

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

YANIK SILVER,)
SUREFIRE MARKETING, INC.,)
10832 Brewer House Road)
North Bethesda, Maryland 20852)

JAMES EDWARDS,)
GUARANTEED RESPONSE MARKETING, LLC,)
P.O. Box 878)
Lightfoot, Virginia 23090)

Plaintiffs)

v.)

TIMOTHY CHEUVRONT,)
7520 Madeira Drive)
Fort Worth, TX 76112)

TVC MARKETING LLC,)
7520 Madeira Drive)
Fort Worth, TX 76112)

or)
848 Rainbow Boulevard # 702)
Las Vegas, NV 89107)

I WORKS INC.,)
221 W 200 S)
St. George, Utah 84770)

Defendants)

Civil Action No.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs Yanik Silver (“Mr. Silver”), James Edwards (“Mr. Edwards”), Surefire Marketing, Inc. (“Surefire”), and Guaranteed Response Marketing, LLC (“Guaranteed Response”) (collectively

“Plaintiffs”) bring this action against Defendants Timothy Chevront (“Mr. Chevront”), TVC Marketing LLC (“TVC”), and I Works, Inc. (“I Works”) (collectively “Defendants”), and allege as follows:

1. This is an action for false advertising, trademark infringement, false designation of origin, and unfair competition under 15 U.S.C. § 1125, and common law commercial misappropriation.
2. Plaintiffs seek injunctive relief against Defendants’ continued unauthorized use of Plaintiffs’ names, trademarks, products, and auto-responder systems in relation to the advertising, marketing, sale and online dissemination of Defendants’ products.
3. Plaintiffs seek monetary damages, including punitive damages, stemming from Defendants’ improper and unauthorized use of Plaintiffs’ names, trademarks, products and auto-responder systems and for reimbursement of attorneys’ fees and costs.

PARTIES

4. Plaintiffs are experts in the field of internet marketing. They provide goods and services to consumers in connection with the marketing and development of internet-driven online businesses.
5. Plaintiff Mr. Silver is a successful speaker and author, co-author or publisher of several best-selling online marketing books and tools. Mr. Silver is a citizen of the state of Maryland, residing in Montgomery County.
6. Plaintiff Mr. Edwards has developed, marketed and operated successful online businesses for himself and his clients since 1997. Mr. Edwards frequently speaks at conferences and seminars on such subjects as online information publishing, online marketing and multi-media. Mr. Edwards is a citizen of the Commonwealth of Virginia, residing in the city of Williamsburg.

7. Plaintiff Surefire Marketing, Inc. was incorporated in 1999 under the laws of the state of Maryland. Surefire maintains its principal place of business at 10832 Brewer House Road, North Bethesda, Maryland 20852.

8. Plaintiff Guaranteed Marketing Response LLC was organized in 2002 under the laws of the Commonwealth of Virginia. Guaranteed Marketing maintains its principal place of business at P.O. Box 878, Lightfoot, Virginia 23090.

9. Mr. Silver and Mr. Edwards are authors of several online guidebooks on Internet marketing, including "33 Days to Online Profits," which was a joint venture between Mr. Silver and Mr. Edwards and their companies Surefire and Guaranteed Response.

10. Upon information and belief, Defendant Timothy Chevront is Chief Executive Officer, principal and owner of TVC Marketing LLC. Upon information and belief, Timothy Chevront is knowingly responsible for the acts of Defendant TVC Marketing LLC, and has participated in the actions alleged herein. Timothy Chevront resides at 7520 Madeira Drive, Fort Worth, Texas 76112.

11. Upon information and belief, Defendant Timothy Chevront operates TVC Marketing LLC, with a principal place of business at 848 Rainbow Boulevard, # 702, Las Vegas, Nevada 89107. Upon information and belief, Timothy Chevront is the creator of an online product called "Internet Marketing Boot Camp," and is conducting business nationwide via several Internet web sites including, but not limited to, www.easyinternetbusiness.com and www.tvc-marketing.com.

