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

Proceeding	91176837
Party	Defendant RBC Bearings Inc. RBC Bearings Inc. One Tribology Center Oxford, CT 06478
Correspondence Address	Richard R. Michaud Michaud-Duffy Group LLP 306 Industrial Park Road , Suite 206 Middletown, CT 06457-1517 UNITED STATES engel@michaud-duffy.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Richard R. Michaud
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Signature	/rrm/
Date	06/01/2007
Attachments	1001-0051-1-Supplement to Motion to Suspend forPeer Opposition of 7600 SERIES.pdf (50 pages)(776833 bytes)

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

Peer Bearing Company	)	
Opposer,	)	
	)	Opposition No. 91176837
v.	)	
RBC Bearings, Inc.	)	
Applicant	)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Supplemental Exhibits for Motion to Suspend the Proceedings of May 4, 2007

Applicant, RBC Bearings, Inc. by its undersigned Attorneys, provides herein copies of the pleadings in the civil action which formed the basis of the Stipulated Motion to Suspend filed May 4. This submission is made in anticipation of a T.T.A.B. request for pleadings.

The attachments are the Second Amended Complaint and the Answer in Civil Action No: 3:06-CV-01380-MRK.

Dated: June 1, 2007

/s/Raymond D Thompson/
Raymond D Thompson
Michaud-Duffy Group LLP
ATTORNEY for APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2007, a copy of the foregoing Supplemental Exhibits for Stipulated Motion to Suspend the Proceedings of May 4, 2007 was filed electronically in the Electronic System for Trademark Trials and Appeals and served by e-mail to EKeating@CookAlex.com and docket@cookalex.com by agreement with counsel for Opposer. Full address is listed below:

Edward M. Keating
Cook, Alex, McFarron, Manzo, Cummings
200 West Adams Street, Suite 2850
Chicago, IL 60606

/s/Raymond D Thompson/
Raymond D Thompson
Michaud-Duffy Group LLP
ATTORNEY for APPLICANT

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RBC NICE BEARINGS, INC. and ROLLER BEARING COMPANY of AMERICA, INC.	)	Civil Action No.: 3:06-CV-01380-MRK
Plaintiffs,	)	Judge Mark R. Kravitz
vs.	)	
PEER BEARING COMPANY,	)	
Defendant	)	

ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIM OF PEER BEARING COMPANY

Defendant Peer Bearing Company (hereinafter "Peer" or "Defendant"), by and through its attorneys, answers the Second Amended Complaint of Plaintiffs RBC Nice Bearings, Inc. and Roller Bearing Company of America, Inc. as follows:

Jurisdiction & Venue

1. Defendant admits that Plaintiffs purport to have alleged claims for trademark infringement, unfair competition, false designation of origin and advertising injury under the Trademark Laws of the United States (15 U.S.C. §1051 *et seq.,* including Section 43(a) of the Lanham Act (15 U.S.C. §1125(a)), the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a *et seq.*), the Connecticut Unfair Sales Practices Act (Conn. Gen. Stat. §§ 42-115e *et seq.*), and the common law of unfair competition, copyright infringement under the Copyright Act of 1976, 17 U.S.C. §1101 *et seq.,* and unjust enrichment, but Defendant denies that it has engaged in any wrongdoing.

2. Defendant denies that this Court has subject matter jurisdiction over Plaintiffs' copyright infringement claim in view of Plaintiffs' failure to cite any registration certificate or application which has been refused registration for any copyright which Plaintiffs claim Defendant has infringed, as required under 17 U.S.C. §411. Subject to the foregoing denials, Defendant admits the remaining allegations of Paragraph 2.

3. Admitted

Parties

4. Defendant admits that RBC Nice Bearings, Inc. is a Delaware corporation. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 4 and therefore denies the same.

5. Defendant admits that Roller Bearing Company of America, Inc. is a Delaware corporation. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5 and therefore denies the same.

6. Admitted

Background

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 and therefore denies the same.

8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 and therefore denies the same.

9. Denied

10. Defendant admits that online records of the United States Patent and Trademark Office indicate the following: applications to register each of the terms appearing in the chart below as trademarks were filed in the United States Patent and Trademark Office; the named owner, goods description, filing date, and the date on which each application was published for opposition are as noted in the chart below; multiple parties have filed requests for extensions of time to oppose the applications to register as trademarks the terms "7500 SERIES", "7600 SERIES", "600 SERIES" and "6900 SERIES." Defendant states that the application to register the term 1600 Series as a trademark was opposed by Defendant in Opposition Proceeding No. 91171191 before the United States Patent Office Trademark Trial and Appeal Board which has been suspended pending final disposition of this civil action.

APPLICATION #	TERM	GOODS	NAMED OWNER	FILING DATE	PUBLICATION DATE
78/535,213	1600 SERIES	Ball bearings for equipment relating to construction, mining, material handling, transportation and off-highway, robotics and automation, farming, machine tool, and semiconductor applications	RBC Bearings	12/20/2004	5/2/2006
78/754,876	7500 SERIES	Ball bearings for machines, motors, engines, and tools	RBC Bearings, Inc.	11/16/2005	12/19/2006
78/754,894	7600 SERIES	Ball bearings for machines, motors, engines, and tools	RBC Bearings, Inc.	11/16/2005	12/19/2006
78/745,178	600 SERIES	Ball bearings for machines, motors, engines, and tools	RBC Bearings, Inc.	11/2/2005	12/26/2006
78/754,907	6900 SERIES	Ball bearings for machines, motors, engines, and tools	RBC Bearings, Inc.	11/16/2005	12/19/2006

Defendant denies that Plaintiffs filed the foregoing trademark applications since neither Plaintiff is identified as the named owner on any of the above trademark applications.

Defendant is without knowledge or information sufficient to form a belief as to the truth of all other allegations in Paragraph 10 and therefore denies the same.

