal with prejudice is a harsh sanction, however "the most severe sanction in the spectrum of sanctions provided by statute or rule must be available ... not merely to penalize those whose conduct may be deemed to warrant such a sanction, but to deter those who might be tempted to such conduct in the absence of such a deterrent." *Nat'l Hockey League v. Metro Hockey Club, Inc.*, 427 U.S. 639, 643 (1976). Additionally, the Court need not explore the appropriateness of a lesser sanction if the circumstances justify dismissal of the action with prejudice. *Dotson*, 321 F.3d at 667.

\*5 In deciding what measure of sanction to impose, this court must consider the "egregiousness of the conduct in question in relation to all aspects of the judicial process." *Barnhill*, 11 F.3d at 1368. Further, "[m]isconduct may exhibit such flagrant contempt for the court and its processes that to allow the offending party to continue to invoke the

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judicial mechanism for its own benefit would raise concerns about the integrity and credibility of the civil justice system that transcend the interests of the parties immediately before the court." *Dotson*, 321 F.3d at 668.

Since the inception of this case, Mr. Woods and Mr. Stoller, individually and on behalf of Central Mfg. Co., have repeatedly violated the Federal Rules of Evidence. For example, Mr. Woods stated that he did not personally sign the original attorney appearance or complaint filed on behalf of Central Mfg. Co. Rather, in violation of Rule 11, Mr. Woods authorized Mr. Stoller to sign his name to those documents, without provided any indication to the Court or opposing counsel that Mr. Woods had not personally signed them. Mr. Woods also did not personally sign the Rule 11 certification ordered by the Court, within the deadline for doing so.

Next, Mr. Woods and Central Mfg. Co., through Mr. Stoller, violated Rule 11(b) by maintaining that Central Mfg. Co. was a Delaware corporation. Contrary to the statements in Central Mfg. Co.'s initial and amended complaints, it is not an independent legal entity and is not incorporated under the laws of Delaware. Central Mfg. Co. filed an amended complaint with this Court on May 26, 2005 stating that it was a Delaware corporation, while almost simultaneously filing a motion before Judge Hart stating that Central Mfg. Co. was a d/b/a for Central Mfg. Inc. See *Columbia Pictures Industries, Inc. v. Stoller et al.*, 05 C 2052. Plaintiff, through Mr. Stoller, filed this case under a false name. Since the inception of this case, and unquestionably prior to filing the amended complaint, Mr. Stoller knew that he had not incorporated Central Mfg. Co. However, Mr. Stoller likely attempted to conceal this fact from the Court because the trademark registrations that are the basis for the infringement claims, state that Central Mfg. Co., not Central Mfg. Inc., owns sole title to the disputed marks. The conduct of Central Mfg. Co., through Mr. Stoller, is akin to the conduct in *Dotson*, 321 F.3d 663. In *Dotson*, the Seventh Circuit upheld the dismissal of a plaintiff's case with prejudice as a sanction for filing suit under a false name. *Id.* at 668. Accordingly, Central Mfg. Co. and Mr. Stoller deserve the same sanction for filing

suit on half of a false corporation.

Mr. Stoller and Mr. Woods have also displayed an appalling lack of regard for this court and a lack of respect for the judicial process. As stated above, Mr. Stoller likely engaged in the unauthorized practice of law by indiscriminately placing his signature and that of Mr. Woods on meritless and untrue pleadings. Specifically, Mr. Stoller accused this Court and opposing counsel of participated in a scheme to defraud the federal courts and others and of engaging in unprofessional and unethical conduct. To the contrary, Mr. Stoller and Mr. Woods are the only ones who have engaged in unprofessional and unethical conduct in this case. Additionally, despite more than ample time, Mr. Woods and Mr. Stoller failed to remedy inconsistencies between the proposed second amended complaint and Exhibit 2 attached thereto. Specifically, Mr. Woods and Mr. Stoller failed to reconcile the statements in the proposed second amended complaint that Central Mfg. Inc. owns title to the disputed marks, and the trademark registrations in Exhibit 2, which clearly state that title lies solely with Central Mfg. Co.

