

Polo logo feud is still in fashion

BY JOHN T. FAKLER

USPA PROPERTIES

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While polo is a sport steeped in tradition, the U.S. Polo Association and a prince of fashion are still fighting over who owns the name of the game.

Ralph Lauren, chairman and CEO of Polo Ralph Lauren Corp., scored the first victory in the battle royale in the 1980s after litigation with USPA Properties, a Wellington-based subsidiary of the USPA, awarded the New York designer most of the spoils, including rights to the Polo trademark.

But according to the USPA, the legal donnybrook with Lauren hasn't reached its end game. Several recent cases were adjudicated in Polo Ralph Lauren's favor. The USPA counter-sued last summer. That litigation is still pending, said Michael Sommer, an



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The U.S. Polo Association is fighting Ralph Lauren over a logo.

U.S. Polo Association Properties Chairman Merle Jenkins and President Robert Mintz have teamed up with Jordache, which licenses designs from the USPA.



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Polo group sues alleges fraud by Ralph Lauren

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attorney for Jordache and the USPA in New York.

The association is outraged that Lauren, a "non-rider" in business since 1967, would sue for rights to the name of a sport that's been around 1,000 years. USPA Properties is the official licensor for the USPA, and Jordache has a polo brand of its own: a USPA line of designs.

Jordache, which pulls in a fraction of the

\$2 billion a year Polo Ralph Lauren takes in, is looking to rack up more sales despite a series of USPA legal setbacks since the original 1980s lawsuit.

Jordache is planning to show off its polo line during the fashion show before Sunday's Super Bowl of polo, the USPA Open Polo Championships. The matches are scheduled for the Grandstand Field at the Royal Palm Polo Sports Club on Jog Road in Boca Raton. The fashion show benefiting the Juvenile Diabetes Research Foundation features children with diabetes modeling sportswear bearing the USPA Properties label.

But the fashion show promoted by the USPA aims to offer proof of Jordache galloping over Lauren's claims that he alone has rights to the upscale polo image.

"We have [ongoing] disputes with Ralph Lauren," said USPA Properties Chairman Merle Jenkins. Jenkins declined to comment on specifics of the original lawsuit or other pending litigation.

But USPA Properties is a bit more outspoken on its Web site, with a post claiming it is now engaged in a legal war with Polo Ralph Lauren.

"[Lauren] claims our marks and logos infringe his. We deny it and counterclaim that some of PRL's marks infringe ours. In our opinion, this case was filed by PRL to punish us financially for our licensee Jordache's recent success in the marketplace."

In further statements on its Web site, USPA Properties said the principal focal point in the dispute - its mounted polo player logo - had already been settled by negotiations.

"This is evidenced by PRL's decision not to oppose our application for registration of the mark in the U.S. Trademark Office," a statement reads. "The other issues were readily resolvable."

The USPA and its licensees filed suit against Polo Ralph Lauren in federal court in New York in July, seeking recovery of \$100 million in damages, alleging the company attempted to destroy the USPA retail business by directing a malicious letter-writing campaign at retailers carrying USPA trademark products.

The USPA claims the letters contain false and misleading information disparaging the trademarks and defaming its business for the purpose of frightening retailers to stop buying USPA products.

"This is going to be the most vivid demonstration to date of truth in polo labeling presented by the people who play and sanction polo," Jenkins said in a press release last week. "We're polo, a sport of kings, and much like licensing divisions of the NBA, the NFL, Major League Baseball and the Olympics, licensing our image to products that reflect our style and heritage is our birthright and expands the awareness and popularity of our sport."

Championship in Boca Raton

Boca Raton is playing host to the USPA Open Championships for the first time in the city's history. It's also the first time in the tournament's 98-year history that it has attracted so many teams of world-class players.

"Here we are at the virtual heart of polo and Ralph Lauren is nowhere in sight," Jenkins said. "Neither [Ralph Lauren nor his company] were invited," said Ellen Maguire, director of corporate communications for Polo Ralph Lauren in New York.

