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WESTERN DISTRICT OF WASHINGTON
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07-CV-01622-CMP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

C07-1622 RSL

JUST ENTERPRISES, INC.)
)
Plaintiff,)
)
v.)
)
PHILLIPS & WEBSTER, PLLC)
)
Defendant.)
)
)

CASE NO.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND FOR DAMAGES

DEMAND FOR JURY TRIAL

Plaintiff Just Enterprises, Inc. ("Just Enterprises"), by and through its counsel of record,
alleges:

COMPLAINT

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GIBBONS & WHYTE, P.L.L.C.
1301 Fifth Avenue, Suite 2600, Seattle WA 98101-2622
206/381-3340 Fax 206/381-3341

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I. NATURE OF ACTION

Just Enterprises seeks to enjoin Defendant's use of (888) JUSTICE and similar names, which directly infringe Just Enterprises' registered service mark 1-800-JUSTICE. Plaintiff seeks injunctive and monetary relief under the Lanham Act and applicable state common and statutory law.

II. PARTIES

1. Plaintiff, JUST ENTERPRISES, INC., ("Just Enterprises") is a Missouri Corporation having its principal place of business in Jasper County, Missouri.

Defendant Phillips & Webster, PLLC is a law firm doing business at 13303 NE 175th St., Woodinville, WA 98072-8503.

2. Defendant Phillips & Webster, PLLC is a law firm doing business at 13303 NE 175th St., Woodinville, WA 98072-8503.

III. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over the Lanham Act (15 USC §1114) claims raised in this action pursuant to 28 USC §1331 and 28 U.S.C. §1338(a). This Court has subject matter jurisdiction over the related state common law claim raised in this action pursuant to 28 U.S.C. §§ 1367 and 1338(b).

4. The Court has personal jurisdiction over the Defendant because it is located in and conducts its regular business in this judicial district.

Venue is proper in this Court pursuant to 28 U.S.C. §1391.

IV. FACTS

5. On September 25, 1992, Just Enterprises applied for federal registration of 1-800-JUSTICE for legal referral services. During the prosecution of the application, Just Enterprises filed a statement that the mark was used in commerce on or before March 17, 2003.

1 As a result, United States Service Mark Registration No. 2,742,137 was issued on July 29,
2 2003, as shown by Exhibit A attached hereto.

3 7. Upon registration, the constructive date of first use of United States Service
4 Mark Registration No. 2,742,137 for 1-800-JUSTICE was September 25, 1992.

5 8. The mark 1-800-JUSTICE has been used in commerce by Just Enterprises
6 through a licensee since 1993, and is registered in the State of Washington.

7 9. The mark 1-800-JUSTICE is used extensively in connection with Just
8 Enterprises' services in, among other things, advertisements and other promotional material
9 distributed by Just Enterprises in print form, as well as on television, the radio and the Internet.
10 As a result of such promotional and other activities, and the quality of services offered by Just
11 Enterprises, the 1-800-JUSTICE mark has become well and favorably known throughout much
12 of the United States, has become uniquely associated with and hence identifies Just Enterprises
13 and its legal referral services, and has become a valuable asset of Just Enterprises and a symbol
14 of its goodwill. Just Enterprises' continuous and extensive use of the 1-800-JUSTICE mark
15 has resulted in the creation of substantial goodwill and name recognition and has resulted in the
16 1-800-JUSTICE mark becoming famous, including for purposes of RCW 19.77.160.

17 10. The 1-800-JUSTICE mark is distinctive of Just Enterprises and its licensees'
18 services.

19 11. Defendant licensed (888) JUSTICE from (888) Justice, Inc. and uses (888)
20 JUSTICE in connection with its identity and services.

21 12. Just Enterprises demanded Defendant cease using (888) JUSTICE to promote
22 Defendant's legal services but Defendant has refused to respond to such demands.
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1 13. Notwithstanding Defendant's knowledge of Just Enterprises' ownership of the
2 1-800-JUSTICE mark, Defendant continues to use (888) JUSTICE and similar infringing
3 phrases in connection with Defendant's identity and services.

4 14. Defendant's use of (888) JUSTICE and similar infringing phrases has caused
5 actual consumer confusion and is likely to cause additional consumer confusion, mistake and
6 deception.

