

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

HAWAII-PACIFIC APPAREL GROUP,  
INC.,

Plaintiff/Counterclaim Defendant,

-against-

CLEVELAND BROWNS FOOTBALL  
COMPANY LLC and NATIONAL  
FOOTBALL LEAGUE PROPERTIES, INC.,

Defendants/Counterclaim Plaintiffs.

Case No.: 04 CV 7863 (DC)

**SUPPLEMENTAL DECLARATION OF**  
**DAVID M. PROPER\***

STATE OF NEW YORK           §  
  §  
COUNTY OF NEW YORK       §

I, DAVID M. PROPER, declare as follows:

9. I am Counsel at NFL Properties LLC.

10. I submit this supplemental declaration in further support of Defendants' Motion For Partial Summary Judgment on Trademark Priority and in opposition to Plaintiff's Motion for Partial Summary Judgment on Priority of Use in Interstate Commerce.

11. NFL Properties LLC is jointly owned in equal shares by the Member Clubs of the NFL, has been authorized to use the trademarks owned by the Member Clubs for commercial purposes, is the exclusive trademark enforcement arm for the Member Clubs, and until March 31, 2004, NFL Properties LLC was the exclusive licensee of the Member Clubs of the NFL.

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\* Defendants have filed this document electronically.

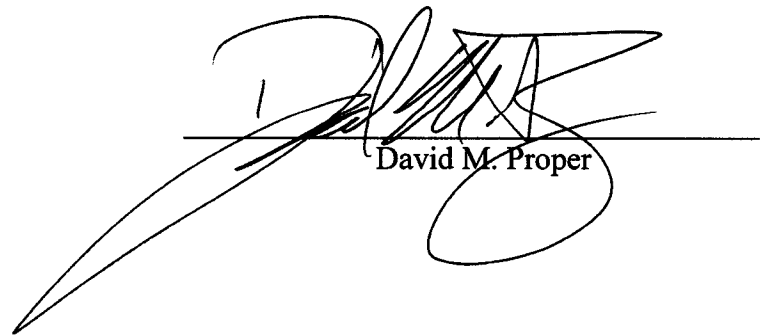
12. An entity controlling the Cleveland Browns football franchise since 1950 moved to Baltimore, Maryland, which move was announced on November 6, 1995 and a new entity began operating the Cleveland Browns football franchise in 1999.

13. Cleveland Browns Football Company LLC (the "Browns") filed Application No. 75/668612 on March 26, 1999 for the mark DAWG POUND, and a nonfinal action was mailed on September 9, 1999. The Browns also filed Application No. 75/786051 on August 28, 1999 for the PUPPY POUND mark and a nonfinal action was mailed on January 6, 2000.

14. The examining attorney reviewed the Browns' Application Nos. 75/687371 and 75/687368 for the marks DAWG POUND and Design and found there was no likelihood of confusion between these applications and any applications or registrations owned by HP.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7<sup>th</sup> day of July, 2005.



David M. Proper