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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

2013 AUG -2 PM 5:15
FOR THE DISTRICT

NORTH AMERICAN VAN LINES, INC.)

Plaintiff,)

v.)

NORTH AMERICAN MASTER LINES, INC.)

Defendant.)

Civil Action No. _____

3:13CV792

JURY TRIAL DEMANDED

**COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION
AND CYBERSQUATTING**

North American Van Lines, Inc. ("North American") for its complaint against Defendant North American Master Lines, Inc. ("NAML") alleges:

SUBJECT MATTER JURISDICTION AND VENUE

1. This is an action for trademark infringement under 15 U.S.C. § 1114(1), unfair competition and false designation of origin under 15 U.S.C. § 1125(a), cybersquatting under 15 U.S.C. § 1125(d), and unfair competition under common law. This court has subject matter jurisdiction of this action and these claims pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338.

2. This court has supplemental jurisdiction over the claims in this Complaint that arise under common law pursuant to 28 U.S.C. § 1367(a) because the state law claims are so related to the federal claims that they form part of the same case or controversy and drive from a common nucleus of operative facts.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events or omissions giving rise to the claim and the threatened and actual harm to North American occurred in this district by reason of NAML's conduct as alleged below.

PARTIES AND PERSONAL JURISDICTION

4. North American is a Delaware corporation with its principal place of business at 5001 U.S. Highway 30 West Fort Wayne, Indiana.

5. NAML is a Florida corporation having its principal place of business at 2633 Park Lane, Hallandale, Florida.

6. This court has personal jurisdiction over NAML under Indiana's Long Arm Statute, Ind. R. Trial. P. 4.4, because NAML conducts business within Indiana related to unlawful activities described in this complaint including operating a website inviting users to submit estimate service requests from zip codes across the United States including Indiana, advertises a nationwide moving service on its site, and, upon information and belief, moves customers to, through and/or from Indiana, and the harm suffered by North American in Indiana flows directly from the business and marketing conducted by NAML.

FACTUAL ALLEGATIONS

A. North American's Use of the NORTHAMERICAN Trademarks

7. North American is a well-known moving company that offers its services throughout the United States.

8. Since as early as 1946, in one form or another, North American has used the mark NORTHAMERICAN in association with its moving, transportation, and packing services (collectively, the "NORTHAMERICAN Marks").

9. North American owns all right, title, and interest in and to the NORTHAMERICAN Marks.

10. The NORTHAMERICAN Marks have enjoyed significant exposure to the consuming public, and have been featured on the internet, in advertisements, and on vehicles traveling throughout the United States.

11. North American has offered and provided to the public a variety of moving and transportation services under the NORTHAMERICAN Marks in all fifty states (50) and the District of Columbia.

12. The NORTHAMERICAN Marks are widely known and recognized among consumers.

13. The NORTHAMERICAN Marks are unique and distinctive, and as such, designate a single source of origin for the moving services.

14. North American spends tens of thousands of dollars each year to advertise and promote the NORTHAMERICAN Marks and associated moving services in the United States.

15. North American's Internet website showing use of the NORTHAMERICAN Marks and featuring information on many of North American's services can be accessed via the Internet domains northamerican.com, northamericanvanlines.com, and navl.com. Printouts from North American's website at these domains evidencing just some of the use of the NORTHAMERICAN Marks are attached as Exhibit 1.


16. As a result of North American's extensive and exclusive use with moving and transportation services, the NORTHAMERICAN Marks have developed significant goodwill in the market and are extremely valuable to North American.

17. North American expends substantial effort and expense to protect its NORTHAMERICAN Marks and their distinctiveness in the marketplace.

18. Having been widely promoted to the general public, and having exclusively identified North American and its services, the NORTHAMERICAN Marks symbolize the tremendous goodwill associated with North American and are a property right of incalculable value.

19. The NORTHAMERICAN Marks are valid and enforceable trademarks.

20. North American owns the following United States trademark registrations for its NORTHAMERICAN Marks:

Trademark	Reg. No.	Goods/Services	Reg. Date
	0915264	Transportation services-namely, transportation of household goods, personal effects, new furniture, exhibits and displays, and plant and office equipment	June 15, 1971
northAmerican	0917431	Transportation services-namely, transportation of household goods, personal effects, new furniture, exhibits and displays, plant and office equipment, and packing, storing and arranging shipment of goods incidental to such transportation	July 27, 1971

Copies of the registration information for each registration are attached to this Complaint as Exhibit 2.

B. The Business of NAML

21. NAML provides moving, transportation, and packing services across the United States.

22. NAML provides local and interstate, residential, military, and business moving, transportation, and packing services up to thousands of miles away from the customer's present location.

23. NAML changed its name from 1st Choice Van Lines, Inc. to North American Master Lines, Inc. in October 2012. Printouts of filings with the Florida Secretary of State are attached to the complaint as Exhibit 3.