11. Defendant admits that according to online records of the United States Patent and Trademark Office, on July 6, 2005, Plaintiff Roller Bearing Company of America, Inc. filed applications to register each of the following terms as trademarks for use with certain goods as noted in the chart below, and that at present each of these applications stands rejected.

APPLICATION #	TERM	GOODS	NAMED OWNER	FILING DATE
78/664,362	1621	Machine parts, namely, thin section roller bearings	Roller Bearing Company of America, Inc.	7/6/2005
78/664,347	1630	Thin section roller bearings	Roller Bearing Company of America, Inc.	7/6/2005
78/664,336	1635	Thin section roller bearings	Roller Bearing Company of America, Inc.	7/6/2005
78/664,553	1641	Thin section roller bearings for machines	Roller Bearing Company of America, Inc.	7/6/2005

Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 11 and therefore denies the same.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 and therefore denies the same.

13. Denied

14. Defendant admits that it has catalogs which are available online through its website at www.peerbearing.com. Defendant denies all of the remaining allegations in Paragraph 14.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and therefore denies the same.

16. Defendant admits that its radial bearing catalog dated 12/12/05 available online at www.peerbearing.com identifies a group or series of bearings in association with the term "1600 Series" in the table of contents. Defendant further admits that elsewhere in the same catalog, bearings in this group or series are identified and distinguished according to the following part number, size designations: 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1622, 1623, 1628, 1630, 1633, 1635, 1638, 1640, 1641, 1652, 1654, 1657, and 1658.

Defendant further admits that its tapered bearing catalog dated 11/3/05 available online at www.peerbearing.com identifies a group or series of bearings in association with the term 1600 SERIES. Defendant further admits that bearings in this group or series are identified and distinguished according the following part number, size designations: 1674, 1620, and 1680.

Answering further, Defendant states that the Peer name is prominently featured on each page of the foregoing catalogs.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 16 and therefore denies the same.

17. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and therefore denies the same.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 and therefore denies the same.

19. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 and therefore denies the same.

20. Defendant admits that its radial bearing catalog dated 12/12/05 available online at www.peerbearing.com identifies a group or series of bearings in association with the term 7500 Series. Defendant further admits that elsewhere in the same catalog bearings in this group or series are identified and distinguished according to the following part number, size designations: 7508, 7510, 7512, 7514, 7518, and 7520.

Answering further, Defendant states that the Peer name is prominently featured on each page of the foregoing catalog.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 20 and therefore denies the same.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21 and therefore denies the same.

22. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22 and therefore denies the same.

23. Defendant admits that its radial bearing catalog dated 12/12/05 available online at www.peerbearing.com identifies a group or series of bearings in association with the term 7600 Series. Defendant further admits that elsewhere in the same catalog bearings in this group or series are identified and distinguished according to the following part number, size designations: 7608, 7610, 7612, 7614, 7615, 7616, 7617, 7618, and 7620.

Answering further, Defendant states that the Peer name is prominently featured on each page of the foregoing catalog.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 23 and therefore denies the same.

24. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 and therefore denies the same.

25. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25 and therefore denies the same.

26. Defendant admits that its radial bearing catalog dated 12/12/05 available online at www.peerbearing.com identifies a group or series of bearings in association with the term "600 Series" and another group or series of bearings in association with the term "6900 Series".

Answering further, Defendant states that the Peer name is prominently featured on each page of the foregoing catalog.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 26 and therefore denies the same.

27. Defendant admits that on August 1, 2006 or thereabouts, counsel for RBC Bearings sent counsel for Peer Bearing Company the letter attached to Plaintiff's Second Amended Complaint as Exhibit A which made reference to Defendant's opposition to registration of the term 1600 SERIES and demanded that Defendant "refrain from all future use of the 1600 SERIES mark and of the part number system by which Peer Bearing has numbered its bearings with RBC's part numbers." Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 27 and therefore denies the same.

28. Denied

29. Denied

30. Denied

31. Denied

32. Denied

33. Denied

34. Denied

Count I – Alleged Trademark Infringement

1-34. Defendant restates its answers to paragraphs 1 through 34 in the preceding section as and for its answers to Paragraphs 1 through 34 of Count I as if fully set forth herein.

35. Denied

36. Denied

37. Denied

38. Denied

39. Denied

Count II – Alleged Unfair Competition

1-34. Defendant restates its answers to paragraphs 1 through 34 in Count 1 as and for its answers to Paragraphs 1 through 34 of Count II as if fully set forth herein.

35. Denied

36. Denied

37. Denied

Count III – Alleged False Designation of Origin

1-34. Defendant restates its answers to paragraphs 1 through 34 in Count II as and for its answers to Paragraphs 1 through 34 of Count III as if fully set forth herein.

35. Denied

36. Denied.

37. Denied.

Count IV – Alleged Advertising Injury

1-34. Defendant restates its answers to paragraphs 1 through 34 in Count III as and for its answers to Paragraphs 1 through 34 of Count IV as if fully set forth herein.

35. Denied

36. Denied

37. Denied

Count V – Alleged Copyright Infringement

1-34. Defendant restates its answers to paragraphs 1 through 34 in Count III as and for its answers to Paragraphs 1 through 34 of Count IV as if fully set forth herein.

35. Defendant denies that Plaintiffs have properly alleged a claim for copyright infringement. Defendant states that Plaintiffs fail to cite any copyright registration certificate or application which has been refused registration for any copyright which Plaintiffs claim Defendant has infringed, as required under 17 U.S.C. §411, in order for this Court to have subject matter jurisdiction over Plaintiffs' copyright infringement claim. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 35 and therefore denies the same.

36. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 and therefore denies the same.

37. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 and therefore denies the same.

38. Defendant admits that the selected pages included as Exhibit B to Plaintiffs' Second Amended Complaint show use of the terms 1600 Series, 7500 Series, and 7600 Series. Defendant further states that these pages appear to be substantially similar if not identical to alleged earlier publications of the Nice Bearing Company which, on information and belief, were created and first published prior to 1966, the year in which Plaintiffs allege the Exhibit B materials were "published and copyrighted." Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations that the Exhibit B materials were "published and copyrighted in 1966" and all other allegations contained in Paragraph 38 and therefore denies the same.

39. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39 and therefore denies the same.

40. Defendant admits that Plaintiffs have attached as Exhibit C photocopies of selected pages of one current catalog of Defendant which is available online at www.peerbearing.com. Defendant further admits that such pages make reference to certain bearings in association with the term "1600 Series" and other bearings in association with the term "7500 & 7600 Series". Defendant denies all other allegations contained in paragraph 40.

41. Denied

42. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42 and therefore denies the same.

43. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 and therefore denies the same.

44. Denied

45. Denied

Count VI – Alleged Unjust Enrichment

1-43. Defendant restates its answers to paragraphs 1 through 34 inclusive and paragraphs 36-44 inclusive in Count V, as and for its answers to Paragraphs 1 through 43 of Count VI as if fully set forth herein.

44. Denied

45. Denied

AFFIRMATIVE DEFENSES

Without admitting any of the allegations of the Complaint other than those specifically admitted to herein, and, without prejudice to Peer Bearing Company's right to plead additional affirmative defenses as the facts may warrant, Peer Bearing Company hereby asserts the following affirmative defenses:

First Affirmative Defense

Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Plaintiffs' allegations of copyright infringement fail to satisfy the jurisdictional prerequisites of an action for copyright infringement under 17 U.S.C. §411.

Third Affirmative Defense

Plaintiffs' asserted copyrights pertain to subject matter which is not copyrightable.

Fourth Affirmative Defense

Plaintiffs' asserted copyrights, if enforceable at any time, have entered the public domain.

Fifth Affirmative Defense

Plaintiffs do not have proper title in any alleged trademark or copyright, or in the alternative, do not have standing to bring this action.

Sixth Affirmative Defense

Plaintiffs' alleged trademarks are not inherently distinctive and have not acquired secondary meaning.

Seventh Affirmative Defense

Plaintiffs' alleged trademarks are common descriptive or generic terms which identify and distinguish the bearings with which they are used based on size, class, type, or style of bearing.

Eighth Affirmative Defense

Plaintiffs' claims are barred by the doctrine of laches.

Ninth Affirmative Defense

Plaintiffs' claims are barred by the doctrine of estoppel.

Tenth Affirmative Defense

Plaintiffs' claims are barred by the doctrine of acquiescence.

Eleventh Affirmative Defense

Plaintiffs' claims are barred by the doctrine of waiver.

Twelfth Affirmative Defense

Defendant's conduct is non-actionable based on the doctrine of fair use.

Thirteenth Affirmative Defense

Plaintiffs' claims are barred in whole or in part based on the relevant statute of limitations.

COUNTERCLAIM

Without admitting any of the allegations of the Complaint other than those specifically admitted to herein, and, without prejudice to Peer Bearing Company's right to plead additional counterclaims as the facts of the matter warrant, Peer Bearing Company hereby asserts the following counterclaims and alleges the following:

The Parties

1. Peer Bearing Company ("Peer") is an Illinois corporation with a principal place of business at 220 Norman Drive South, Waukegan, Illinois 60085.

2. Based on information and belief, RBC Nice Bearings, Inc. is a Delaware corporation with a place of business at One Tribology Center, Oxford, Connecticut 06478.

3. Based on information and belief, Roller Bearing Company of America Inc. is a Delaware corporation with a place of business at One Tribology Center, Oxford, Connecticut 06478.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over this Counterclaim pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201-02, and the United States Lanham Act, 15 U.S.C. §§ 1051 – 1127, and 28 U.S.C. §§ 1331 and 1338.

5. Venue is proper in this district under 28 U.S.C. §1391.

Background

6. For several decades, Peer Bearing Company and other companies engaged in the business of manufacturing, marketing, and sale of bearings have used Series terms

and related part number designations to identify and distinguish bearings based on size, class, type, or style of bearing product.

7. As one illustration, Peer has advertised and sold a group or series of bearings identified by the term 1600 Series since the 1960's. The bearings of this series are identified and distinguished by the following part number, size designations: 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1622, 1623, 1628, 1630, 1633, 1635, 1638, 1640, 1641, 1652, 1654, 1657, and 1658.

8. Peer's use of the term 1600 Series and the foregoing part numbers has been continuous, open, and unchallenged for over thirty (30) years ----- until August 2004, when Peer and twenty-four (24) other manufacturers and sellers of 1600 series bearings were notified by Roller Bearing Corporation of America that their use of the term 1600 Series and the related individual part numbers were "unauthorized." *See Exhibit A – Applicant's (Roller Bearing Company of America, Inc.'s) Supplemental Responses to Opposer's First Set of Interrogatories to Applicant, Supplemental Response No. 2, pp. 4-7.*

9. On information and belief, not until the 2004 --- more than fifty years after Nice Bearings, Inc. allegedly began using the term 1600 Series and the related part numbers, did any entity, including Nice Bearings, Inc., manifest even a belief to customers or the bearing industry that the 1600 Series and related part number size designations were common law trademarks.

10. Rather, consistent with the understanding that the 1600 Series and related part numbers were <u>not</u> trademarks, Nice Bearings, Inc. did not take even the most basic

steps to maintain the 1600 Series or related part numbers as trademarks, or assert them as trademarks against purportedly unauthorized third-party users thereof.

11. Consistent with the foregoing and based on written discovery obtained in Opposition Proceeding No. 91171191 concerning the 1600 Series trademark application, August 2004 was the first time Roller Bearing Company of America, Inc. or any predecessor or affiliate company notified any third-party bearing manufacturer or seller using the 1600 Series term and related part numbers that such was unauthorized and an act of infringement.

12. Based on information and belief, the twenty-five recipients of Roller Bearing Company of America's August 18, 2004 cease and desist letter represent a small fraction of the history and extent of the third-party, industry wide use of these terms and part numbers to identify and distinguish bearings according to size, class, type, or style of bearing.