On July 20, Polo Ralph Lauren's New York attorney, Les Fagen, issued a statement that said during the past 15 years the USPA has failed to persuade the court it has the right to sell products it believes customers will think are Polo Ralph Lauren.

"No fewer than five judges in federal courts have rejected the [USPA's] efforts to infringe the world-famous trademarks of Polo Ralph Lauren," Fagen said.

The promotion committee of USPA Properties was formed in the late 1970s to obtain sponsors for USPA tournaments, according to its Web site.

Despite successes winning high profile sponsors such as Rolex, Piaget, Rolls Royce and Cadillac, it's been a rocky road for sponsorship of the international sport in general. Although the committee made some money for the all-volunteer USPA, it has redirected its efforts from licensing USPA trademarks and logos to establishing a licensing program following its simmering spat with Ralph Lauren.

Lauren, who the USPA characterizes as a "non-playing designer of ties," registered the trademark Polo and the logo of a mounted player in 1967.

When the USPA started its licensing program in 1980, the organization encountered what it describes as "an obdurate, aggressive opponent with a strong legal position and enormous resources, whose fixed position was that no one had the right to put the word Polo or the logo of a polo player on a product, other than Ralph Lauren."

The USPA said at the time of the judgment that it assumed its agents and licensees would assure proper use of its "marks." That cost them.

Court rules for Ralph Lauren

The judgment of the court was that Polo Ralph Lauren owned the name of the sport for commercial purposes. The holding that the USPA had the right to commercially use its name, and a polo player logo dissimilar to Polo Ralph Lauren's, "was some satisfaction," the organization said on its Web site.

It then withdrew from licensing in the United States, and didn't return to the U.S. market until 1996.

Differing interpretations of the 1984 judgment have led to disputes with Polo Ralph Lauren in trademark offices and courts from Argentina to Norway, and from Thailand to Toronto, over 17 years, the organization said.

The retail stakes are high for Jenkins and the USPA since Lauren's attempts to quash the rights to trademarks the USPA has registered. USPA and USPA Properties licenses allow Jordache and other manufacturers to put them on clothing and accessories. For doing so, USPA Properties garnered \$20 million in the first half of 2000, according to its Web site - a pittance compared to Polo Ralph Lauren's more than \$400 million per quarter, but a bounty for the USPA. Without USPA Properties, the association must rely heavily on the \$150 member fee its 3,000 or so members pay each year, according to legal filings.

Polo by design

USPA Properties Chairman Merle Jenkins said polo is often compared to hockey

- Game usually lasts 90 minutes.
- Each game has six periods that are seven minutes long, called chukkers.
- No goalie; goal posts are spaced eight yards apart.
- Playing field is 10 acres.
- Players awarded skill rating from C-2 to 10, the highest.
- Teams change sides after each goal.
- Penalties awarded as free hits.
- Four players on each team.
- Final tournament starts with 15 teams, finishes with two.
- Championships held in Wellington past eight years before moving to Boca Raton. Championship played on Long Island, N.Y. before World War II.
- Competitions also held in Europe and South America.
- Premier polo association is Hurlingham in the United Kingdom, which descended from a loose affiliation of clubs and associations once part of the British Empire.

Don't expect Ralph Lauren at Sunday's championship

The squabble is a “fascinating issue,” reminiscent of the war Kellogg’s had with Exxon over “Tony the Tiger” years ago, said John Rizvi, a patent and trademark attorney in Plantation. “Trademark law requires companies like Polo Ralph Lauren to be vigilant in enforcing their rights,” Rizvi said. “A company that fails to adequately police their brand names and identities and prevent confusingly similar uses may be found to have abandoned their trademark rights forever.”

One of the key elements that must be shown in a trademark infringement case is a confusingly similar mark, said Rizvi, a partner at Gold & Rizvi.

But when pressed to discuss the contents of his release, the USPA’s Jenkins said he preferred to talk about the game at hand, one that was once played by Teddy Roosevelt, Winston Churchill, Will Rodgers and Prince Charles’ “daddy.”

Competitors now include Prince Charles, his brother, and actor Tommy Lee Jones, who Jenkins calls “a serious player and regular sponsor at Royal Palms.”

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