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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EVAN CONKLIN PLUMBING AND
HEATING INC., a Washington corporation
d/b/a SEATTLE PLUMBING COMPANY,

Plaintiff,

vs.

CHAZ TIMBLIN and JANE DOE TIMBLIN,
individually and the marital community
composed thereof d/b/a SEATTLE PLUMBING
AND SEWER,

Defendants.

Case No.: 11-CV-00483

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

COMES NOW the Plaintiff EVAN CONKLIN PLUMBING AND HEATING INC., a
Washington corporation doing business as SEATTLE PLUMBING COMPANY, by and through
its attorney of record, MICHAEL J. BOYLE, and bring this action against Defendants CHAZ
TIMBLIN and JANE DOE TIMBLIN, individually and the marital community composed
thereof d/b/a SEATTLE PLUMBING & SEWER, and hereby allege as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28
U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121. The Court has supplemental jurisdiction over

1 the common law claim under 28 U.S.C. § 1367(a).

2 2. This Court has personal jurisdiction over Defendants and venue in this District is
3 proper pursuant to 28 U.S.C. §§1331, 1391 and 1400, by virtue of the fact that, upon information
4 and belief:

5 a. Defendants are and have at all relevant times been residents of the City of
6 Seattle located in King County, Washington within the Western District of Washington;

7 b. Defendants' principal place of business is, upon information and belief,
8 located in the City of Seattle, King County, Washington within the Western District of
9 Washington; and

10 c. The misconduct by the Defendants as alleged by Plaintiff herein has
11 occurred within the State of Washington.

12 d. The misconduct by the Defendants as alleged by Plaintiff herein has
13 caused injury to Plaintiff in the State of Washington.

14
15 **II. PARTIES**

16 3. Plaintiff EVAN CONKLIN PLUMBING AND HEATING INC., a Washington
17 corporation doing business as SEATTLE PLUMBING COMPANY with its principal place of
18 business in the City of Seattle, King County, Washington and licensed to conduct business
19 within the State of Washington.

20 4. Upon information and belief, Defendants CHAZ TIMBLIN and JANE DOE
21 TIMBLIN are individuals comprising a marital community with a principal place of residence in
22 the City of Seattle, King County, Washington.

23
24 **III. FACTS COMMON TO ALL COUNTS**

25 **A. Plaintiff's Business and Trade Name.**

26 1. Plaintiff operates a plumbing and home repair business in the State of Washington

1 using the trade name SEATTLE PLUMBING COMPANY (“Plaintiff’s Mark”).

2 2. Plaintiff has been engaged in the business of providing general contractor
3 services, namely, plumbing, heating and air conditioning, carpentry, drywall, painting, electrical,
4 building and framing contractor services, using Plaintiff’s Mark in commerce since at least April
5 7, 2007.

6 3. Plaintiff owns the following U.S. trademark registrations for the service mark
7 SEATTLE PLUMBING COMPANY :

8 a. Registration Number of 3,884,589 on the Supplemental Register of the
9 United States Patent and Trademark Office for the service mark SEATTLE PLUMBING
10 COMPANY for use in connection with general contractor services, namely plumbing,
11 heating and air conditioning, carpentry, drywall, painting, electrical, building and framing
12 contractor services. A true and correct copy of Plaintiffs registration is attached hereto as
13 EXHIBIT A.

14 4. Plaintiff’s Mark has been registered with the United States Patent and Trademark
15 Office since November 30, 2010.

16 5. Plaintiff’s Mark is registered with the Washington Secretary of State. The trade
17 names “Seattle Plumbing Company” and “Seattle Plumbing” have been registered with the
18 Secretary of State since 2007.

19 6. Plaintiff’s SEATTLE PLUMBING COMPANY Mark is inherently distinctive to
20 the public and the trade with respect to the general contractor services provided by the Plaintiff

21 7. As a result of the advertising, marketing, promotion and use of Plaintiff’s Mark,
22 (a) the public and the trade have come to recognize SEATTLE PLUMBING COMPANY as
23 exclusively identifying the services of the Plaintiff and as distinguishing the services of the
24 Plaintiff from the services of others, and (b) Plaintiff’s SEATTLE PLUMBING COMPANY
25 mark has gained secondary meaning and extensive goodwill.

1 B. Defendants' Business and Infringing Activities.

2 8. Defendants operate a business utilizing the unregistered trade name SEATTLE
3 PLUMBING & SEWER. Upon information and belief, Defendants' business offers plumbing
4 and home repair services.