13. Peer has been and will continue to be irreparably harmed if Plaintiffs are allowed to continue with their unwarranted assertions of purported trademark rights in the 1600 and other Series terms and part numbers related thereto.

Counterclaim I: Declaratory Judgment of No Violation of §43(a) of the Lanham Act, 15 U.S.C. §1125(a)

14. Peer restates and realleges: each of the foregoing responses to each paragraph of Plaintiffs' Second Amended Complaint; each and everyone of its Affirmative Defenses; and Paragraphs 1 – 13 of its Counterclaim and incorporates them herein.

15. Plaintiffs have claimed common law trademark rights in the following Series terms: 600 Series, 1600 Series, 6900 Series, 7500 Series, and 7600 Series.

16. Plaintiffs have also claimed common law trademark rights in specific part numbers related to these Series terms.

17. Each of the Series terms and related part numbers are descriptive terms given the manner in which they have been used for many years throughout the bearing industry.

18. Correspondingly, the Series terms and related numbers have been understood and appreciated by the relevant market of consumers as descriptive terms which identify and distinguish bearing products accordingly to size, class, type, or style of bearing.

19. None of these Series terms or related part numbers have acquired secondary meaning.

20. Accordingly, none of the Series terms or related part numbers are valid or enforceable trademarks.

PRAYER FOR RELIEF

WHEREFORE, Peer Bearing Company respectfully requests that judgment be entered in favor of Peer Bearing Company and against each of RBC Nice Bearings, Inc. and Roller Bearing Company of America, Inc., and that Peer Bearing Company be granted the following relief:

1. An order dismissing Plaintiffs' Second Amended Complaint with prejudice;

2. A declaration that each of Plaintiffs' asserted Series terms and related part numbers are neither inherently distinctive nor have acquired secondary meaning, or in the alternative, are unenforceable;

3. A declaration that each of Plaintiffs' asserted Series terms and related part numbers are not valid trademarks and therefore may not be registered as trademarks, and with respect to the those applications which Plaintiffs' control, an order directing Plaintiffs' to withdraw all such trademark applications with prejudice;

4. A declaration that this is an exceptional case with respect to Plaintiffs' claims under 15 U.S.C. §1051 *et seq.*, that Peer Bearing Company is a prevailing party, and an award of Peer Bearing Company's attorneys' fees and costs under 15 U.S.C. §1117;

5. A declaration that Plaintiffs' asserted copyrights are either invalid, unenforceable, or not infringed, that Peer Bearing Company is a prevailing party with respect to these allegations, and a corresponding award of Peer Bearing Company's attorneys' fees and costs under 17 U.S.C. §505; and

6. An award of such other and further relief as this Court deems just and proper.

DEFENDANT,
PEER BEARING COMPANY

By /s/ Louis J. Alex

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EXHIBIT A

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

Peer Bearing Company, Opposer, v. Roller Bearing Company of America, Inc. Applicant	Opposition No. 91171191

APPLICANT'S SUPPLEMENTAL RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and the Trademark Rules of Practice of the Patent and Trademark Office, Applicant, Roller Bearing Company of America, Inc. ("Applicant") hereby responds as follows to Opposer's First Set of Interrogatories to Applicant, Peer Bearing Company ("Opposer")

GENERAL OBJECTIONS

Each of Applicant's responses is subject to the following objections:

1. Applicant objects to these Interrogatories, and Request for Production of Documents including the instructions and definitions contained therein, to the extent that they seek to impose

upon Applicant obligations beyond those imposed by the Federal Rules of Civil Procedure and the Trademark Rules of Practice of the Patent and Trademark Office.

2. Applicant objects to these Interrogatories and Request for Production of Documents to the extent that they seek information that is protected from disclosure by the work product doctrine, the attorney-client privilege, or any other privilege that is recognized by law.

3. Applicant objects to these Interrogatories and Request for Production of Documents to the extent that they seek information that is not relevant to the subject matter of this lawsuit or is not reasonably calculated to lead to the discovery of admissible evidence.

4. Applicant objects to these Interrogatories and Request for Production of Documents to the extent that they are overbroad, vague, unduly burdensome, and oppressive.

5. Applicant objects to these Interrogatories and Request for Production of Documents to the extent that they seek disclosure of confidential and proprietary business information.

SUPPLEMENTAL ANSWERS TO 1ST SET OF INTERROGATORIES

Interrogatory No. 3

Explain in detail (a) the correlation of each alpha-numeric character in each of the following terms with any physical attribute, including size, of ball bearings that are manufactured, sold, or advertised by Applicant: 1600 SERIES, 1601, 1602, 1603, 1604, 1605,

1606, 1607, 1614, 1615, 1616, 1620, 1621, 1621, 1630, 1635, 1641, 1602DC, 1602SC, 1602SS, and 1602NS; (b) the date of and goods with which each correlation was first used; and (c) the process by which each correlation was developed, and if applicable, revised, by Applicant, and the dates and locations of each such development and revision. Please include in your response with respect to parts (a), (b), and (c) an identification of all documents referring or related thereto and all persons with knowledge thereof

Supplemental Response No. 3

Applicant objects to this request as overly broad and unduly burdensome. Applicant further objects to the extent that this information calls for information not material to this opposition which relates solely to the mark, 1600 SERIES, while this interrogatory seeks information on twenty other marks or designations. Subject to, and without waiving the foregoing objections, Applicant is of the belief that each numeric character of the following terms, 1600 SERIES, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1621[sic-duplicate], 1630, 1635, 1641, 1602DC, 1602SC, 1602SS, and 1602NS has no unique meaning or correlation to any physical attribute, including size, of ball bearings. The four digit designations were chosen by Nice Ball Bearing Company in about 1946 in a simple numeric sequence to use as trademark designations for individual precision ball bearings. The individual numbers in each of the four digit designations had no significance and continue to have no significance with regard to physical attribute, including size. Each four digit designation did identify a bearing having a particular set of dimensions unrelated to the four digit designation as set forth in the extensive chronological catalog series produced herewith. Applicant believes that 1602DC signifies a 1602 bearing with "double sealed", 1602SC signifies a 1602 bearing

with "single sealed" , 1602SS signifies a 1602 bearing with "single shield". 1602NS signifies a 1602 bearing with "no shield."

