

YOUNG & HAROS, LLC

BY: NICHOLAS CHARLES HAROS, ESQUIRE

ATTORNEY FOR: Plaintiff Stillwater Lakes
Civic Association, Inc.

IDENTIFICATION NO. PA 76195
LAW OFFICES
802 MAIN STREET
STROUDSBURG, PA 18360-0511
(570) 424-9800 (voice)
(570) 424-9288 (fax)
nharos@eastpennlaw.com

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STILLWATER LAKES CIVIC
ASSOCIATION, INC.,

Plaintiff

v.

NOREEN GORKA,
MICHAEL GLASSIC,
STILLWATER LAKES CITIZENS, and
STILLWATER LAKES COMMUNITY
ACTIVIST, a Pennsylvania Corporation,

Defendants

Complaint for Damages
Injunctive Relief

COMPLAINT

AND NOW comes Plaintiff, Stillwater Lakes Civic Association, Inc., by and through its counsel, Young & Haros, LLC, and hereby complains against Defendants, Noreen Gorka, Michael Glassic, Stillwater Lakes Citizens, and Stillwater Lakes Community Activist, and in support thereof, avers as follows:

I. NATURE OF ACTION

1. This is an action commenced by the Board of Directors of Stillwater Lakes Civic Association (hereinafter "the Association"), a Pennsylvania nonprofit corporation that manages the planned community known as Stillwater Lake Estates, Coolbaugh Township, Monroe County, Pennsylvania.

2. As a corporation, the Association has ownership rights to its corporate and trade name ("Stillwater Lakes" and "Stillwater Lakes Civic Association, Inc.") pursuant to Articles of Incorporation filed with the Pennsylvania Department of State in 1976.

3. Defendants registered domain names strikingly similar to the Association's and have operated a website using the Association's official corporate and trade name without Association authorization.

4. Plaintiff brings causes of action under the relevant Federal and State trademark statutes and common law causes of action, alleging trade name infringement, dilution, cyber squatting and misappropriation.

II. JURISDICTION AND VENUE

5. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338 and 15 U.S.C. § 1116.

6. The Court has supplemental or pendent jurisdiction over state law claims under 28 U.S.C. § 1367(a).

7. This Court has personal jurisdiction over the Defendants in that they conduct activity through the website in the Commonwealth of Pennsylvania and within this District.

8. Venue is proper in this District pursuant of 28 U.S.C. § 1391(b) in that the Defendants are individuals and entities subject to personal jurisdiction in this Judicial District.

III. PARTIES

9. Plaintiff, Stillwater Lakes Civic Association, Inc. (hereinafter "the Association") is a Pennsylvania nonprofit corporation with a mailing

address of c/o NEPA Management, 304 Park Avenue, Stroudsburg, PA 18360.

10. Stillwater Lakes Civic Association is the community association that owns and operates the common areas within Stillwater Lake Estates, a planned community located in Coolbaugh Township, Monroe County.

11. The Association is governed by a Board of Directors that acts on behalf of the membership.

12. Defendant, Noreen Gorka, is an adult individual who resides in Pocono Summit, PA 18346.

13. Defendant, Michael Glassic, is an adult individual who resides in Pocono Summit, PA 18346.

14. Defendants Gorka and Glassic jointly own property located at 2339 Nadine Boulevard within the Stillwater Lake Estates planned community.

15. As such, Defendants Gorka and Glassic are bound by the Association's Declaration of Covenants.

16. Defendants Gorka and Glassic are members of the Association and are bound by the Association's Bylaws and Rules and Regulations.

17. Defendant, Stillwater Lakes Citizens (hereinafter "Citizens"), is a fictional entity which, upon information and belief, is entirely owned, operated, and managed by Defendants Gorka and Glassic, with a similar address.

18. Defendant Gorka presently serves on the Plaintiff's Board of Directors.

19. As a Director, Defendant Gorka serves in a fiduciary capacity to the membership.

20. Defendant Stillwater Lakes Community Activist is a nonprofit corporation organized under the laws of the Commonwealth of Pennsylvania with a mailing address of P.O. Box 2286, Pocono Summit, PA 18346 (hereinafter "Activist").

21. The incorporator and chief administrative contact for the Activist is Defendant Glassic.

IV. ALLEGATIONS IN ALL COUNTS

22. As a corporation, the Association has ownership rights to its corporate and trade name pursuant to Articles of Incorporation filed with the Pennsylvania Department of State in 1976.