7 15. The similarity between the (888) JUSTICE licensed by Defendant and the 1-
8 800-JUSTICE mark of Just Enterprises has led and is likely to lead consumers to mistakenly
9 conclude that the services offered in connection with (888) JUSTICE is licensed from or
10 certified by or otherwise sponsored or approved by Just Enterprises, or that Defendant and its
11 services offered under (888) JUSTICE are somehow otherwise affiliated, connected, or
12 associated with Just Enterprises. Consumers are likely to be misled as to the true source,
13 sponsorship, or affiliation of services offered under (888) JUSTICE.

14 16. Through its use of (888) JUSTICE, Defendant has intentionally and with
15 knowledge sought to cause consumer confusion, mistake, and deception.

16 17. The ongoing promotion and dissemination of (888) JUSTICE by Defendant is
17 likely to lessen the capacity of the 1-800-JUSTICE mark to identify and distinguish services
18 offered by Just Enterprises and otherwise has resulted in and will continue to result in dilution
19 of the 1-800-JUSTICE mark.

20 **COUNT I - SERVICE MARK INFRINGEMENT**

21 18. Plaintiff restates the information and allegations in the preceding paragraphs of
22 this Complaint as if set forth herein.

23 19. Use of (888) JUSTICE and similar infringing phrases by Defendant to promote,
24 market or sell services in direct competition with Just Enterprises' 1-800-JUSTICE services
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1 constitutes service mark infringement pursuant to 15 U.S.C. §1114 and RCW 19.77.010, *et.*
2 *seq.*

3 20. Defendant's infringement of the 1-800-JUSTICE registered mark is intentional
4 and willful.

5 21. Defendant's infringement of the 1-800-JUSTICE registered mark has caused
6 and will continue to cause damage to Just Enterprises, including irreparable harm for which
7 there is no adequate remedy at law.

8 **COUNT II – UNFAIR COMPETITION**

9 22. Plaintiff restates the information and allegations in the preceding paragraphs of
10 this Complaint as if set forth herein.

11 23. Use of (888) JUSTICE by Defendant to promote, market or sell services in
12 direct competition with Just Enterprises' 1-800-JUSTICE services constitutes unfair
13 competition pursuant to 15 U.S.C. §1125(a) and RCW 19.86.010, *et. seq.*

14 24. Defendant's unfair competition is intentional and willful.

15 25. Defendant's unfair competition has caused and will continue to cause damage to
16 Just Enterprises, including irreparable harm for which there is no adequate remedy at law,
17 warranting injunctive relief, an award of damages, treble damages, attorney's fees and costs of
18 suit.

19 **COUNT III - COMMON LAW UNFAIR COMPETITION AND SERVICE MARK**
20 **INFRINGEMENT**

21 26. Plaintiff restates the information and allegations in the preceding paragraphs of
22 this Complaint as if set forth herein.

23 27. Defendant's acts constitute common law unfair competition and service mark
24 infringement, and have created and will continue to create a likelihood of confusion to the
25 irreparable injury of Plaintiff unless restrained by this Court, and Plaintiff has no adequate
26 remedy at law for this injury.

1 28. On information and belief, Defendant acted with full knowledge of Plaintiff's
2 use of and statutory and common law rights to the 1-800-JUSTICE mark and without regard to
3 the likelihood of confusion of the public created by Defendant's activities.

4 29. Defendant's actions demonstrate an intentional, willful, and malicious intent to
5 trade on the goodwill associated with Plaintiff's 1-800-JUSTICE mark to the great and
6 irreparable injury of Plaintiff.

7 30. As a result of Defendant's acts, Plaintiff has been damaged in an amount not yet
8 determined or ascertainable. At a minimum, however, Plaintiff is entitled to injunctive relief,
9 an accounting of Defendant's profits, and its damages and costs. In light of the deliberately
10 fraudulent and malicious use of confusingly similar imitations of Plaintiff's 1-800-JUSTICE
11 mark, and the need to deter Defendant from similar conduct, Plaintiff additionally is entitled to
12 punitive damages.

13 **COUNT IV - UNFAIR AND DECEPTIVE TRADE PRACTICES**

14 31. Plaintiff restates the information and allegations in the preceding paragraphs of
15 this Complaint as if set forth herein.