Interrogatory No.2

Identify each and every instance since January 1, 1946 that Applicant has charged or otherwise notified in any manner any person or entity using any of the following terms in connection with the sale or advertising of ball bearings that such use was an infringement of Applicant's trademark rights in such term: 1600 SERIES, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1621, 1630, 1635, and 1641. In your response, please identify any related correspondence and documents exchanged between Applicant and such person or entity and the dates of such correspondence.

Supplemental Response No. 2

Applicant objects to this Interrogatory on the grounds that Applicant's activities with unrelated third parties are irrelevant and immaterial to any issues of this Opposition. Applicant also objects to the extent that this information calls for confidential and/or proprietary information of Applicant and any unrelated third parties. Applicant further objects that certain information and documents sought under this interrogatory are subject to attorney-client and attorney work product privilege.

Without waiving any of the objections, each of the following companies were notified of their unauthorized use of "1600 Series" trademark in letters dated on or about August 18, 2004 which are produced herewith (Documents 000877-000970) as "Highly Confidential" under the Protective Order and as such reviewable only by Opposer's counsel and are not to be seen by any employees or officers of Opposer:

RBI Bearings
1055 Stevenson Court, Suite 102W
Roselle, IL USA

Pacamor Kubar
145 Jordan Rd
Troy, NY USA

FIT Bearings
47655 Warm Springs Blvd
Fremont, CA, USA

FBJ Bearings
Number 1A Toh tuck Link
Singapore 596223, Singapore

CiXi YS Bearings
618 Norfth Xingye Road
Zhouxiang Town, Zhejiang Province, China

AST Bearings
115 Main Rd
Montville, NJ USA

HX International
21995 Commerce Point Rd
City of Industry, CA USA

Champion Bearing Co.
3535 Anza Rd, Building U
Palm Springs. CA USA

Yida Bearings
Number 188 Jingjia Rd
Ningbo, China

Peer Bearing Company
2200 Norman Drive South
Waukegan, IL USA

ZXZ Bearings,
Zhejiang Xinchang Xinzhou Industrial
100 Nan Men Wai
Xinchang, China

SUN Sunshine Bearings,
Sunshine Int'l Industry & Trade Co.
168 Baizhang Road
Ningbo 315041, China

HCH Ningbo Haunchi
Group Corp.
Heng He Industry Zone
Cixi City, China

SF-Shangfang -
CIXi City Boashi Bearing Co. LTD
No. 88 Roundcity west Road Zhoxiang Town
Cixi City, China 315482

China Xishan Bearing Corp. Xishan Foreign trade Group
36 Guang Rui Road
Wuxi, China 214011

China - Ningbo Yuyao
Xinfeng Bearing Co., LTD
Zhejiang Yuyao Langxia Xinxin Industrial Zone
Ningbo, China 315482

Ningbo 3-D Industries
Co., LTD
91 Chenghe Est road Zhenhai
Ningbo, China 315200

Consolidated Bearings Company, LTD
10 Wing Drive
Cedar Knolls, NJ USA

C&L Worldwide
1216 E. Kenosha #299
Broken Arrow, OK USA

ITC Bearing Co
5135 Edison Ave, Suite 8-9
Chino, CA USA

C&S Bearing Inc.
9853 Max Shapiro Way, #B
South el Monte, CA USA

A-1 Bearing Imports, Inc.
18 Technology Dr, Suite 148
Irvin, CA USA

Natonal Precision
Bearing group of Mechatronics, Inc
8152-304th Ave SE, PO Box 613
Preston, WA USA

Skate Bearings
PO Drawer 370690
Miami, FL USA

Pacific International
Bearing, Inc.
2730 Cavanagh Court
Hayward, CA USA

Interrogatory No. 7

Identify all federal and state court cases, and any pleadings related thereto in which Applicant (including any predecessor or licensee thereof) has asserted or otherwise indicated that any of the following terms is a trademark: 1600 SERIES, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1621, 1630, 1635, 1641.

Supplemental Response No. 7

Applicant supplements the response to this interrogatory without waiving any prior objections and adds that a trademark infringement suit has been filed and served against Opposer as Defendant. That action is filed in United States Federal District Court for the District of Connecticut, Docket 3:06-cv-01380-MRK, *RBC Nice Bearings, Inc v. Peer Bearing Corp*; Mark R. Kravitz. Presiding Judge; Date filed: 09/05/2006 Date of last filing: 10/06/2006.

Applicants by

Richard R. Michaud

Richard R. Michaud
Michaud-Duffy Group LLP
ATTORNEY for APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing APPLICANT'S SUPPLEMENTAL RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT has been served by Federal Express, this 15TH day of November, 2006 upon the attorney for Opposer, at the following address:

Edward M. Keating
Cook, Alex, McFarron, Manzo, Cummings, and Mehler, Ltd.
200 West Adams Street, Suite 2850
Chicago, IL 60606

Richard R. Michaud
Michaud-Duffy Group LLP

CERTIFICATION

This is to certify that on February 1, 2007, a copy of the foregoing ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM OF PEER BEARING COMPANY, was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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225 Asylum Street
Hartford, CT 06103-4302

/s/ Louis J. Alex
Louis J. Alex

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RBC NICE BEARINGS, INC. and ROLLER BEARING COMPANY of AMERICA, INC.	)	
Plaintiffs,	)	Civil Action No: **3:06-CV-01380-MRK**
vs.	)	
PEER BEARING COMPANY,	)	
Defendant	)	

SECOND AMENDED COMPLAINT

RBC Nice Bearings, Inc., and Roller Bearing Company of America, Inc. allege as follows:

Jurisdiction & Venue

1. This is an action for trademark infringement, unfair competition, false designation of origin and advertising injury under the Trademark Laws of the United States (15 U.S.C. § 1051 *et seq.*, including Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)), the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a *et seq.*), the Connecticut Unfair Sales Practices Act (Conn. Gen. Stat. §§ 42-115e *et seq.*), and the common law of unfair competition, copyright infringement under the Copyrights Act of 1976, 17 U.S.C. §§ 101 *et seq.*, and unjust enrichment.