23. On or about August 2006 and June 2008, Defendants Gorka, Glassic and Citizens registered the domain names www.stillwaterlakes.net and www.stillwaterlakes.com, respectively.

24. Both domain names lead an internet user to a single website (the website) at www.stillwaterlakes.net. A copy of the original home page for the website is attached as Exhibit "A" and incorporated herein.

25. The owner of the domain names was listed as "Stillwater Lakes Citizens" as referenced on the original domain name registration report which is attached hereto as Exhibit "B" and incorporated herein.

26. The addresses listed on the original report for both sites lists "P.O. Box 10000000, Pocono Summit, PA". Said address does not exist.

27. The phone number listed on the original report for www.stillwaterlakes.net is 5708940000. Said number does not exist.

28. The phone number listed on the original report for www.stillwaterlakes.com is 5708942371, the phone number of Defendants, Gorka and Glassic.

29. It is averred that Defendants Gorka and Glassic are entirely in control of the alleged entity known as "Stillwater Lakes Citizens" and the new corporate entity, Stillwater Lakes Community Activist.

30. "Stillwater Lakes Citizens" is not registered with the Pennsylvania Department of State and it is averred that no such entity formally exists and that "Stillwater Lakes Citizens" is the alter ego of Defendants Gorka and Glassic.

31. Defendants Gorka, Glassic, and Citizens have offered to sell the two domain names to the Association for a profit.

32. The Association refused to purchase said domain names from Defendants because it presently had the exclusive right to said names.

33. Recently, the Defendants, through a membership forum included in their website, have posted and monitored inaccurate and critical entries regarding the Association, its Board of Directors, Management Company and individual Directors.

34. Defendant Glassic recently incorporated the entity known as Defendant Stillwater Lakes Community Activist with the Pennsylvania Department of State.

35. Upon information and belief, it is averred that Defendants Gorka, Glassic and Citizens have assigned the rights to the domain names to Defendant Activist and/or updated the registration information to show Defendant Activist as owner of the domain names.

36. The new domain registration information lists an address for Defendant Activist of P.O. Box 2286, Pocono Summit, PA 18346 and a phone number of (570) 269-9460.

37. The website is open to public viewing. A copy of the updated website's home page is attached hereto as Exhibit "C" and incorporated herein.

38. The Defendants' website does not conspicuously state that it is not the official site of the Plaintiff.

39. There is no clear disclaimer language on the website distancing the website from the Association.

40. The website displays the Association's trade and corporate name.

41. The Association has never authorized the use of its corporate or trade name on Defendants' domain names or website.

42. A person who accesses the website has a reasonable understanding that the website is the official website of Stillwater Lakes Civic Association.

43. Defendants own the site under the domain names www.stillwaterlakes.net and www.stillwaterlakes.com.

44. Defendants operate the website at www.stillwaterlakes.net and www.stillwaterlakes.com.

45. In March of 2008, the Association enabled its own official website for the community, at the domain name www.mystillwaterlakes.com.

46. Plaintiff selected said name because the Defendants had previously acquired the domain name "stillwaterlakes".

47. The Association has taken steps to force the Defendants to cease and desist operation of the website, most notably through a letter dated September 11, 2007, a copy of which is attached hereto as Exhibit "D" and incorporated herein.

48. In response to said letter, the Defendants continued to operate the misleading website.

49. Further, Plaintiff's counsel sent a similar ease-and-desist letter in October of 2008 demanding similar relief. A copy of said letter is attached as Exhibit "E" and incorporated herein.

50. At approximately the time the second demand letter was sent, the Defendants made some minor changes to the website, as reflected in the excerpts attached as "Exhibit F" which is incorporated herein.

51. Despite said changes, the site still fails to contain adequate information to avoid confusing users as to the official nature of the site and continues to use the Association's trade and corporate name without authorization.

52. The use of the term "Stillwater Lakes" in Defendants' domain name and website is causing confusion amongst users within and outside of the community.

53. Examples of such confusion include (as outlined in the attached Exhibit "F"):

- 1) The conspicuous use of the acronym "SLCA" which is now listed as "Stillwater Lakes Community Activists", while still using said acronym to describe the Plaintiff Association;
- 2) Reference to whether one is required to be an SLCA member without differentiating which "SLCA" is at issue;
- 3) Reference to Stillwater Lakes Civic Association;
- 4) Continued reference to the Association's agents on the home page;
- 5) Reference to a "Board" without explaining whether it was the Board of the Association or of the Stillwater Lakes Community Activist.