12. Upon information and belief, Defendant I Works is an online business offering information technology and online marketing services. Upon information and belief, I Works maintains its principal place of business at 221 W 200 S, St. George Utah 84770. Upon information and belief, Defendant I Works is conducting or has conducted business nationwide through several web sites and

domain names including, but not limited to, www.4guaranteedsuccess.com, www.4-guaranteedsuccess.com, www.tvc-marketing.com, www.iworks-inc.com, www.easyinternetbusiness.com, www.netbizideas.com, www.netsuccessnow.com, www.iworks.com, and www.onlinesecureorders.com.

13. Defendants also are in the business of providing goods and services to consumers in connection with the marketing and development of internet-driven online businesses.

JURISDICTION AND VENUE

14. This court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332 (a)(1) in that the parties are citizens of different states and the amount in controversy exceeds, exclusive of interest and costs, the sum of Seventy-Five Thousand Dollars (\$75,000).

15. This court also has federal question jurisdiction under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338, and has pendent jurisdiction under 28 U.S.C. § 1367 over state law claims because the state and federal claims are so related as to form the same case or controversy.

16. This court has personal jurisdiction over the Defendants because, upon information and belief, Defendants have sufficient minimum contacts with the state of Maryland through their online businesses, advertising, marketing and sale of their products to citizens of Maryland.

17. Venue is appropriate under 28 U.S.C. § 1391 (b) because a substantial part of the events or omissions giving rise to the claim occurred and a substantial part of property that is the subject of the action is situated in this judicial District.

STATEMENT OF FACTS

18. Plaintiffs have been in the business of online marketing since at least as early as 2000. Plaintiffs are the authors of several publications, designed to serve as guidebooks for those individuals interested in marketing products and gaining revenue on the Internet. Some of Plaintiffs' guidebooks include "33 Days to Online Profits," "Immediate Money Immediately," and "The Magic Article Writing Formula that Always Works."

19. In addition to writing guidebooks, both Mr. Silver and Mr. Edwards conduct seminars on internet marketing, for which clients pay several thousand dollars to attend. Mr. Silver and Mr. Edwards also have conducted an "Internet Apprentice Program," for which clients have paid thousands of dollars to work with Plaintiffs in year-long courses.

20. There are more than 150,000 customers and subscribers to Plaintiffs' products.

21. Through their web sites, publications and public appearances, Mr. Silver and Mr. Edwards have developed substantial business goodwill. This is evidenced by numerous messages and testimonials they receive regularly from their students and customers.

22. Plaintiffs have a well-deserved good reputation due to the quality of their joint and individual business ventures. Plaintiff's products and services have generated millions of dollars in revenue.

23. The central mode of communication between Plaintiffs and their clients is the use of Plaintiffs' auto-responder systems. An auto-responder system is software that delivers a pre-set message or sequence of messages after being triggered by an e-mail inquiry.

24. Plaintiffs' auto-responder systems are integral to Plaintiffs' business and are the primary way for Plaintiffs to send messages to their numerous clients. After Plaintiffs' clients pay for one of

their products or services, Plaintiffs subscribe that client to one or more auto-responder systems as a convenient way to send their clients information and products.

25. In or about the middle of 2005, Plaintiffs began receiving numerous e-mail complaints from individuals who were not their clients.

26. These e-mails were received through Plaintiffs' "help desk," and primarily concerned a product called the "Internet Marketing Boot Camp."

27. The individuals complained that they were not receiving the types of returns promised them by the "Internet Marketing Boot Camp."

28. Several e-mails were written in angry and sometimes hateful language. Many individuals demanded refunds of their money, and some senders threatened to sue Plaintiffs and report Plaintiffs to the Better Business Bureau for unfair business practices.

29. The complaints of these individuals clearly reflected that they believed they had purchased Plaintiffs' products when in fact they had not. This confusion was the result of Defendants' having, without permission, subscribed their customers to Plaintiffs' auto-responder systems.

30. Defendants misrepresented and continue to misrepresent their association with Plaintiffs.

31. Through numerous web sites, Defendants promoted a product called "Internet Marketing Boot Camp" which used the names of Jim Edwards and Yanik Silver to advertise the web sites and product, without Plaintiffs' permission.

