

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DEBBIE GOODRICH d/b/a THE PARROT	)	
LADY, an individual,	)	Civil Action No. 2:11-cv-687
	)	
Plaintiff,	)	COMPLAINT FOR DECLARATORY
	)	JUDGMENT OF TRADEMARK NON-
v.	)	INFRINGEMENT, CANCELLATION
	)	OF FEDERAL TRADEMARK
KAREN ALLEN, an individual,	)	REGISTRATION, TORTIOUS
	)	INTERFERENCE WITH BUSINESS
Defendant.	)	EXPECTANCIES AND RELATIONS,
	)	AND UNFAIR COMPETITION
	)	
	)	<b>JURY DEMAND</b>
	)	

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Plaintiff for her Complaint herein, alleges as follows:

**NATURE OF ACTION**

1. This is an action for declaratory judgment arising under the Federal Declaratory Judgments Act (28 U.S.C. §§ 2201 and 2202), cancellation of a federal trademark registration under the federal Trademark Act (the “Lanham Act”) (15 U.S.C. §§ 1064, 1118, 1125(a) *et seq.*), and tortious interference and unfair competition under federal and Washington State common law.

**THE PARTIES**

2. Plaintiff, Debbie Goodrich, is a citizen of and resides in the state of Washington. Plaintiff has a business address of 31425 – 52<sup>nd</sup> Avenue South, Auburn, WA 98001. Plaintiff's business is devoted to providing education and entertainment pertaining to birds, particularly parrots, and other animals, as well as marketing and selling related products and services in the state of Washington and elsewhere throughout the world as well as in this judicial district.

3. On information and belief Defendant, Karen Allen, is a citizen of and resides in the state of California and has a business address of 1637 Cabrillo Avenue, Torrance, CA 90501-2820, and a residence address of 20323 Madison Street, Torrance, California 90503. Defendant markets and sells products and services related to birds in California and Washington and in this judicial district.

**JURISDICTION AND VENUE**

4. This action arises under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202 *et seq* and the Lanham Act, 15 U.S.C. §§ 1064, 1118, 1125(a) *et seq*. The Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1521, 28 U.S.C. §§ 1331 and 1338. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b), (c) or 1400(b) in that, on information and belief, Defendant has done business in this district or a substantial part of the events giving rise to Plaintiff's claims occurred in or were aimed at this judicial district. On information and belief, Defendant is subject to the personal jurisdiction of this Court and is amenable to service of process.

**FACTS**

5. Plaintiff has for most of her life had an intense interest in animals, including the breeding, care, training, conservation, and protection of animals, with a particular emphasis on parrots. She has lectured and entertained in a variety of venues, including colleges, conferences, zoos, conservatories, and the like as well as on radio and television.

1           6.       Plaintiff began her professional training at the University of California at Santa  
2 Cruz (UCSC) where she received her Bachelor's degree in Psychobiology with an emphasis in  
3 Animal Cognition and Behavior. Attached as Exhibit A is a graduation photograph from  
4 August 1996 showing Plaintiff receiving her degree with her parrot "Jade" on her hand.

5           7.       During her work at UCSC, Plaintiff appeared informally on campus as "The  
6 Parrot Lady" with her parrot, "Jade," which she acquired in 1995, and she appeared as "The  
7 Parrot Lady" locally in Santa Cruz, California, where she lived while attending UCSC.  
8 Previous to attending UCSC, Plaintiff had adopted The Parrot Lady identification with her bird,  
9 "Prince Jeremy of Hunt Club," and made informal presentations in connection with Willow  
10 Creek Farms in the state of Washington from 1991 to 1992.

11           8.       After graduation, Plaintiff appeared with her parrot, Jade, at the Special  
12 Olympics in Atlanta, GA. She worked professionally with the Rainforest Café located in  
13 Illinois from September 1996 until 1999 and in a Curatorial position with the Rainforest Café  
14 in Seattle, Washington from 1999 until 2005.