54. Defendants, in bad faith, have intended to profit from the good will and reputation of the Plaintiff, as said site contains private advertising by third parties.

55. Defendants registered the domain names which are confusingly similar to the Association's corporate and trade name.

56. It was the Defendants' intent to harm the Plaintiff's reputation and good will by increasing the likelihood of confusion as to

the source, sponsorship, affiliation or endorsement of the Association's official site.

57. Upon information and belief, the Defendants provided misleading and false contact information when applying for the registration of the domain name in an attempt to avoid action by the Association.

58. The Defendants have intentionally continued to utilize the acronym "SLCA" in an attempt to confuse the user.

59. The Defendants intentionally selected these same initials to confuse the user.

60. The site contains information on both the Plaintiff and the Defendant Activist, further confusing the consumer.

61. The Association has suffered and will continue to suffer damages based on the Defendants' actions, unless enjoined by this court

COUNT I
LANHAM ACT – TRADE NAME INFRINGEMENT

63. Paragraphs 1 through 62 are hereinafter incorporated by reference as if set forth at length.

64. The name Stillwater Lakes Civic Association, Inc. is the property of the Plaintiff who has owned and managed said name since the filing of Articles of Incorporation in 1976.

65. The filing of the Association's Covenants and its Articles of Incorporation are evidence of its ownership of said corporate and trade name under the Lanham Act.

66. Plaintiff owns all rights to the name Stillwater Lakes Civic Association and its derivatives and may enjoin its unauthorized use by other parties.

67. Plaintiff has never consented to the Defendants' use of said name.

68. Defendants, in connection with the advertising, marketing and sale of goods and services, dissemination of information, and otherwise, have used Plaintiff's trade name in commerce by:

- a. failing to advise users that said site is not the official website of the Association;
- b. prominently displaying the Association's corporate and trade name on the website; and

c. conspicuously using the acronym "SLCA" without explaining the difference between the Association and the Stillwater Lakes Community Activist.

69. Defendant's actions make misleading representations to the public and are likely to misrepresent the activities, nature, and makeup of the Plaintiff.

70. Defendant's actions in misappropriating the trade name are probable to cause confusion amongst the public by misrepresenting the existing sites as the official sites of the Association.

71. The Defendants' conduct has misrepresented the activities of the Plaintiff by advertising different services on their website, which constitutes commercial activity.

72. Plaintiff owns the rights to the corporate name Stillwater Lakes Civic Association and any derivative thereof.

73. The Association's corporate name is valid and legally protectable.

74. Defendants' use of the mark to identify the goals of their website is likely to create confusion.

75. There is a strong likelihood of confusion because consumers viewing the Defendants' website would assume that the name and acronym used by the Defendants is associated with a different product or service.

76. The acronym "SLCA" is identical to the Association's acronym.

77. The name "Stillwater Lakes Community Activist" is confusingly similar to the Association's corporate name. The acronym and corporate name are likely to cause confusion based on their similarity.

78. The strength of the Plaintiff's name is significant because of the distinctive name of Stillwater Lakes and its recognition in the local marketing area. The Association's corporate name is distinctive because it is suggestive in nature.

79. The Association's name has commercial strength and marketplace recognition because it has been used throughout the Pocono region and the New York, New Jersey, and Philadelphia regions for close to thirty years.

80. Since many internet users do not spend a great deal of time on any one website, there is a strong potential for confusion based on the Defendants' website.

81. The Plaintiff has used its corporate name without any other interference or confusion for over thirty years until the development of the Defendants' website.

82. The Defendants' intent in developing the website is to criticize the activities of the Association and to intentionally confuse consumers.

83. The Defendant's ownership and use of the domain name "stillwaterlakes" will result in initial interest confusion for consumers surfing on the internet.

84. The Plaintiff's and Defendants' website are still marketed and targeted by parties and consumers in the same geographic area, thereby increasing the likelihood of confusion.

85. Since the website continually confuses and interchanges the terms SLCA, the Association and the Activist, there is a strong potential for confusing the consumer regarding which Board "SLCA" they are speaking of.