32. Defendants also wrongfully offered Plaintiffs' products and other materials without the permission of Plaintiffs, all for the benefit of Defendants. Specifically, I Works offer for unauthorized download Plaintiffs' publications "33 Days to Online Profits," "The Magic Article Writing Formula that Always Works," and "Immediate Money Immediately."

33. Defendants operate the web sites containing the infringing and confusing material.

34. Defendants profit from the unlicensed, unauthorized, and uncompensated advertisements using the names of Mr. Silver and Mr. Edwards, and also profit from the unauthorized dissemination of Plaintiffs' products.

35. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered substantial economic injury, lost profits, damage to their goodwill and reputations, and other damages for which there is no adequate remedy at law.

36. Plaintiffs demanded that Defendants remove any and all infringing materials from their web sites and also cease their unlawful activities. Defendants failed to do so.

COUNT I

(False Advertising under the Lanham Act—15 U.S.C. § 1125(a))

37. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1-36 of this Complaint, and incorporate them herein.

38. Defendants' retail products, and their related advertisements and marketing, contain materially false and misleading statements of fact and omissions regarding Plaintiffs' association with and sponsorship of Defendants' products. These false and misleading material statements of fact and omissions have the tendency to deceive and do deceive a substantial segment of the buying public and influence their purchasing decisions.

39. Such false statements occur in relation to the sale, offer for sale, promotion and distribution of Defendants' products in interstate commerce.

40. Such false statements and omissions have the effect of misrepresenting the nature, characteristics and origin of the goods being offered by Defendants.

41. Such false statements have caused actual confusion among the buying public.

42. These false statements and omissions by Defendants constitute false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

43. As a direct and proximate result of the wrongful acts of Defendants alleged above, Plaintiffs have suffered and will continue to suffer injury to their businesses, including but not limited to monetary injury due to diversion of sales from Plaintiffs to Defendants as well as injury to Plaintiffs' goodwill and market share. Pursuant to 15 U.S.C. § 1117, Plaintiffs are entitled to damages for Defendants' Lanham Act violations, and accounting of profits made by Defendants on sales of its purported products, as well as recovery of costs and reasonable attorneys' fees incurred in this action.

44. Defendants' acts are willful, wanton, and calculated to deceive, and are undertaken in bad faith, making this an exceptional case entitling Plaintiffs to recover additional damages and its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

45. Defendants will continue to engage in the wrongful acts alleged above unless enjoined by this Court pursuant to 15 U.S.C. § 1116.

COUNT II

(False Designation of Origin and Trademark Infringement under the Lanham Act--15 U.S.C. § 1125(a))

46. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1-45 of this Complaint, and incorporate them herein.

47. This claim is against all Defendants for false designation of origin and trademark infringement, in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

48. Upon information and belief, Defendants have made false descriptions or representations of the origin of their products and services as that of Plaintiffs, including by using words or symbols to

falsely describe or represent their products, the ownership of the trademark rights, and the very nature and sponsorship of the products.

49. Upon information and belief, Defendants have used Plaintiffs' names Yanik Silver and James ("Jim") Edwards in the sale of Defendants' products in a false and misleading way which is likely to cause confusion, mistake, and deception as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person.

50. Upon information and belief, Plaintiffs allege that at the time Defendants commenced the advertisement and interstate sale of their products, and the unauthorized use of Plaintiffs' auto-responder systems, Defendants knew of Plaintiffs' widespread use and sale of its proprietary products, and knew of the valuable goodwill and reputation acquired by Plaintiffs in connection with their publication "33 Days to Online Profits," their web sites, and their other guidebooks. Defendants nonetheless misappropriated Plaintiffs' proprietary products.

51. Defendants' advertisement, dissemination, use and/or interstate sale of the Plaintiffs' products are likely to cause confusion, mistake, and deception as to the affiliation, sponsorship and/or origin of the goods advertised and sold by Defendants. Plaintiffs are informed and believe that such use has misled, and will continue to mislead, the public into believing that Defendants' products and web sites originate with Plaintiffs, is licensed by Plaintiffs, or in some way is sanctioned by or affiliated with Plaintiffs.