\*6 Mr. Stoller appears to believe that this Court exists to serve his selfish interests and to promote his questionable business, rather than to serve the interests of justice. Mr. Stoller is wrong and must be sanctioned in the only manner that will deprive him of the very process he has sought to manipulate and pervert. In light of the above mentioned egregious conduct and flagrant contempt of court, to allow Mr. Stoller and his wholly owned entities to continue to "invoke the judicial mechanism for [their] own benefit would raise concerns about the integrity and credibility of the civil justice system that transcend the interests of the parties immediately before the court." *Dotson*, 321 F.3d at 668. Accordingly, under the Court's inherent power, plaintiff's case is dismissed with prejudice and a default judgment is entered against Mr. Stoller in his capacity as a counter-defendant.

### III. Conclusion

For the foregoing reasons and pursuant to the

Slip Copy

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Slip Copy, 2005 WL 3090988 (N.D.Ill.)  
(Cite as: Slip Copy)

Court's inherent power, plaintiff's case is dismissed with prejudice and a default judgment is entered against each of the counter-defendants. All other pending motions are moot. Any sanction motions pursuant to Rule 11 for conduct addressed in this order must be filed by November 30, 2005. It is so ordered.

N.D.Ill.,2005.

Central Mfg. Co. v. Pure Fishing, Inc.  
Slip Copy, 2005 WL 3090988 (N.D.Ill.)

Briefs and Other Related Documents (Back to top)

- 2005 WL 2870353 (Trial Motion, Memorandum and Affidavit) Second Motion to Compel and Request for Sanctions (Sep. 30, 2005)
- 2005 WL 694860 (Trial Pleading) Complaint (Feb. 04, 2005)
- 1:05cv00725 (Docket) (Feb. 04, 2005)
- 2005 WL 2870345 (Trial Motion, Memorandum and Affidavit) Plaintiffs' Memorandum In Opposition to Defendant's Motion for Summary Judgment (Jan. 01, 2005)
- 2005 WL 3285865 (Trial Pleading) Second Amended Complaint for Trademark Infringement and Other Relief (Jan. 01, 2005)

END OF DOCUMENT

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## **EXHIBIT 3.**



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## Trademark Assignment Abstract of Title

## Total Assignments: 1

Serial #: 73553786

Filing Dt: 08/16/1985

Reg #: 1438152

Reg. Dt: 04/28/1987

Registrant: S INDUSTRIES, INC.

Mark: FIRE POWER

## Assignment: 1

Reel/Frame: 1708/0554

Received: 04/07/1998

Recorded: 09/01/1997

Pages: 22

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: S INDUSTRIES, INC.

Exec Dt: 09/01/1997

Entity Type: CORPORATION

Citizenship: NONE

Assignee: CENTRAL MFG. CO.

P.O. BOX 35189

CHICAGO, ILLINOIS 60707-0189

Entity Type: CORPORATION

Citizenship: NONE

Correspondent: LEO STOLLER

P.O. BOX 35189

CHICAGO, IL 60707-0189

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Assignments on the Web &gt; Trademark Query

## Trademark Assignment Abstract of Title

## Total Assignments: 1

Serial #: 75203742

Filing Dt: 11/25/1996

Reg #: 2097863

Reg. Dt: 09/16/1997

Registrant: S Industries, Inc.

Mark: FIRE POWER

## Assignment: 1

Reel/Frame: 1708/0554

Received: 04/07/1998

Recorded: 09/01/1997

Pages: 22

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: S INDUSTRIES, INC.

Exec Dt: 09/01/1997

Entity Type: CORPORATION

Citizenship: NONE

Assignee: CENTRAL MFG. CO.

P.O. BOX 35189

CHICAGO, ILLINOIS 60707-0189

Entity Type: CORPORATION

Citizenship: NONE

Correspondent: LEO STOLLER

P.O. BOX 35189

CHICAGO, IL 60707-0189

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## **EXHIBIT 4.**

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## RENTAMARK.COM

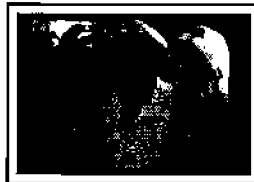
RENTAMARK IS A FULL SERVICE TRADEMARK LICENSING FIRM OFFERING TRADEMARK LITIGATION SUPPORT SERVICES, TRADEMARK VALUATIONS, AND EXPERT WITNESS TESTIMONY WITH OVER 30 YEARS EXPERIENCE IN TRADEMARK MATTERS: LITIGATION IS WAR \* WELCOME TO THE FRONT

FRIDAY, MAY 05, 2006

JOHN L. WELCH AND MARTY SCHWIMMER GO TO INTA TO PARTY



JOHN L. WELCH, MARTY



SCHWIMMER AND JEREMY PHILLIPS head to INTA which will be held in Toronto this year. The easiest place to find Mr. Welch and

Mr. Schwimmer according to sources will be at the Beer Bistro. There is a "meet the blogger event" scheduled at the Beer Bistro for Tuesday May 9, 2006. It is reported that the party will last until...The only requirement is that there will be no trademark business spoken all drinks are on Mr.