86. The Defendants have acted in bad faith as evidenced by the following:

- a. The Defendants' use of the corporate name of the Association and its website.
- b. The Defendants' intent to divert consumers from using the Association's official website.
- c. The Defendants' attempts to market the domain name to the Association for a profit.
- d. The Defendants' use of misleading or false contact information when setting up the website.
- e. The Defendants' acquisition of the ".net" and ".com" names using Stillwater Lakes.

87. Plaintiff has suffered damages pursuant to the Defendants' actions and are entitled to relief under 15 U.S.C. § 1117(d).

88. Defendants willfully and intentionally used Plaintiff's trade name without its consent.

89. The Defendants have refused to cease and desist their use of the corporate name and the website.

90. The above activities constitute intentional violations of 15 U.S.C. § 1125(a)(1)(A).

WHEREFORE, Plaintiff Stillwater Lakes Civic Association, Inc. hereby requests that the Court order the following relief:

A. Defendants shall, within five (5) days of this Order, temporarily disable the website operated at www.stillwaterlakes.net and www.stillwaterlakes.com and all similar websites operated by them relating to the Stillwater Lakes Civic Association;

B. During the disabled period, Defendants shall revise the website(s) to clearly and affirmatively advise viewers that the site(s) is not the official site of the Association;

C. Defendants shall be prohibited from re-enabling the website(s) until all necessary disclaimers are in place;

D. Defendants shall be prohibited from creating any website or using any domain name with a name similar to the names listed in Paragraph A above;

E. Defendants shall transfer their registration of the domain names www.stillwaterlakes.net and www.stillwaterlakes.com to Plaintiff within fifteen (15) days of the court's order;

F. Defendants shall immediately cease and desist using or representing that they are the owner of any domain name or name generally relating to "Stillwater Lakes" or any derivative thereof, effecting or referring to Plaintiff;

G. Defendants shall be enjoined from utilizing the acronym "SLCA" on its present or any future websites, shall clearly explain any references to Plaintiff Association or its agents, and shall clearly differentiate any references between Plaintiff and Defendant Activists;

H. Defendants shall pay the Plaintiff all reasonable enforcement costs incurred in this matter pursuant to 15 U.S.C. § 1117(d), including attorney's fees, within thirty (30) days of this Order;

I. Defendants shall be responsible for all other relief as this Court deems appropriate.

COUNT II - CYBER SQUATTING

91. Paragraphs 1 through 90 are hereinafter incorporated by reference as if set forth at length.

92. Defendants have registered the domain names www.stillwaterlakes.net and www.stillwaterlakes.com.

93. Defendants have trafficked in that same domain names.

94. Defendants have registered and trafficked in those same domain names with a bad faith intent as defined by 15 U.S.C. § 1125(d).

95. Defendants have registered and trafficked in the same domain names with the intent to harm the goodwill represented by the Plaintiff's name.

96. Defendants have registered and trafficked in that same domain names with the intent to tarnish or disparage the name "Stillwater Lakes Civic Association". Said intent is evidenced by the following factors:

- a. the Association's name is common in the region;
- b. the possible diversion of consumers or users to Defendants' site could hurt the reputation of the Association;
- c. the Defendants' offered to sell the domain names to the Plaintiff Association;
- d. The Defendants provided less than accurate information in their registration efforts, as evidenced in Exhibit B; and

e. The Defendants' use of the acronym "SLCA" and the use of the confusingly similar name "Stillwater Lakes Community Activist".

97. Defendants have intentionally violated 15 U.S.C. § 1125(d) and Plaintiff.

WHEREFORE, Plaintiff Stillwater Lakes Civic Association, Inc. hereby requests that the Court order the following relief:

A. Defendants shall, within five (5) days of this Order, temporarily disable the website operated at www.stillwaterlakes.net and www.stillwaterlakes.com and all similar websites operated by them relating to the Stillwater Lakes Civic Association;

B. During the disabled period, Defendants shall revise the website(s) to clearly and affirmatively advise viewers that the site(s) is not the official site of the Association;

C. Defendants shall be prohibited from re-enabling the website(s) until all necessary disclaimers are in place;

D. Defendants shall be prohibited from creating any website or using any domain name with a name similar to the names listed in Paragraph A above;

E. Defendants shall transfer their registration of the domain names www.stillwaterlakes.net and www.stillwaterlakes.com to Plaintiff within fifteen (15) days of the court's order;