52. Defendants have knowingly, willfully, and deliberately, and with conscious disregard for Plaintiffs' rights, manufactured, advertised, and/or sold in interstate commerce the "Internet Marketing Boot Camp" unlawfully using the names of Mr. Silver and Mr. Edwards, and have disseminated for

unauthorized download Plaintiffs' publications "33 Days to Online Profits," "The Magic Article Writing Formula That Always Works," and "Immediate Money Immediately."

53. Defendants' manufacturing, advertising, and/or sale of Plaintiffs' products and trademarks constitute a false description or representation of the origin of such products and services, including by words or symbols tending to falsely describe or represent, in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

54. As a direct and proximate result of the aforesaid acts of false designation of origin and Trademark infringement, Plaintiffs have incurred substantial damages and harm to reputation and goodwill not measurable or compensable in money.

55. By reason of Defendants' acts of false designation of origin and trademark infringement, pursuant to 15 U.S.C. § 1117, Plaintiffs are entitled to recover all of Defendants' profits received or otherwise achieved, directly or indirectly, from their manufacture, advertisement, and/or sale of the "Internet Marketing Boot Camp," and their unauthorized dissemination of Plaintiffs' online publications "33 Days to Online Profits," "The Magic Article Writing Formula That Always Works," and "Immediate Money Immediately."

56. Defendants' aforesaid infringing conduct has been willful, wanton, and malicious, and done with intent to deceive. Plaintiffs are therefore entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages.

57. By reason of Defendants' acts of false designation of origin and trademark infringement, Plaintiffs have suffered and will continue to suffer irreparable injury unless and until this Court (1) enters an order enjoining Defendants from any further acts of false designation of origin and trademark infringement, and (2) orders Defendants to delete any mention of Plaintiffs' names, trademarks or

products in connection with their products, dismantle any link or download to Plaintiffs' products, and destroy any connection to Plaintiffs' auto-responder systems. Defendants' continuing acts of false designation of origin, unless enjoined, will cause irreparable damage to Plaintiffs in that it will have no adequate remedy at law to compel Defendants to cease such acts. Plaintiffs will be compelled to prosecute a multiplicity of actions, one action each time Defendants commit such acts, and in each such action it will be extremely difficult to ascertain the amount of compensation which will afford Plaintiffs adequate relief. The Plaintiffs are therefore entitled to a preliminary injunction and a permanent injunction against further infringing conduct by Defendants.

COUNT III

(Unfair Competition under Lanham Act, 15 U.S.C. § 1125(a))

58. The Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 – 57 of this Complaint, and incorporate them herein.

59. Defendants and/or their officers, agents, representatives, and employees have made false and misleading representations about their connection to Plaintiffs' products. Specifically, Defendants have willfully traded upon and appropriated to themselves the reputation and valuable goodwill of Plaintiffs by using Plaintiffs' trademarks, engaging in the unauthorized distribution of Plaintiffs' products, and subscribing Defendants' clients without permission to Plaintiffs' auto-responder systems such that Defendants are likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants' products with Plaintiffs' products.

60. Defendants have used Plaintiffs' marks in interstate commerce, in connection to the sale, offering for sale, distribution or advertising of goods.

61. On information and belief, Defendants' activities have deceived, or are likely to deceive, a substantial portion of the purchasing public, and such deception is material in that it is likely to influence the buying decisions of the purchasing public.

62. By reason of the Defendants' acts of false designation and false representation as alleged above, Plaintiffs have suffered, and will continue to suffer, substantial damage to its business reputation and goodwill, as well as diversion of trade and loss of profits in an amount not yet ascertained.

63. Defendants' acts of false designation and false representation as set forth herein have caused Plaintiffs irreparable injury and damage. Unless Defendants are enjoined from continuing their unauthorized acts, Plaintiffs will continue to be immediately and irreparably harmed.

64. Defendants' conduct is in violation of § 43(a) of the Lanham Act (15 U.S.C. § 1125(a)(1)(A)), and Plaintiffs are entitled to injunctive relief and to monetary damages in an amount as yet undetermined but to be proven at trial, which damages may be trebled by this Court in its discretion.