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1338 (a) and (b), 15 U.S.C. § 1121 (a), and under its supplemental jurisdiction.

3. Venue is proper in this district under 28 U.S.C. § 1391.

Parties

4. RBC Nice Bearings, Inc. is a Delaware corporation having a principal place of business at One Tribology Center, Oxford, CT 06478.

5. Roller Bearing Company of America, Inc. is a Delaware corporation having a principal place of business at One Tribology Center, Oxford, CT 06478. Roller Bearing Company of America, Inc. is the parent company of RBC Nice Bearings, Inc. and the two are collectively referred to herein as "Plaintiffs."

6. Peer Bearing Company is an Illinois corporation with a principal place of business at 2200 Norman Drive South, Waukegan, Illinois 60085.

Background

7. Plaintiffs are, and at all times relevant to the matters alleged in this complaint were, engaged in the business of, among other things, manufacturing, marketing, and selling bearings.

8. Plaintiffs assign bearing numbers to their bearing products under a system that utilizes the term "Series" preceded by a particular number, such as 1600, 7500, 7600, 600 and 6900. These bearing numbers have been in use by Plaintiffs since 1946.

9. Since 1946 the relevant consuming public has come to associate Plaintiffs' bearing numbers with the products identified thereby, and Plaintiffs have developed a significant measure of goodwill associated with their product line and bearing numbers. Plaintiffs have also

acquired common-law and statutory trademark rights in these bearing number and bearing series designations.

10. Plaintiffs have filed the following trademark applications with dates of first use in 1946 and have received Notice of Publication from the United States Patent and Trademark Office:

a. "1600 Series" Application No. 78/535,213 Publication Date: May 2, 2006

b. "7500 Series" Application No. 78/754,876 Publication Date: Dec. 19, 2006

c. "7600 Series" Application No. 78/754,894 Publication Date: Dec. 19, 2006

d. "600 Series" Application No. 78/745,178 Publication Date: Dec. 26, 2006

e. "6900 Series" Application No. 78/754,907 Publication Date: Dec. 19, 2006

11. Plaintiffs have filed the following trademark applications for specific bearing numbers with dates of first use in 1946 which are currently being examined in the United States Patent and Trademark Office:

a. U.S. Trademark Application Serial No. 78/664,362 for the mark "1621"

b. U.S. Trademark Application Serial No. 78/664,347 for the mark "1630"

c. U.S. Trademark Application Serial No. 78/664,336 for the mark "1635"

d. U.S. Trademark Application Serial No. 78/664,533 for the mark "1641"

12. Upon information and belief, Defendant is a competitor of Plaintiffs in the manufacture and sale of bearing products and is advertising and marking its bearing products and the containers therefor with (i) numbers that correspond to Plaintiffs' bearing series numbers; and

(ii) specific bearing numbers for products that replicate the same bearing numbers on Plaintiffs identical bearing products.

13. Defendant is therefore misappropriating Plaintiffs' bearing numbers and bearing numbering system.

14. Defendant is also using Plaintiffs' bearing numbers in its online product catalogs at its website www.peerbearing.com.

15. Plaintiffs' catalogs, beginning in 1946 and continuing to the present, identify a line of bearings by the term "1600 SERIES" and list the following bearing numbers as belonging to the 1600 SERIES: 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1622, 1623, 1628, 1630, 1633, 1635, 1638, 1640, 1641, 1652, 1654, 1657, and 1658. Each bearing number corresponds to a bearing with a defined structure and dimensions.

16. Defendant's current catalogs identify a line of bearings by the term "1600 SERIES" in the table of contents and further list the following bearing numbers as belonging to the 1600 SERIES: 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1620, 1621, 1622, 1623, 1628, 1630, 1633, 1635, 1638, 1640, 1641, 1652, 1654, 1657, and 1658.

17. Each of Defendant's bearing numbers correspond identically to Plaintiffs' bearing numbers.

18. The bearings that Defendant has marked with these bearing numbers have structure and dimensions that are virtually identical to Plaintiffs similarly numbered bearings.

19. Plaintiffs' catalogs, beginning in 1956 and continuing to the present, identify a line of bearings by the term "7500 SERIES" and list the following bearing numbers as belonging to the 7500 SERIES: 7508, 7510, 7512, 7514, 7516, 7518, and 7520.

20. Defendant's current catalogs identify a line of bearings by the term "7500 SERIES" in the table of contents and further list the following bearing numbers as belonging to the 7500 SERIES: 7508, 7510, 7512, 7514, 7516, 7518, and 7520.

21. The bearings that Defendant has marked with these bearing numbers have structure and dimensions that are virtually identical to Plaintiffs similarly numbered bearings.

22. Plaintiffs' catalogs, beginning in 1956 and continuing to the present, identify a line of bearings by the term "7600 SERIES" and list the following bearing numbers as belonging to the 7600 SERIES: 7608, 7610, 7612, 7614, 7616, 7617, 7618, and 7620.

23. Defendant's current catalogs identify a line of bearings by the term "7600 SERIES" and further list the following bearing numbers as belonging to the 7600 SERIES: 7608, 7610, 7612, 7614, 7616, 7617, 7618, and 7620.

24. The bearings that Defendant has marked with these bearing numbers have structure and dimensions that are virtually identical to Plaintiffs similarly numbered bearings.

25. Plaintiffs' catalogs, beginning in 1956 and continuing to the present, identify a line of bearings by the term "600 Series," and beginning in September 1956, another line of bearings by the term "6900 Series".