F. Defendants shall immediately cease and desist using or representing that they are the owner of any domain name or name generally relating to "Stillwater Lakes" or any derivative thereof, effecting or referring to Plaintiff;

G. Defendants shall be enjoined from utilizing the acronym "SLCA" on its present or any future websites, shall clearly explain any references to Plaintiff Association or its agents, and shall clearly differentiate any references between Plaintiff and Defendant Activists;

H. Defendants shall pay the Plaintiff all reasonable enforcement costs incurred in this matter pursuant to 15 U.S.C. § 1117(d), including attorney's fees, within thirty (30) days of this Order;

I. Defendants shall be responsible for all other relief as this Court deems appropriate.

COUNT III– STATUTORY ANTI-DILUTION OF TRADE NAME

98. Paragraphs 1-97 above are hereinafter incorporated by reference as if set forth at length.

99. Plaintiff is the owner of the trade name "Stillwater Lakes Civic Association, Inc." and its derivatives.

100. The name "Stillwater Lakes Civic Association" is the property of the Plaintiff and has been used as such since the filing of Plaintiff's Articles of Incorporation in 1976.

101. Plaintiff's trade name is famous and recognizable.

102. Plaintiff has contractual relations with numerous vendors, not to mention its relationship with its members and potential purchasers/members.

103. While a nonprofit, Plaintiff conducts commercial activity relying on its trade name, reputation and good will.

104. The Defendants' website contains commercial links to non-Association activities and businesses, as shown on excerpts from the website attached to this pleading.

105. Upon information and belief, said advertising is permitted only upon payment of valuable consideration to Defendants.

106. Defendants' activity in selling and providing advertising space to vendors constitutes commercial activity.

107. Defendants' unauthorized use of Plaintiff's trade name dilutes the distinctive quality of Plaintiff's name and reputation.

108. Defendants' activity is specifically prohibited by 54 Pa. C.S. § 1124.

109. The Plaintiff's name has a high degree of inherent or acquired distinctiveness in Pennsylvania, New York and New Jersey.

110. Plaintiff has used said trade name for over thirty years.

111. Plaintiff has advertised and publicized its services with said name during this period as well.

112. The Plaintiff's name is familiar in common interest community circles as well as those involving local service providers.

113. Prior to the recent website, Plaintiff's name was not previously misappropriated by third parties.

114. Defendants have misappropriated the Association's trade name without authorization.

115. Defendants' website interferes with the Association's operations.

116. The Defendants have improperly interfered with the business relations of Plaintiff and its members by failing to advise visitors to Defendants' site(s) that said site(s) is not the official site of the Association.

117. The Defendants misappropriated the corporate name of the Plaintiff by using the full name of the corporation in its website.

118. The Plaintiff has never consented to the use or misappropriation of its corporate name.

119. The false use of the Plaintiff's corporate name is likely to cause confusion, mistake, and deception regarding the nature of the services provided by the Association.

120. The Defendants' misappropriation of the Plaintiff's corporate name is calculated to cause confusion, mistake and deceive the general public regarding the operations of Plaintiff.

121. The Plaintiff has invested time, effort and money into the establishment of its trade name and operation.

122. Without authority or authorization, the Defendants have misappropriated the fruits of Plaintiff's efforts with no consideration given back to the Association.

123. As a result of Defendants' actions, the Plaintiff has been injured and is entitled to damages.

WHEREFORE, Plaintiff Stillwater Lakes Civic Association, Inc. hereby requests that the Court order the following relief:

A. Defendants shall, within five (5) days of this Order, temporarily disable the website operated at www.stillwaterlakes.net and www.stillwaterlakes.com and all similar websites operated by them relating to the Stillwater Lakes Civic Association;

B. During the disabled period, Defendants shall revise the website(s) to clearly and affirmatively advise viewers that the site(s) is not the official site of the Association;

C. Defendants shall be prohibited from re-enabling the website(s) until all necessary disclaimers are in place;

D. Defendants shall be prohibited from creating any website or using any domain name with a name similar to the names listed in Paragraph A above;

E. Defendants shall transfer their registration of the domain names www.stillwaterlakes.net and www.stillwaterlakes.com to Plaintiff within fifteen (15) days of the court's order;

F. Defendants shall immediately cease and desist using or representing that they are the owner of any domain name or name generally relating to "Stillwater Lakes" or any derivative thereof, effecting or referring to Plaintiff;

