

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

PLAYMAKERS, LLC,

Opposer,

Opposition No. 91159357

-against-

ESPN, INC.,

Applicant.

APPLICANT'S MOTION TO SUSPEND THE OPPOSITION PROCEEDING

Pursuant to TBMP § 510.02(a) and 37 C.F.R. § 2.117(a), applicant ESPN, Inc., by its attorneys White & Case LLP, hereby moves the Board for an order suspending the above-captioned proceeding pending the outcome of PlayMakers, LLC v. ESPN, Inc. et al., Case No. C03-2894P, a civil action currently pending before the United States District Court for the Western District of Washington at Seattle and PlayMakers, LLC v. ESPN, Inc. et al., Case No. 04-35031, an associated appeal of the district court's denial of the plaintiff's motion for preliminary injunction currently pending before the United States Court of Appeals for the Ninth Circuit (collectively, the "Federal Action"). The Federal Action involves the same parties and similar issues as those in this opposition proceeding such that the outcome of the Federal Action will be dispositive of the opposition proceeding.

Plaintiff in the Federal Action (Opposer in this proceeding) brought its action for trademark infringement, dilution, unfair competition, and related claims under federal and Washington statutory and common law, seeking injunctive relief, damages, profits, reasonable attorneys' fees, costs, and such other and further relief as the federal court deems just and proper to prevent ESPN, Inc. (Applicant in this proceeding) from using the title "Playmakers" for an

original dramatic scripted series chronicling the lives of the players, families, coaches and owner of a fictional professional football team. (See Complaint, attached hereto as Exhibit 1.)

Disposition of these claims will determine whether Applicant's proposed registration damages or will damage Opposer. Specifically, the Federal Action will address whether Applicant's mark PLAYMAKERS for the services set forth in the application so resembles Opposer's PLAYMAKERS marks as to be likely to cause confusion, mistake or deception; whether Applicant's mark PLAYMAKERS consists of or comprises matter which falsely suggests a connotation with Opposer; and whether Applicant's mark PLAYMAKERS, as used in connection with the services set forth in the application, is confusingly and deceptively similar to Opposer's PLAYMAKERS marks. Accordingly, the issues to be resolved by the Board will be largely duplicative of the issues to be resolved by the Federal Action. Suspending this proceeding pending the Federal Action will be the most administratively efficient means of adjudicating this dispute. Therefore, Applicant brings this motion to suspend the proceeding in good faith, and not for reasons of delay.

Dated: New York, New York
March 15, 2003

WHITE & CASE

By: 

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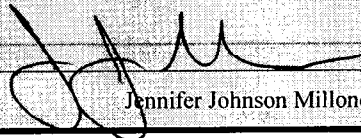
ATTORNEYS FOR ESPN, INC.

CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. § 1.110

EXPRESS MAIL NO. EL368276599US

I hereby certify that this document is being deposited with the United States Postal Service, "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.110 addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on this 15th day of March 2004..

Signature: _____



Jennifer Johnson Millones

EXHIBIT 1

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03-CV-02894-CMP

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PLAYMAKERS, LLC, a Washington limited liability company,

Plaintiff,

v.

ESPN, INC., a Delaware corporation, ABC
CABLE NETWORKS GROUP, a California corporation; ORLY ADELSON PRODUCTIONS INC., a California corporation,

Defendants.

CV03 2894^p

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR:

1. TRADEMARK INFRINGEMENT (FEDERAL);
2. TRADEMARK INFRINGEMENT - REVERSE CONFUSION (FEDERAL);
3. DILUTION OF TRADEMARK BY TARNISHMENT (FEDERAL);
4. LANHAM ACT VIOLATION (FEDERAL);
5. UNFAIR COMPETITION (FEDERAL);
6. TRADEMARK INFRINGEMENT (STATE);
7. TRADEMARK INFRINGEMENT - REVERSE CONFUSION (STATE);
8. VIOLATION OF CONSUMER PROTECTION ACT (STATE);
9. DILUTION OF TRADEMARK BY TARNISHMENT (STATE); AND
10. ACCOUNTING (STATE)

COMPLAINT - 1
(51381.DOC)

ORIGINAL

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