

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Case No. 04 CV 7863 (DC)

Judge:
The Honorable Denny Chin

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**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
ON PRIORITY OF USE IN INTERSTATE COMMERCE**

NOW COMES the Plaintiff, HAWAII-PACIFIC APPAREL GROUP, INC. ("HP"), through counsel, pursuant to Fed. R. Civ. P. 56(a), for its Motion for Partial Summary Judgment on the issue of Priority of Use, opposing the claim of priority asserted herein by Defendants CLEVELAND BROWNS FOOTBALL COMPANY, LLC ("the Browns"), and NATIONAL FOOTBALL LEAGUE PROPERTIES, LLC, as successors-in-interest to NATIONAL FOOTBALL LEAGUE PROPERTIES, INC. ("NFLP"), would respectfully state and show as follows:

1. There are no material facts in dispute with respect to the issue of the priority of use in interstate commerce with respect to the trademark in suit, and Plaintiff is entitled to judgment as a matter of law on that issue.

2. Filed herewith and in support hereof are Plaintiff's Statement of Material Facts Not In Dispute and a memorandum of points and authorities in support of the relief sought, together with a volume of exhibits.

WHEREFORE, Plaintiff moves that partial judgment be entered in its favor on the issue of priority of use in interstate commerce of the trademarks in dispute and that Plaintiff be awarded such other and additional relief as may be just and proper.

Respectfully submitted,

/s/ Christine Karol Roberts

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, CHRISTINE KAROL ROBERTS, do hereby certify that a copy of the foregoing motion was served on opposing counsel this 10th day of June 2005, by mailing a copy of the same, via prepaid Federal Express and by electronic transmission, to the following addressee:

Robert L. Raskopf, Esquire
White & Case, L.L.P.
1155 Avenue of the Americas
New York, New York 10036-2787

/s/ Christine Karol Roberts

Christine Karol Roberts