Schwimmer...have fun...You can contact us at [ldms4@hotmail.com](mailto:ldms4@hotmail.com)/ 773-589-0340 Fax 773-589-0915 <http://rentmark.blogspot.com> [www.rentamark.com/](http://www.rentamark.com/)

POSTED BY RENTAMARK.COM AT 6:10 PM

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## ABOUT ME



**LEO STOLLER  
CHICAGO, ILLINOIS**

LICENSOR of numerous famous trademarks including STEALTH,

SENTRA, DARK STAR, AIR FRAME, STRADIVARIUS, HAVOC, TRIANA, TRAVELING NURSE, WHITE LINE FEVER, CHESTNUT, TRIADE etc., see [www.rentamark.com](http://www.rentamark.com). Leo Stoller graduated from Mayville State College with a BS Degree and North Dakota State University, MASTERS DEGREE. Leo Stoller is the nation's most renowned Intellectual Property Entrepreneur with over 30 years in the field of trademarks, licensing and enforcement, expert witness testimony, trademark valuation Expert and legal ethics expert. Leo Stoller has appeared on FOX NEWS, CBS and in numerous national news papers including the New York Times and on many radio talk shows. Leo Stoller is ready to go to work for you: contact information: Leo Stoller, President/CEO Central Mfg Co., Stealth Industries, Inc., Rentamark.com, 7115 W. North Avenue #272, Oak Park, Illinois 60302. Phone 773-283-3880, Fax 708-453-0083 Email [ldms4@hotmail.com](mailto:ldms4@hotmail.com) [www.rentamark.com](http://www.rentamark.com), [www.rentamark.com/aeae](http://www.rentamark.com/aeae) [www.rentamark.com/aeje](http://www.rentamark.com/aeje)

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SPORTSMAN'S GUIDE REFUSES TO  
REMOVE OFFENDING STEALTH  
MERCHANDISE  
MATTEL STEALTH APPLICATION  
DENIED  
TTAB NAMES PETER W. GALTALDO  
JUDGE  
INTA SNUBS LEO STOLLER FOR  
SECOND YEAR  
LEO STOLLER BLOG SUCCESS  
LEO STOLLER'S TRADEMARKS ARE  
EVOCATIVE  
LEO STOLLER VS DONALD TRUMP

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1,422

## **EXHIBIT 5.**

NEW CASTLE COUNTY  
REGISTRATION OF TRADE NAMES  
PARTNERSHIPS & ASSOCIATIONS

FILED 6 Del.C. Ch. 31  
NOTARY  
2006 MAR 24 PM 2:54

TRADE NAME: CENTRAL MFG. CO

Business Address: 40 E. MAIN STREET Box 184

CENTRAL MFG. INC. Phone Number 773-283-3860  
Title of Person, Firm or Association (Parent Company, if applicable):

Names and addresses of all owners, members, or partners comprising the firm:

Stoller	LEO	PO Box 35189 CHICAGO, IL 60707-0189

Date of Formation: 1987

Nature of Business: TRADEMARK LICENSING AND ENFORCEMENT

BEFORE ME, the Subscriber, a Notary Public  
appeared LEO STOLLER, a principal in the business described in the foregoing  
Certificate, who, having first been sworn by me according to law did depose and say as follows:

1. He/She is a principal in the business described in the foregoing certificate.
2. That the foregoing information provided in the foregoing certificate is true, correct, and complete.

CERTIFIED AS A TRUE COPY  
ATTEST: SHARON AGNEW  
PROTONOTARY  
BY Cynthia Coleman

Leo Stoller

Affiant

Title: President

SWORN AND SUBSCRIBED this 07th day of FEBRUARY - 2006

CHICAGO, ILLINOIS, U.S.A.

I, Notary Public, do hereby certify this to be the true

signature of MR. LEO STOLLER

which was signed in my presence.

FEB 07 2006

Notary Public