26. Defendant's current catalogs identify lines of bearings by the terms "600 Series" and "6900 Series".

27. On August 1, 2006, Plaintiffs sent Defendant a cease-and-desist letter relating to the "1600 Series" trademark, a copy of which is attached hereto as **Exhibit A**.

28. Despite demand that it cease doing so, Defendant has continued to misappropriate Plaintiffs' bearing numbers and bearing numbering system after receiving Plaintiffs' cease-and-desist letter.

29. Defendant's use of Plaintiffs' bearing numbers and bearing numbering system results in Defendant's trading on the goodwill established by Plaintiffs in the marketplace.

30. Defendant's use of Plaintiffs' bearing numbers and bearing numbering system results in unjust enrichment of Defendant.

31. Defendant's continued use of the Plaintiffs' bearing numbers without Plaintiffs' permission constitutes a misleading indication of the origin of Defendant's products and/or a misleading indication of Plaintiffs' endorsement of Defendant's products.

32. Defendant's willful infringement of Plaintiffs' trademark has caused and will continue to cause actual confusion in the marketplace regarding the source of goods and services of the Defendant.

33. Upon information and belief, Defendant continues to trade on the goodwill established by Plaintiffs by marketing and manufacturing products under Plaintiffs' bearing numbers.

34. Defendant's actions have greatly and irreparably damaged Plaintiffs and will continue to do so unless restrained by the Court; wherefore, Plaintiffs are without an adequate remedy at law.

Count I - Trademark Infringement

1-34. Plaintiffs reallege each and every allegation set forth in paragraphs 1-34 inclusive, and incorporate them herein by reference.

35. Defendant's actions are likely to cause consumer confusion as to the source of those goods or as to the sponsorship or approval of such goods. Defendant's actions violate Plaintiffs' exclusive right to their trademarks, and constitute a knowing use of a false designation of origin and represent false descriptions or representations in commerce in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125 (a)).

36. By virtue of the Defendant's use of Plaintiffs' bearing numbers on essentially identical goods, Defendant has knowingly and willfully infringed upon Plaintiffs' trademark rights in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)(1)(B)) as well as common-law trademark rights deriving from Plaintiff's long-standing continuous use.

37. Defendant's actions have caused actual confusion in the marketplace with respect to Defendant's and Plaintiffs' bearing numbers, in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1225(a)(1)(A)).

38. Plaintiffs have been damaged as a result of Defendant's knowing and willful infringement of Plaintiffs' marks in an amount which is unknown and cannot at the present time be ascertained.

39. Unless enjoined by this Court, Defendant will continue to infringe Plaintiffs' trademark rights, to Plaintiffs' continuing and irreparable injury for which they have no adequate remedy at law.

Count II - Unfair Competition

1-34. Plaintiffs reallege each and every allegation set forth in paragraphs 1-34 inclusive, and incorporate them herein by reference.

35. By virtue of the foregoing acts, Defendant has engaged in unfair methods of competition and unfair acts or deceptive acts or practices in the conduct of a trade or commerce, all in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1225(a)), the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a *et seq.*), the Connecticut Unfair Sales Practices Act (Conn. Gen. Stat. §§ 42-115e *et seq.*), and the common law of unfair competition.

36. As a result of Defendant's unfair methods of competition and unfair or deceptive acts or practices, Plaintiffs have been damaged in an amount which is unknown and cannot at the present time be ascertained.

37. Unless enjoined by this Court, Defendant will continue to use unfair methods of competition and unfair or deceptive acts or practices, to Plaintiffs' continuing and irreparable injury for which they have no adequate remedy at law.

Count III - False Designation of Origin

1-34. Plaintiffs reallege each and every allegation set forth in paragraphs 1-34 inclusive, and incorporate them herein by reference.

35. By virtue of Defendant's use of Plaintiffs' bearing numbers on Defendant's goods and on Defendant's packages and catalogs for those goods, Defendant's actions are likely to cause confusion, or to cause mistake, or to deceive as to the origin, sponsorship, or approval of Defendant's goods by Plaintiffs, all in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125 (a)), the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a *et seq.*), the Connecticut Unfair Sales Practices Act (Conn. Gen. Stat. §§ 42-115e *et seq.*), and the common law of unfair competition.

36. As a result of Defendant's use of Plaintiffs' bearing numbers on Defendant's goods and on Defendant's packages and catalogs for those goods, Plaintiffs have been damaged in an amount which is unknown and cannot at the present time be ascertained.

37. Unless enjoined by this Court, Defendant will continue to use Plaintiffs' bearing numbers on Defendant's goods and on Defendant's packages and catalogs for those goods to Plaintiffs' continuing and irreparable injury for which they have no adequate remedy at law.

Count IV - Advertising Injury

1-34. Plaintiffs reallege each and every allegation set forth in paragraphs 1-34 inclusive, and incorporate them herein by reference.

35. By virtue of Defendant's widespread promotional use of Plaintiffs' bearing numbers on essentially identical goods and in catalogs for those goods, Defendant has made a false designation of origin, as well as false and misleading representations in commercial advertising that misrepresent the nature, characteristics, and origin of its goods, services and commercial activities in commerce, and a false indication of an affiliation, connection, or association of Defendant with Plaintiffs, all in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1225(a)), the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a *et seq.*), the Connecticut Unfair Sales Practices Act (Conn. Gen. Stat. §§ 42-115e *et seq.*), and the common law of unfair competition.

36. As a result of Defendant's false designation of origin and false or misleading representations, Plaintiffs have been damaged in an amount which is unknown and cannot at the present time be ascertained.

37. Unless enjoined by this Court, Defendant will continue to make false or misleading representations, to Plaintiffs' continuing and irreparable injury for which they have no adequate remedy at law.

Count V - Copyright Infringement

1-34. Plaintiffs reallege each and every allegation set forth in paragraphs 1-34 inclusive, and incorporate them herein by reference.