G. Defendants shall be enjoined from utilizing the acronym "SLCA" on its present or any future websites, shall clearly explain any references to Plaintiff Association or its agents, and shall clearly differentiate any references between Plaintiff and Defendant Activists;

H. Defendants shall pay the Plaintiff all reasonable enforcement costs incurred in this matter pursuant to 15 U.S.C. § 1117(d), including attorney's fees, within thirty (30) days of this Order;

I. Defendants shall be responsible for all other relief as this Court deems appropriate.

COUNT IV – ANTI-DILUTION
MISAPPROPRIATION OF CORPORATE NAME

124. Paragraphs 1 through 123 are hereinafter incorporated by reference as if set forth at length.

125. The Association has authority to use the corporate name "Stillwater Lakes Civic Association" pursuant to the filing of its Articles of Incorporation with the Pennsylvania Department of State in 1976.

126. Plaintiff is the only party authorized to use said corporate name.

127. Defendants' use of the name "Stillwater Lakes" interferes with Association's valid right to use same.

128. The Association regularly uses its trade name in various channels of trade including signage, letterhead, and invoices.

129. The Association's use of its name is recognizable and is considered the trading name of the Association.

130. There is a strong likelihood of confusion for people using the Defendants' website based on the similarity of names.

131. The Defendants' website orders individuals using the web onto the unofficial website and disparages the Board and its agents.

132. The Defendants' unofficial website fails to distinguish itself from the Association's official website, further confusing the consumer.

133. The Association has never granted authorization to the Defendants to use its corporate name.

134. The Association continues to be harmed by the continued operation of the illegal website.

WHEREFORE, Plaintiff Stillwater Lakes Civic Association, Inc. hereby requests that the Court order the following relief:

A. Defendants shall, within five (5) days of this Order, temporarily disable the website operated at www.stillwaterlakes.net and www.stillwaterlakes.com and all similar websites operated by them relating to the Stillwater Lakes Civic Association;

B. During the disabled period, Defendants shall revise the website(s) to clearly and affirmatively advise viewers that the site(s) is not the official site of the Association;

C. Defendants shall be prohibited from re-enabling the website(s) until all necessary disclaimers are in place;

D. Defendants shall be prohibited from creating any website or using any domain name with a name similar to the names listed in Paragraph A above;

E. Defendants shall transfer their registration of the domain names www.stillwaterlakes.net and www.stillwaterlakes.com to Plaintiff within fifteen (15) days of the court's order;

F. Defendants shall immediately cease and desist using or representing that they are the owner of any domain name or name generally relating to "Stillwater Lakes" or any derivative thereof, effecting or referring to Plaintiff;

G. Defendants shall be enjoined from utilizing the acronym "SLCA" on its present or any future websites, shall clearly explain any references to Plaintiff Association or its agents, and shall clearly differentiate any references between Plaintiff and Defendant Activists;

H. Defendants shall pay the Plaintiff all reasonable enforcement costs incurred in this matter pursuant to 15 U.S.C. § 1117(d), including attorney's fees, within thirty (30) days of this Order;

I. Defendants shall be responsible for all other relief as this Court deems appropriate.

COUNT V – UNFAIR COMPETITION

135. Paragraphs 1-134 above are hereinafter incorporated by reference as if set forth at length.

136. Plaintiff has exclusive rights to the use of the name "Stillwater Lakes Civic Association, Inc." and any derivatives thereof.

137. Plaintiff's reputation and good will garnered through the prolong operation of said name has created commercial value in said trade name.

138. The Defendants have intentionally misappropriated the name of Plaintiff for their own benefit.

139. The Defendants' misappropriation is an invasion of privacy and constitutes unfair competition.

140. The Defendants' misappropriation of the trade name has caused actual confusion and will continue to cause confusion until enjoined.

141. The aforesaid acts of the Defendants constitute unfair competition under common law.

142. Defendants' have willfully, intentionally and in bad faith attempted to pass off their website as the official site of Stillwater Lakes Civic Association.

143. As such, Defendants have deceived the public in the business marketplace to the detriment of the Plaintiff's business reputation and goodwill.

144. Defendants' misappropriation of the Plaintiff's trade name has caused, and is likely to cause, confusion and also to deceive the public regarding the operation of the Association.