15           9.       In 2001 Plaintiff obtained a Washington State Business License under the name  
16 The Parrot Lady Educational Entertainment. Product merchandising and services have been  
17 rendered within the state of Washington as well as other states, including Michigan, California,  
18 and elsewhere since at least as early as 2001.

19           10.      Plaintiff obtained the domain name registration for PARROTLADY.COM in at  
20 least as early as October 2005 and has continuously used this domain as part of her business. In  
21 addition, Plaintiff has utilized a Facebook page to advertise her services and products. This  
22 page clearly states that Plaintiff is based in Seattle, Washington.

23           11.      Plaintiff advertises in various venues around the United States and in the state of  
24 Washington, including in connection with a variety of local events, such as Critter Fest in the  
25 state of Washington, and Plaintiff appears on various radio and television shows.

1           12. On information and belief, Defendant, Karen Allen, operates a sole  
2 proprietorship business in Torrance, California, under the name Birds & More.

3           13. On information and belief, Defendant obtained U.S. Trademark Registration  
4 No. 3,046,860, on January 17, 2006, in her name individually, for the mark THE PARROT  
5 LADY in connection with exotic bird breeding and grooming. Defendant filed the application  
6 to register the mark at the U.S. Patent and Trademark Office on January 7, 2004.

7           14. On information and belief, Defendant maintains a website at  
8 [www.birdsandmore.com](http://www.birdsandmore.com) where a variety of goods and services are offered to the public,  
9 particularly directed to birds, including Defendant, Karen Allen using the name THE PARROT  
10 LADY.

11           15. On information and belief, Defendant or her authorized representative contacted  
12 Facebook in about April of 2011 to assert purported rights in the mark THE PARROT LADY  
13 and to demand that Plaintiff's Facebook content be removed. Defendant's actions resulted in  
14 Facebook removing Plaintiff's Facebook page contents without Plaintiff's consent.

15           16. On information and belief, Defendant or her authorized representative contacted  
16 organizers for Critter Fest in Washington state in about April of 2011 and demanded that  
17 Plaintiff's advertising as The Parrot Lady be removed. This page has been taken down as a  
18 result of Defendant's actions and without Plaintiff's consent.

19           17. On information and belief, Defendant or her authorized representative contacted  
20 the YMCA in Washington state in about April of 2011 and demanded that Plaintiff's  
21 advertising for a YMCA event in Auburn, Washington, be removed.

22           18. On information and belief, Defendant or her authorized representative contacted  
23 The Bob Rivers Show, local and national radio personalities, in about April of 2011 regarding a  
24 promotional video filmed in Washington state, and have contacted BirdTalk magazine about  
25 Plaintiff's advertising.  
26

1           19.     On information and belief, there are numerous individuals and companies using  
 2     the name THE PARROT LADY in U.S. interstate commerce in connection with exotic birds,  
 3     including parrots, some of whom commenced use before Defendant's alleged date of first use  
 4     of January 1, 1995, shown in Defendant's U.S. trademark registration no. 3,046,860.

5                     **DECLARATORY JUDGMENT OF TRADEMARK NON-**  
 6                     **INFRINGEMENT**  
 7                     **UNDER 28 U.S.C. §§ 2201 AND 2202 *et seq.***

8           20.     Plaintiff repeats and realleges each of the allegations contained in paragraph nos.  
 9     1 through 19 of this Complaint, as if fully set forth herein.

10          21.     A dispute has now arisen between the parties, and an actual and justiciable  
 11     controversy exists, in that defendant Ms. Allen asserts, and Ms. Goodrich denies, that use of  
 12     THE PARROT LADY mark infringes Ms. Allen's rights.

13          22.     Defendant filed her U.S. trademark registration application on January 7, 2004,  
 14     well after Plaintiff commenced use of her mark in the state of Washington and elsewhere.

15          23.     Plaintiff has acquired senior rights in the mark THE PARROT LADY within her  
 16     geographic territory of use with respect to Defendant's federal registration.

17          24.     Defendant has unduly delayed in asserting her rights in the alleged mark THE  
 18     PARROT LADY and otherwise led Plaintiff to believe through her actions and conduct that  
 19     Defendant would not assert rights in the mark against Plaintiff.

