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7 Attorneys for Defendants  
 Rhino Sports, Inc. and John E. Shaffer

8  
 9 UNITED STATES DISTRICT COURT  
 10 DISTRICT OF ARIZONA

11 Connor Sport Court International, Inc.,  
 a California corporation,

No. CV-06-03066-PHX-SRB

12 Plaintiffs,

**ANSWER**

13 v.

14 Rhino Sports, Inc., an Arizona  
 15 corporation; and John E. Shaffer,  
 individually; and Does 1 through 10,  
 16 Inclusive,

17 Defendant.

18  
 19 Defendants Rhino Sports, Inc. and John E. Shaffer answer the Complaint as  
 20 follows:

21 **PARTIES, JURISDICTION AND VENUE**

22 1. Defendants lack sufficient knowledge to form a belief as to the truth of the  
 23 allegations of paragraph 1.

24 2. Answering paragraph 2, Defendants admit Rhino Sports, Inc. (“Rhino”) is  
 25 an Arizona corporation with its principal place of business in Scottsdale, Arizona.

1           3.       Answering paragraph 3, Defendants admit John Shaffer is a founder, officer  
2 and shareholder of Rhino and a resident of Arizona.

3           4.       Defendants admit the Complaint alleges violations of the Lanham Act and  
4 state law. Defendants deny the alleged violations occurred and deny the remaining  
5 allegations of paragraph 4.

6           5.       Answering paragraphs 4, 5 and 6, Defendants admit this Court has  
7 jurisdiction and venue is proper in this District.

8   **GENERAL ALLEGATIONS**

9           6.       Answering paragraph 8, Defendants admit Plaintiff sells recreational  
10 basketball, volleyball and tennis court surfaces for residential users.

11          7.       Defendants deny that Plaintiff was the founder of the recreational flooring  
12 industry or that SPORT COURT is entitled to trademark protection or is famous.  
13 Defendants allege that Plaintiff's predecessor-in-interest went bankrupt. Defendants lack  
14 knowledge or information sufficient to form a belief as to the truth of the remaining  
15 allegations of paragraph 9.

16          8.       Defendants admit that Plaintiff distributes its products through a network of  
17 distributors and dealers and engages in advertising. Defendants lack knowledge or  
18 information sufficient to form a belief as to the truth of the remaining allegations of  
19 paragraph 10.

20          9.       Defendants admit U.S. trademark registration No. 1,727,818 was issued by  
21 the United States Patent and Trademark Office. Defendants lack knowledge or  
22 information sufficient to form a belief as to the truth of the remaining allegations of  
23 paragraph 11.

24          10.       Defendants admit U.S. trademark registration No. 1,155,585 was issued by  
25 the United States Patent and Trademark Office. Defendants lack knowledge or  
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1 information sufficient to form a belief as to the truth of the remaining allegations of  
2 paragraph 12.

3 11. Defendants admit U.S. trademark registration No. 1,100,976 was issued by  
4 the United States Patent and Trademark Office. Defendants lack knowledge or  
5 information sufficient to form a belief as to the truth of the remaining allegations of  
6 paragraph 13.

7 12. Defendants admit U.S. trademark registration No. 1,177,220 was issued by  
8 the United States Patent and Trademark Office. Defendants lack knowledge or  
9 information sufficient to form a belief as to the truth of the remaining allegations of  
10 paragraph 14.

11 13. Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations of paragraph 15.

13 14. Defendants admit the allegations of paragraph 16 and 17.

14 15. Answering paragraphs 18 and 19, Defendants admit Plaintiff's predecessor-  
15 in-interest entered into a Settlement Agreement on March 9, 2004 and a permanent  
16 injunction was entered pursuant to the Settlement Agreement on March 23, 2004.

17 16. Defendants admit Plaintiff's predecessor-in-interest has enlisted the  
18 assistance of Rhino in enforcing the Settlement Agreement and injunction. Defendants  
19 lack knowledge or information sufficient to form a belief as to the truth of the remaining  
20 allegations of paragraph 20.

21 17. Defendants deny the allegations of paragraphs 21-24.

22 18. Answering paragraph 25, Defendants admit Plaintiff's predecessor-in-  
23 interest sent the letter attached to the Complaint as Exhibit E. Defendants deny any  
24 violation of the permanent injunction.

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1 19. Answering paragraph 26, Defendants admit providing the responsive letter  
2 attached to the Complaint as Exhibit F and that Defendants deny any violation of the  
3 permanent injunction.