5 9. Defendants' use of SEATTLE PLUMBING & SEWER as their trade name in
6 commerce began in approximately 2009.

7 10. Upon information and belief, Defendants' are not licensed to act or conduct
8 business as plumbers and have not completed the training necessary to do so.

9 11. Defendants' SEATTLE PLUMBING & SEWER is confusingly similar to
10 Plaintiff's SEATTLE PLUMBING COMPANY mark.

11 12. Defendants, individually and/or collectively, have performed and continue to
12 perform general contractor services, namely plumbing, heating and air conditioning, carpentry,
13 drywall, painting, electrical, building and framing contractor services while utilizing the trade
14 name SEATTLE PLUMBING & SEWER since the registration of Plaintiff's SEATTLE
15 PLUMBING COMPANY Mark on November 30, 2010.

16 13. Defendants' use of SEATTLE PLUMBING & SEWER as its trade name was
17 preceded in time by the Plaintiff's use of Plaintiff's SEATTLE PLUMBING COMPANY Mark.

18 14. Defendants have been informed and made aware that Defendants' use of
19 SEATTLE PLUMBING & SEWER as their trade name infringes upon Plaintiff's use of
20 Plaintiff's SEATTLE PLUMBING COMPANY mark. Defendants have continued to use
21 SEATTLE PLUMBING & SEWER as their trade name despite this knowledge.

22 15. Defendants have utilized the Internet domain name
23 "SEATTLEPLUMBINGCO.COM" for a Web site advertising their services on the Internet.
24 Defendants currently utilize the Internet domain name
25 "SEATTLEPLUMBINGANDSEWERREPAIR.COM" for a Web site advertising their services
26 on the Internet.

1 16. Defendants' activities have caused and continue to cause confusion in the industry
2 and amongst the general public concerning Plaintiff's use of Plaintiff's SEATTLE PLUMBING
3 COMPANY Mark.

4 17. Defendants' aforesaid acts are intended to, are likely to, and actually do blur and
5 erode the distinctiveness of the Plaintiff's SEATTLE PLUMBING COMPANY Mark and
6 tarnishes the reputation of the Plaintiff and the Plaintiff's SEATTLE PLUMBING COMPANY
7 mark and the Plaintiff's products and services.

8 18. Defendants aforesaid acts have caused, and will continue to cause irreparable
9 harm to the Plaintiff and Plaintiff's SEATTLE PLUMBING COMPANY Mark, and to the
10 business and substantial goodwill represented thereby, and said acts and damage will continue
11 unless restrained by this Court.

12 19. Plaintiff has no adequate remedy at law.
13

14 **COUNT I**

15 **(Trademark Infringement, 15 U.S.C. § 1114(1))**

16 20. Plaintiff repeats, realleges and incorporates by reference each and every allegation
17 set forth in paragraphs 1 through 19 above as though fully set forth herein.

18 21. Defendants' use of the trade name SEATTLE PLUMBING & SEWER in
19 commerce as described above is likely to cause confusion, mistake or deception as to the source,
20 sponsorship, affiliation or approval of Defendants' goods and/or services.

21 22. Defendants' use of a mark confusingly similar to Plaintiff's SEATTLE
22 PLUMBING COMPANY mark in commerce as described above has caused and continues to
23 cause irreparable harm to Plaintiff for which there is no adequate remedy at law.

24 23. Defendants' aforementioned acts constitute infringement of Plaintiffs' federally
25 registered SEATTLE PLUMBING COMPANY trademark in violation of the Lanham Act, 15
26 U.S.C. § 1114.

1 24. Defendants' aforementioned acts have damaged and will continue to cause
2 damage to Plaintiff.

3 **COUNT II**

4 **(False Designation of Origin, 15 U.S.C. § 1125(a))**

5 25. Plaintiff repeats, realleges and incorporates by reference each and every allegation
6 set forth in paragraphs 1 through 24 above as though fully set forth herein.

7 26. Defendants' use of the trade name SEATTLE PLUMBING & SEWER in
8 commerce as described above is likely to cause confusion, mistake or deception as to the source,
9 sponsorship, affiliation or approval of Defendants' goods and/or services.

10 27. Defendants' use of a mark confusingly similar to Plaintiff's SEATTLE
11 PLUMBING COMPANY mark in commerce as described above has caused and continues to
12 cause irreparable harm to Plaintiff for which there is no adequate remedy at law.

13 28. Defendants' aforementioned acts constitute infringement of Plaintiffs' federally
14 registered SEATTLE PLUMBING COMPANY trademark in violation of the Lanham Act, 15
15 U.S.C. § 1114.