20          25.     Plaintiff requests a declaration and judicial determination by this Court that  
 21     Plaintiff's use of THE PARROT LADY mark does not infringe any trademark right of  
 22     Defendant.

23          26.     Plaintiff has no other existing, speedy, adequate or proper remedy other than a  
 24     declaration and determination of the parties' rights as prayed for herein.

**CANCELLATION OF FEDERAL TRADEMARK REGISTRATION**

**UNDER 15 U.S.C. §1064**

27. Plaintiff repeats and realleges each of the allegations contained in paragraph nos. 1 through 26 of this Complaint, as if fully set forth herein.

28. The alleged mark THE PARROT LADY used in connection with exotic bird breeding and grooming, particularly with respect to parrots and by a woman is understood by the relevant purchasing public to be the generic name for a woman having expertise in breeding and grooming exotic birds, such as parrots.

29. The U.S. trademark registration obtained by Defendant is invalid, unenforceable, and should be cancelled because the primary significance of the mark to the consuming public is generic with respect to the services.

**TORTIOUS INTERFERENCE WITH BUSINESS EXPECTANCIES AND**

**RELATIONS UNDER WASHINGTON COMMON LAW**

30. Plaintiff repeats and realleges each of the allegations contained in paragraph nos. 1 through 29 of this Complaint, as if fully set forth herein.

31. Defendant has and continues to compete with Plaintiff in the state of Washington and within this judicial district.

32. Defendant has and continues to make misrepresentations to Plaintiff's vendors, service providers, potential and actual customers, and the public about Defendant's purported trademark rights in the mark THE PARROT LADY in the state of Washington and in this judicial district as well as elsewhere around the country.

33. Defendant's actions have and continue to be a direct and proximate cause of harm to Plaintiff's reputation that cannot be mitigated with damages thus causing irreparable harm as well as financial damage to Plaintiff due to lost advertising, lost business opportunities, and Plaintiff's efforts to repair the damage done by Defendant's actions, in an amount to be proven at trial.

34. Unless and until Defendant is restrained from her harmful conduct, Plaintiff will continue to suffer irreparable harm and financial loss.

**UNFAIR COMPETITION AND TRADEMARK INFRINGEMENT**

**UNDER 15 U.S.C. §§ 1051 *ET SEQ.***

35. Plaintiff repeats and realleges each of the allegations contained in paragraph Nos. 1 through 34 of this Complaint, as if set forth fully herein.

36. As set forth above, Defendant has made and continues to make deceptive, misleading, and fraudulent statements to the public and to Plaintiff's customers, vendors, and service providers, about the nature and extent of Defendant's trademark rights in the mark THE PARROT LADY. These statements are meant to influence customers, vendors, and service providers and to steer the same away from the Plaintiff and to the Defendant.

37. Such false designation, description, and/or representation constitutes unfair competition and is an infringement of Plaintiff's rights in violation of the Lanham Act, 15 U.S.C. § 1125(a).

38. The Defendant knew, or should have known, of Plaintiff's rights in at least the state of Washington, and that Defendant's false description, false representation, and false designation of origin were knowing, willful, and deliberate, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

39. Plaintiff has been, and will continue to be, damaged by such false description, false representation, and false designation of origin in a manner and amount that cannot be fully measured or compensated in economic terms. Defendant's actions have damaged, and will continue to damage, Plaintiff's market, reputation, and goodwill, and may discourage current and potential customers from dealing with Plaintiff. Such irreparable harm will continue unless the Defendant's acts are restrained and/or enjoined during the pendency of this action and thereafter.

1           40. Plaintiff has been damaged by the Defendant's actions in an amount to be  
 2 proven at trial. The actions of the Defendant have damaged, and will continue to damage,  
 3 Plaintiff unless the acts of the Defendant complained of herein are enjoined.