4 20. Answering paragraph 27, Defendants admit Plaintiff's predecessor-in-  
5 interest sent the letter dated December 1, 2005 attached to the Complaint as Exhibit G.

6 21. Answering paragraph 28, Defendants admit providing the responsive letter  
7 attached to the Complaint as Exhibit H.

8 22. Answering paragraph 29, Defendants admit Plaintiff's predecessor-in-  
9 interest sent the letter dated March 6, 2006 attached to the Complaint as Exhibit I.  
10 Defendants deny any violation of the Settlement Agreement.

11 23. Defendants deny the allegations of paragraphs 30-34.

#### 12 **FIRST CAUSE OF ACTION**

#### 13 **(Trademark Infringement, 15 U.S.C. §1114(a))**

14 24. Answering paragraph 35, Defendants incorporate by reference their answers  
15 to paragraph 1-34 of the Complaint.

16 25. Defendants deny the allegations of paragraphs 36-42.

#### 17 **SECOND CAUSE OF ACTION**

#### 18 **(Trademark Dilution, 15 U.S.C. §1125(c))**

19 26. Answering paragraph 43, Defendants incorporate by reference their answers  
20 to paragraphs 1-42 of the Complaint.

21 27. Defendants deny the allegations of paragraphs 44-47.

#### 22 **THIRD CAUSE OF ACTION**

#### 23 **(Unfair Competition, 15 U.S.C. §1125(a)(1)(A))**

24 28. Answering paragraph 48, Defendants incorporate by reference their answers  
25 to paragraphs 1-47 of the Complaint.

26 29. Defendants deny the allegations of paragraphs 49-52.

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**FOURTH CAUSE OF ACTION**

**(Breach of Contract)**

**(Utah and Arizona Common Law)**

30. Answering paragraph 53, Defendants incorporate by reference their answers to paragraphs 1-52 of the Complaint.

31. Answering paragraph 54, Defendants admit they entered into a Settlement Agreement with Plaintiff's predecessor-in-interest on or about March 9, 2004.

32. Answering paragraph 55, Defendants deny Plaintiff has performed its obligations under the Settlement Agreement and allege Plaintiff has breached its obligation of good faith and fair dealing.

33. Defendants deny the allegations of paragraph 56.

**FIFTH CAUSE OF ACTION**

**(Good Faith)**

34. Answering paragraph 57, Defendants incorporate by reference their answers to paragraphs 1-56 above.

35. Answering paragraph 58, Defendants admit the parties entered into a Settlement Agreement and that both parties were under an obligation of good faith and fair dealing as a result.

36. Defendants deny the allegations of paragraphs 59 and 60 and allege Plaintiff has breached the obligation of good faith and fair dealing resulting in damages to Defendants.

37. Defendants deny every allegation of the Complaint not expressly admitted herein.

**SEPARATE AND AFFIRMATIVE DEFENSES**

38. Defendants allege the term SPORT COURT is generic.

1           39. Defendants allege use of the term SPORT COURT as an Ad Word on  
2 Google is not a trademark use.

3           40. Defendants allege Plaintiff's contract claims are barred by Plaintiff's prior  
4 material breach.

5           41. Defendants allege Plaintiff has failed to mitigate its damages.

6           42. Defendants allege the words SPORT COURT are not distinctive and do not  
7 identify Plaintiff as the source of goods or services.

8           43. Plaintiff's request for equitable relief is barred by unclean hands.

9           44. Defendants allege Plaintiff's claims are frivolous and not brought in good  
10 faith.

11         WHEREFORE, Defendants pray for judgment

12           A. Dismissing the Complaint;

13           B. Awarding Defendants their costs and attorneys' fees incurred herein  
14 pursuant to A.R.S. § 12-341.01 and 15 U.S.C. § 1117; and

15           C. Awarding Defendants such other and further relief as the Court deems  
16 proper.

17         DATED this 5<sup>th</sup> day of February, 2007.

18   FENNEMORE CRAIG, P.C.

19  
20   By /s/Jamie A. Brown  
21   Ray K. Harris  
22   John D. Everroad  
23   Jamie A. Brown  
24   Attorneys for Plaintiffs  
25   Rhino Sports, Inc. and John E. Shaffer  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2007, I electronically transmitted the attached document to the Clerk Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/EMF registrants:

Douglas F. Behm  
Jennings, Strouss & Salmon, P.L.C.  
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I hereby certify that on February 5, 2007, a true and correct copy of the attached document was sent via U.S. Mail, postage paid thereon, to the following parties, at the addresses listed:

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/s/Michele A. Maul