35. As a cause of action and ground for relief, Plaintiffs allege copyright infringement by Defendant pursuant to 17 U.S.C. §§ 101 *et seq.*

36. Prior to the introduction by Defendant of the 1600 Series, and later the 7500 Series and 7600 Series lines of bearings, Plaintiffs published catalogs containing pages devoted to original descriptions of bearings in the 1600, 7500 and 7600 Series. Plaintiffs' catalogs contained original drawings, unique layouts, designs and organization of the information presented on the group of bearings constituting the 1600 Series, and later the 7500 Series and 7600 Series lines of bearings, which information is copyrightable subject matter under the laws of the United States.

37. Plaintiffs are currently, and at all relevant times have been, the sole proprietor of all rights, title, and interest in and to the copyrights in the catalogs setting forth the 1600 Series, the 7500 Series, and 7600 Series bearings.

38. A portion of Plaintiffs' catalog, published and copyrighted in 1966, titled NICE Ball Bearings, Catalog No. 240A, has selected pages thereof reproduced as **Exhibit B**, with pages 6 and 7 showing 1600 Series and page 9 showing the 7500 Series and 7600 Series.

39. On information and belief, Defendant had access to this catalog and earlier catalogs of Plaintiffs with similar content.

40. A portion of Defendant's online catalog, identified in paragraph 10, is reproduced as **Exhibit C**, which contains selected pages including pages 15 and 16 relating to the 1600 Series, and page 44 relating to the 7500 Series and 7600 Series.

41. A comparison of the pages corresponding to the similarly named products from Plaintiffs' catalog (set forth at **Exhibit B**) and Defendant's catalog (set forth at **Exhibit C**) shows

that they are substantially similar, if not essentially identical, in overall appearance and content, and that there is no reasonable possibility of independent creation by Defendant.

42. In addition, on information and belief, Defendant had access to bearing drawings of Plaintiff, at the time of the creation of Defendant's 1600 Series, 7500 Series and 7600 Series lines of bearings that were used in an infringing manner to produce Defendant's corresponding lines of bearings. These drawings are entitled to copyright protection.

43. In light of the tight tolerances associated with the structure and dimensions of such bearings, and in light of the substantial similarity between Plaintiffs' bearings and Defendant's bearings in the 1600 Series, 7500 Series, and 7600 Series, Plaintiffs have reason to believe, and do believe, that Defendant copied Plaintiffs' engineering drawings for such bearings in order to manufacture them.

44. By these actions, Defendant has infringed, and on information and belief will continue to infringe, Plaintiffs' copyrights on its catalogs and one or more bearing drawings for the creation of Defendant's catalogs and bearing products in violation of the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq*.

45. Unless enjoined by this Court, Defendant will continue its course of conduct, infringing on Plaintiffs' copyrights, to Plaintiffs' continuing and irreparable injury for which they have no adequate remedy at law.

Count VI -- Unjust Enrichment

1-43. Plaintiffs reallege each and every allegation set forth in paragraphs 1-34 inclusive, and paragraphs 36-44 inclusive, and incorporate them herein by reference.

44. As a result of the conduct of Defendant as described above, and unless the relief sought in this complaint is granted, Defendant will unjustly benefit from, and be unjustly enriched by, its own intentional and wrongful acts.

45. To the extent that any unjust benefit or enrichment accrues, it is rightfully and equitably the property of the Plaintiffs since all of it will have directly flowed from the unlawful use of Plaintiffs' trademark bearing numbers and the unlawful copying of Plaintiffs' catalogs and engineering drawings for its bearing products. Under these circumstances, it would be unfair and unjust to permit Defendant to hold those embodiments of Plaintiffs' trademarks and copyrights for Defendant's own use.

WHERFORE, as relief, Plaintiffs prays that:

1. This Court decree and declare by judgment that Defendant's use of bearing numbers identical to those used by Plaintiffs on Plaintiffs' product, infringes Plaintiffs' trademark rights in those bearing numbers.

2. Defendant, its agents, servants, employees, attorneys, and all others in active concert or participation with Defendant be enjoined, and restrained during the pendency of this action, and permanently thereafter, from:

(a) Making false or misleading statements or representations of fact in commercial advertising or promotion concerning the origin of Defendant's products and services,

(b) All unfair methods of competition and unfair or deceptive acts or practices against Plaintiffs in violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a *et seq.* and the common law of unfair competition, and

(c) Pursuing any trademark application, in connection with any bearing number used by Plaintiffs.

3. Defendant account and pay to Plaintiffs damages arising from Defendant's violations of the Lanham Act § 43(a), and the Connecticut Unfair Trade Practices Act, and the common law of unfair competition, and Defendant's violation of the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*

4. Defendant pay to Plaintiffs increased damages, attorney fees, and prejudgment interest pursuant to 15 U.S.C. § 1117(a) and/or Conn. Gen. Stat. § 42-110g and/or 17 U.S.C. §§ 101 *et seq*.

5. Defendant be preliminarily and permanently enjoined from directly or indirectly infringing Plaintiffs' copyrights to the plans and drawings of the aforementioned bearing products or continuing to market, offer, sell, dispose of, license, lease, transfer, reproduce, develop or use any works or structures derived or copied from the subject plans and drawings or to participate or aid in any such activity.

6. Judgment be entered for Plaintiffs and against Defendant for Plaintiffs actual damages according to proof, and for any profits derived from infringements of Plaintiffs' copyrights, in accordance with proof, plus interest.

7. Judgment be entered for Plaintiffs against Defendant for statutory damages based upon Defendant's acts of infringement, pursuant to the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq*.

Respectfully submitted,
RBC NICE BEARINGS, INC. and
ROLLER BEARING COMPANY OF AMERICA, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2007, a copy of the foregoing Plaintiffs' Second Amended Complaint was filed electronically and served by mail on anyone unable to accept electronic filing or service. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Thomas J. Rechen
Thomas J. Rechen