16 32. Defendant's conduct described herein constitutes unfair and deceptive trade
17 practices in the conduct of Defendant's trade within the State of Washington in violation of
18 RCW 19.86.010, *et. seq.*

19 33. Defendant's use of (888) JUSTICE for its services has caused confusion and
20 will cause a likelihood of confusion among consumers as to the source, sponsorship, approval,
21 or certification of the services. Defendant's use of (888) JUSTICE for its services is a
22 deceptive representation as to the source or origin of its services. Defendant's use of (888)
23 JUSTICE tends to create a false impression and constitutes an unfair and deceptive business
24 practice for purposes of RCW 19.86.010, *et. seq.*,
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1 34. As a direct and proximate result of Defendant's actions, Plaintiff has been
2 damaged in an amount to be proved at trial, and is entitled to the recovery of actual damages,
3 treble damages, punitive damages and attorneys fees and costs of suit for the injury done to its
4 property and reputation.

5 **COUNT V - MISAPPROPRIATION AND CONVERSION**

6 35. Plaintiff incorporates by reference the allegations in the preceding paragraphs of
7 this Complaint.

8 36. Defendant's actions constitute misappropriation and conversion, in violation of
9 common law.

10 37. Plaintiff has no adequate remedy at law for any of the above claims for relief.

11 **COUNT VI - UNJUST ENRICHMENT**

12 38. Plaintiff incorporates by reference the allegations in the preceding paragraphs of
13 the Complaint.

14 39. Defendant has received the benefit of the usage of Plaintiff's Service Mark 1-
15 800- JUSTICE.

16 40. Defendant has retained those benefits without compensating Plaintiff for same.

17 41. It would be unjust to allow Defendant to retain the benefits of the foregoing
18 without paying Plaintiff for same.

19 42. Plaintiff is entitled to receive said benefits from Defendant.

20 **V. RELIEF REQUESTED**

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22 Plaintiff asks that the Court declare and adjudge:
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1 A. That Plaintiff's rights in and to the 1-800-JUSTICE service mark are
2 valid, enforceable and have been infringed by Defendant, and that Defendant's actions
3 constitute unfair competition.

4 B. That Defendant has willfully infringed Plaintiff's rights by using (888)
5 JUSTICE and similar infringing phrases.

6 C. That Defendant, its agents, servants, employees, officers, attorneys,
7 successors assigns, and all persons in active concert or participation with Defendant, be
8 preliminarily and permanently enjoined and restrained from:

9 (1) Using (888) JUSTICE or any version thereof, in connection with
10 the description, marketing, promotion, advertising, or sale of any legal services or legal
11 referral services;

12 (2) Infringing the 1-800-JUSTICE service mark owned by Plaintiff
13 Just Enterprises.

14 D. That Defendant deliver up for destruction all labels, signs, brochures,
15 prints, advertisements and any and all other material of an infringing or unfair or
16 deceptive nature in Defendant's possession or control.

17 E. That Defendant take corrective action by notifying all current and prior
18 clients obtained through (888) JUSTICE that Defendant is not in any way affiliated with
19 Just Enterprises or any 1-800-JUSTICE services.

20 F. An award of damages for Plaintiff, including (but not limited to)
21 Defendant's profits and Plaintiff's actual damages;

22 G. An award of treble damages for Plaintiff as provided by Section 35(a) of
23 the Lanham Act, 15 U.S.C. §1117(a), RCW 19.86. 090 and RCW 19.77.010, *et. seq.*;
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H. An award of attorney's fees and costs for Plaintiff as provided by Section 35(a) of the Lanham Act, 15 U.S.C. §1117(a), RCW 19.86.090 and RCW 19.77.010, *et. seq.*;

I. That Defendant be directed to file with this Court and serve on Plaintiff within 30 days after the service of any restraining order or injunction, a written report, under oath, setting forth in detail the manner and form in which Defendant has complied with the order or injunction.

J. Any other relief at law or equity to which Plaintiff may be entitled.

Dated this 5th day of October, 2007

GIBBONS & WHYTE, PLLC

By 

Steven V. Gibbons
Attorneys for Plaintiff Just Enterprises, Inc.

Derek Martin
Martin & Associates, LLC
Carthage, MO 64836-0548
Phone: (417) 358-4700
Of Counsel