4  
 5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully demands judgment as follows:

7           1. A declaratory judgment that Plaintiff's use of THE PARROT LADY mark does  
 8 not infringe any trademark right of Defendant;

9           2. An order to the U.S. Patent and Trademark Office cancelling U.S. Trademark  
 10 Registration No. 3,046,860 for the mark THE PARROT LADY in international class 44 for  
 11 exotic bird breeding and grooming on the grounds the mark is generic as to these services and,  
 12 in addition or alternatively, is generic and unenforceable with respect to educational and  
 13 entertainment services rendered by women in connection with birds and particularly with  
 14 parrots.

15           3. That Defendant, and her affiliates, officers, agents, servants, employees,  
 16 attorneys, and all other persons in active concert or participation with any of them, be  
 17 preliminarily and permanently enjoined and restrained from using the mark "THE PARROT  
 18 LADY" or any other variant of THE PARROT LADY or other mark confusingly similar to  
 19 THE PARROT LADY in Plaintiff's territory of use, including at least the state of Washington.

20           4. That Defendant and her affiliates, officers, agents, servants, employees,  
 21 attorneys, and all other persons in active concert or participation with any of them, be  
 22 preliminarily and permanently enjoined and restrained from all acts of false description and  
 23 representation and false designation of origin, and all acts of unfair competition, including the  
 24 use of the mark "THE PARROT LADY" and any variant of THE PARROT LADY mark or  
 25 other mark confusingly similar to THE PARROT LADY in Plaintiff's territory of use,  
 26 including at least the state of Washington.



1           5.       That Defendant and her affiliates, officers, agents, servants, employees,  
 2 attorneys, and all other persons in active concert or participation with any of them, be  
 3 preliminarily and permanently enjoined and restrained from all manufacture, purchase,  
 4 promotion, sale, and use of any products, packaging, advertising, labels, or other sales or  
 5 shipping material that infringe Plaintiff's THE PARROT LADY mark in Plaintiff's territory of  
 6 use, including at least the state of Washington, including retail web sites, products, packaging,  
 7 advertising, labels, or other sales or shipping material bearing the mark "THE PARROT  
 8 LADY" and any variant of THE PARROT LADY mark or other mark confusingly similar to  
 9 THE PARROT LADY.

10           6.       That Defendant and her affiliates, officers, agents, servants, employees,  
 11 attorneys, and all other persons in active concert or participation with any of them, be ordered  
 12 to refrain from knowingly and intentionally soliciting business from, or delivering goods or  
 13 performing services for Plaintiff's customers or prospective customers, or otherwise tortiously  
 14 interfering with Plaintiff's business relationships or prospective business relationships in  
 15 Plaintiff's territory of use, including at least the state of Washington.

16           7.       That Defendant and her affiliates, officers, agents, servants, employees,  
 17 attorneys, and all other persons in active concert or participation with any of them, be required  
 18 to remove all false or misleading statements about Defendants' goods or services or about  
 19 Plaintiff's goods or services, including on packaging, advertising, labels, blogs, circulars,  
 20 websites, or other sales, marketing, or informational materials in Plaintiff's territory of use,  
 21 including at least the state of Washington.

22           8.       That Defendant's unfair competition be found willful and that increased  
 23 damages, together with interest and costs, be awarded under the Lanham Act or as otherwise  
 24 provided by law.

25           9.       That the present case be found exceptional and that attorneys' fees be awarded  
 26 to Plaintiff under the Lanham Act or as otherwise provided by law.

1           10.     That Defendants be ordered to pay to Plaintiff pre-judgment and post-judgment  
2 interest on all sums allowed by law.

3           11.     That Defendants be ordered to pay to Plaintiff its costs incurred in this action.

4           12.     That Plaintiff have such other and further relief as this Court may deem just and  
5 proper.

6                                   **DEMAND FOR JURY TRIAL**

7           Plaintiff demands a trial by jury as to all issues so triable.

8           DATED this 22nd day of April, 2011.

9  
10                                   Respectfully submitted,

11                                   SEED IP Law Group PLLC

12                                   /s/ E. Russell Tarleton

13                                   E. Russell Tarleton (WSBN 17006)

14                                   Nathaniel E. Durrance (WSBN 41627)

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