16 29. Defendants' aforementioned acts have damaged and will continue to cause
17 damage to Plaintiff.

18 **COUNT III**

19 **(Unfair Competition, RCW 19.86.020)**

20 30. Plaintiff repeats, realleges and incorporates by reference each and every allegation
21 set forth in paragraphs 1 through 29 above as though fully set forth herein.

22 31. Defendants' aforementioned acts constitute unfair competition in violation of
23 RCW 19.86.020.

24 32. Defendants' aforementioned acts have damaged and will continue to cause
25 damage to Plaintiff.

26 //

1 **COUNT IV**

2 **(Common Law Unfair Competition)**

3 33. Plaintiff repeats, realleges and incorporates by reference each and every allegation
4 set forth in paragraphs 1 through 32 above as though fully set forth herein.

5 34. Defendants' aforementioned acts constitute unfair competition under the common
6 law.

7 35. Defendants' aforementioned acts have damaged and will continue to cause
8 damage to Plaintiff.

9
10 **IV. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff respectfully requests judgment as follows:

12 1. That the Court enter a judgment against the Defendants that Defendants have,
13 through their misconduct as set forth herein, infringed Plaintiff's rights in the federally registered
14 trademark referenced herein in violation of 15 U.S.C. § 1114.

15 2. That the Court enter a judgment against the Defendants that Defendants have,
16 through their misconduct as set forth herein, violated 15 U.S.C. § 1125(a).

17 3. That the Court grant a preliminary and permanent injunctive relief restraining
18 Defendants, their officers, directors, principals, agents, servants, employees, successors and
19 assigns, and all individuals acting in concert or participation with them, from using on or in
20 connection with any product or service or the manufacture, importation, exportation, sale,
21 offering for sale, distribution, advertising, promotion, labeling or packaging of any product or
22 service, or for using for any commercial purpose whatsoever:

23 a. the designation SEATTLE PLUMBING COMPANY;

24 b. any other designation that is confusingly similar to SEATTLE

25 PLUMBING COMPANY;

26 c. any Internet domain name that is confusingly similar to SEATTLE

1 PLUMBING COMPANY; or

2 d. any other name, mark or term likely to cause mistake in the mind of the
3 public or to deceive the public into the belief that defendants' business and/or products
4 and/or services are in any way associated with or related to Plaintiff's or its services.

5 4. That the Court enter an order directing Defendants to account to Plaintiff for any
6 and all profits derived by them from their infringing use of the mark SEATTLE PLUMBING &
7 SEWER.

8 5. That the Court enter an order awarding Plaintiff a monetary judgment against
9 Defendants for the maximum damages allowable at law.

10 6. That the Court enter an order awarding Plaintiff its reasonable attorneys' fees,
11 costs, and disbursements incurred herein.

12 7. That the Court grant to Plaintiff such other and additional relief as is just and
13 proper.

14 **V. JURY DEMAND**

15 The Plaintiff respectfully demands a trial by jury.

16 DATED this 21st day of March 2011.

17 **FREEMAN LAW FIRM, INC.**

18 

19
20
21 Michael J. Boyle, WSBA# 37846
22 **FREEMAN LAW FIRM, INC.**
23 2104 North 30th Street
24 Tacoma, Washington 98403
25 Phone: (253) 383-4500
26 Facsimile: (253) 383-4501

Attorneys for Plaintiff

EXHIBIT A

United States of America

United States Patent and Trademark Office

Seattle Plumbing Company

Reg. No. 3,884,589

Registered Nov. 30, 2010

Int. Cl.: 37

SERVICE MARK

SUPPLEMENTAL REGISTER

EVAN CONKLIN PLUMBING AND HEATING INC. (WASHINGTON CORPORATION), DBA
SEATTLE PLUMBING COMPANY,
P.O. BOX 17345
SEATTLE, WA 98127

FOR: GENERAL CONTRACTOR SERVICES, NAMELY, PLUMBING, HEATING AND AIR
CONDITIONING, CARPENTRY, DRYWALL, PAINTING, ELECTRICAL, BUILDING AND
FRAMING CONTRACTOR SERVICES, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 4-7-2007; IN COMMERCE 4-7-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PLUMBING COMPANY",
APART FROM THE MARK AS SHOWN.

SER. NO. 85-077,293, FILED P.R. 7-2-2010; AM. S.R. 10-13-2010.

DAVID TOOLEY, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office