145. Defendants had full knowledge of the long-term use of Plaintiff's trade name.

146. The Defendants' actions constitute unfair competition.

147. As a result of Defendants' actions, the Plaintiff has been injured and is entitled to damages.

WHEREFORE, Plaintiff Stillwater Lakes Civic Association, Inc. hereby requests that the Court order the following relief:

A. Defendants shall, within five (5) days of this Order, temporarily disable the website operated at www.stillwaterlakes.net and www.stillwaterlakes.com and all similar websites operated by them relating to the Stillwater Lakes Civic Association;

B. During the disabled period, Defendants shall revise the website(s) to clearly and affirmatively advise viewers that the site(s) is not the official site of the Association;

C. Defendants shall be prohibited from re-enabling the website(s) until all necessary disclaimers are in place;

D. Defendants shall be prohibited from creating any website or using any domain name with a name similar to the names listed in Paragraph A above;

E. Defendants shall transfer their registration of the domain names www.stillwaterlakes.net and www.stillwaterlakes.com to Plaintiff within fifteen (15) days of the court's order;

F. Defendants shall immediately cease and desist using or representing that they are the owner of any domain name or name generally relating to "Stillwater Lakes" or any derivative thereof, effecting or referring to Plaintiff;

G. Defendants shall be enjoined from utilizing the acronym "SLCA" on its present or any future websites, shall clearly explain any references to Plaintiff Association or its agents, and shall clearly differentiate any references between Plaintiff and Defendant Activists;

H. Defendants shall pay the Plaintiff all reasonable enforcement costs incurred in this matter pursuant to 15 U.S.C. § 1117(d), including attorney's fees, within thirty (30) days of this Order;

I. Defendants shall be responsible for all other relief as this Court deems appropriate.

COUNT VI – COMMON LAW TRADE NAME INFRINGEMENT

148. Paragraphs 1-147 above are hereinafter incorporated by reference as if set forth at length.

149. Plaintiff owns the trade name "Stillwater Lakes Civic Association" and all its derivatives.

150. Said name is distinctive and able to be protected.

151. Defendants' actions cause confusion amongst potential consumers and purchasers.

152. Plaintiff's name is identifiable throughout the Poconos and parts of New York, New Jersey and Pennsylvania.

153. Defendants' actions have infringed on Plaintiff's trade name in that they have utilized said trade name without privilege to do so.

154. Said use of a trade name has confused the public.

155. The Plaintiff's trade name is protected through its continued use.

156. The Defendants have infringed upon Plaintiff's trade name by failing to gain authorization to use said name.

157. As a result of Defendants' actions, the Plaintiff has been injured and is entitled to damages.

WHEREFORE, Plaintiff Stillwater Lakes Civic Association, Inc. hereby requests that the Court order the following relief:

A. Defendants shall, within five (5) days of this Order, temporarily disable the website operated at www.stillwaterlakes.net and www.stillwaterlakes.com and all similar websites operated by them relating to the Stillwater Lakes Civic Association;

B. During the disabled period, Defendants shall revise the website(s) to clearly and affirmatively advise viewers that the site(s) is not the official site of the Association;

C. Defendants shall be prohibited from re-enabling the website(s) until all necessary disclaimers are in place;

D. Defendants shall be prohibited from creating any website or using any domain name with a name similar to the names listed in Paragraph A above;

E. Defendants shall transfer their registration of the domain names www.stillwaterlakes.net and www.stillwaterlakes.com to Plaintiff within fifteen (15) days of the court's order;

F. Defendants shall immediately cease and desist using or representing that they are the owner of any domain name or name generally relating to "Stillwater Lakes" or any derivative thereof, effecting or referring to Plaintiff;

G. Defendants shall be enjoined from utilizing the acronym "SLCA" on its present or any future websites, shall clearly explain any references to Plaintiff Association or its agents, and shall clearly differentiate any references between Plaintiff and Defendant Activists;

H. Defendants shall pay the Plaintiff all reasonable enforcement costs incurred in this matter pursuant to 15 U.S.C. § 1117(d), including attorney's fees, within thirty (30) days of this Order;

I. Defendants shall be responsible for all other relief as this Court deems appropriate.

YOUNG & HAROS, LLC

Date: 12/18/08

BY /s/ Nicholas Charles Haros
NICHOLAS CHARLES HAROS, ESQ.
Attorney I.D. No. PA 76195
802 Main Street
Stroudsburg, PA 18360
(570) 424-9800
FAX: (570) 424-9288
nharos@eastpennlaw.com
Attorney for Plaintiff