COUNT IV

(Common Law Commercial Misappropriation)

65. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 – 64 of this Complaint, and incorporate them herein.

66. Plaintiffs own the exclusive proprietary and commercial rights, including the right of publicity, the right of association, the right of sponsorship, and the right of endorsement that exists at common law, in and to the names Yanik Silver and James ("Jim") Edwards to promote and sell online marketing tools.

67. By publishing, disseminating, and/or otherwise distributing advertisements as Defendants have done in connection with the marketing and sale of Defendants' products, Defendants have

committed commercial misappropriation of Plaintiffs' common law rights. Defendants have appropriated and used the names, likenesses, images, and/or identities of Mr. Silver and Mr. Edwards in association with Defendants' marketing and sale of "Internet Marketing Boot Camp," as well as other products, to Defendants' advantage, without Plaintiffs' consent.

68. Plaintiffs have been damaged and have suffered irreparable injury due to Defendants' acts and will continue to suffer irreparable injury unless Defendants' activities are enjoined.

69. Plaintiffs are entitled to recover from Defendants the damages sustained as a result of Defendants' acts alleged above.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 (b), Plaintiffs demand a jury trial for all issues so triable as of right.

PRAYER FOR RELIEF

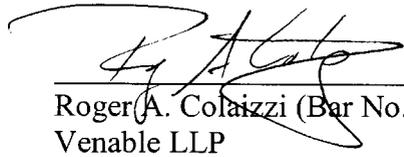
Wherefore, Plaintiffs pray for judgment that:

1. Defendants and their officers, agents, servants, employees, attorneys, and all persons in active concert or participating with any of them, preliminarily and thereafter, be permanently enjoined:
 - a. From committing any further acts of trademark infringement, false advertising, false designation of origin, unfair competition, commercial misappropriation, and unfair and deceptive trade practices.
 - b. From using any term which is likely to be confused with Plaintiffs Yanik Silver, James (or "Jim") Edwards, Surefire Marketing, Inc., or Guaranteed Response Marketing LLC or any other mark owned by any of these entities;

- c. From representing directly or indirectly in any form or manner whatsoever, that any product is a product of the Plaintiffs, when, in fact, it is not Plaintiffs' product;
 - d. From subscribing without authorization any individual to Plaintiffs' auto-responder systems;
 - e. From offering for free download any of Plaintiffs' written works;
 - f. From passing off or inducing or enabling others to sell or pass off any product that is not Plaintiffs' product as a product of TVC Marketing, I Works or any other Defendant;
 - g. From committing any other acts calculated to cause purchasers to believe that Defendants' products are Plaintiffs' products, and from competing unfairly with Plaintiffs in any manner;
 - h. From using the marks Yanik Silver, James (or "Jim") Edwards, Surefire Marketing, LLC, Guaranteed Response Marketing LLC in any way in the conduct of its business, advertising, and in promoting its business; and
 - i. From committing commercial misappropriation of Mr. Silver and Mr. Edwards' names, images, likenesses, or identities under common law.
2. For an order seizing and impounding all infringing products, and ordering immediate shut down of any web sites creating confusion as to the source of Defendants' products.
 3. For a judgment that Defendants have willfully and deliberately committed acts of trademark infringement, false designation of origin, false advertising, unfair competition, and commercial misappropriation.

4. For monetary damages Plaintiffs have incurred as a result of Defendants' infringements and an accounting and disgorgement of Defendants' profits from its infringing activity, in amounts to be proven at trial.
5. For monetary damages as a result of Defendants' unfair competition, in an amount to be proven at trial.
6. For treble Defendants' actual profits and/or damages with regard to Defendants' infringements on Plaintiffs' trademarks by false designation of origin, false advertising, unfair competition, trademark violations, and commercial misappropriation.
7. For exemplary and punitive damages.
8. For Defendants to pay Plaintiffs an allowance for reasonable attorneys' fees.
9. For Defendants to pay Plaintiffs the costs and disbursements of this action.
10. For Plaintiffs to receive such other and further equitable relief as the Court may deem appropriate.

Dated: March 2, 2006



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