C. NAML and Its Wrongful Conduct

24. North American has not authorized NAML to use the NORTHAMERICAN Marks in any way.

25. NAML provides its moving, transportation, and packing services and does business under the mark NORTH AMERICAN MASTER LINES ("Infringing Mark").

26. NAML displays the Infringing Mark in large lettering on its trucks as it provides moving, transportation, and packing services. Indeed, the term NORTH AMERICAN is featured in predominantly larger font than MASTER LINES on NAML's trucks, website, and elsewhere and overshadows the term MASTER LINES. NAML's infringing mark is displayed below. Pictures of NAML's moving trucks are attached as Exhibit 4.



27. In October 2012, NAML registered the domain name northamericanmasterlines.com (“Infringing Domain”). NAML operates a website at the Infringing Domain which features an estimator tool for NAML’s moving, transportation and packing services, the same services that North American provides in connection with the NORTHAMERICAN Marks. Printouts from the NAML’s website at the Infringing Domain showing such use by NAML are attached to this complaint as Exhibit 5.

28. NAML’s website at the Infringing Domain displays testimonials from customers that have used its services in various states.

29. NAML’s website at the Infringing Domain advertises that it provides moving services across the country and without any identified limit.

30. NAML provides its moving services under the Infringing Mark in the same markets where North American provides its moving services under the NORTH AMERICAN Marks.

31. NAML was aware of North American’s NORTHAMERICAN Marks when NAML selected the Infringing Mark, changed its name, registered the Infringing Domain, and began doing business under the Infringing Mark and the website associated with the Infringing Domain.

32. NAML was aware that North American was based in Indiana and would suffer harm as a result of NAML’s actions.

33. NAML states it is a national moving company, and upon information and belief, and as discovery will show, does and transacts business in Indiana and utilizes roads in Indiana, availing itself to the laws and jurisdiction of Indiana thereby.

34. NAML used the Infringing Mark, the Infringing Domain, and its associated website, with moving services because NAML was aware of North American's use of the NORTHAMERICAN Marks and NAML wanted to profit from the consumer goodwill related to the NORTHAMERICAN Marks.

35. Due to the very nature of its moving, transportation, and packing services, NAML understands that it may be named as a defendant in different forums and jurisdictions throughout the United States, including Indiana.

36. On January 7, 2013, North American (by the General Counsel of its parent company, SIRVA, Inc.) sent NAML a cease and desist letter to NAML's Hallandale, Florida, address demanding that NAML immediately cease all use of the Infringing Domain as well as any and all other associated trademarks, trade names, and domain names likely to cause confusion with the NORTHAMERICAN Mark or otherwise infringe on North American's rights. A copy of the letter is attached to this complaint as Exhibit 6.

37. NAML did not respond to the cease and desist letter and continues to knowingly and intentionally use the Infringing Mark, the Infringing Domain, and its associated website to provide services that are competitive with those provided in connection with the NORTHAMERICAN Marks.

D. Harm to North American Van Lines and the General Public

38. NAML's unauthorized use of the Infringing Mark, the Infringing Domain Name, and the material displayed on the associated website, is likely to cause and has caused confusion, mistake, and deception as to the source, affiliation or sponsorship of NAML and its moving, transportation and packing services with North American and its moving, transportation, and packing services.

39. North American and its affiliates have received complaints from consumers who were actually confused by NAML's use of the Infringing Mark, the Infringing Domain, and its associated website, which consumers believed that NAML's and NAML's services were sourced, affiliated, or sponsored by North American.

40. NAML's activities have irreparably harmed, and if not enjoined, will irreparably harm, North American and its long-used and federally registered NORTHAMERICAN Marks.

41. NAML's activities have irreparably harmed, and if not enjoined, will irreparably harm, the general public who has an inherent interest in being free from confusion, mistake, and deception.

COUNT I
Cybersquatting Under 15 U.S.C. § 1125(d) With Respect to the NORTHAMERICAN
Marks

42. North American realleges and incorporates by reference each of the allegations contained in the proceeding paragraphs as though fully set forth here.

43. NAML registered and used the Infringing Domain.

44. The NORTHAMERICAN Marks are distinctive, and at least two federal registrations for the NORTHAMERICAN Marks existed at the time NAML registered and used the Infringing Domain Name.

45. The Infringing Domain is confusingly similar to the NORTHAMERICAN Marks.

46. NAML registered or used the Infringing Domain in bad faith and with a bad faith intent to profit from the goodwill long established by North American's NORTHAMERICAN Marks.

47. NAML does not have any intellectual property rights or any other rights in the NORTHAMERICAN Marks.

48. NAML has not made any *bona fide* fair use of the NORTHAMERICAN Marks on a website accessible under the Infringing Domain.

49. NAML registered and used the infringing Domain to divert consumers from North American's website to a website accessible under the Infringing Domain for NAML's commercial gain by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the website under the Infringing Domain.

50. NAML's registration and use of the Infringing Domain constitutes cybersquatting in violation of 15 U.S.C. § 1125(d), entitling North American to relief.

51. By reason of NAML's acts alleged herein, NAML's remedy at law is not adequate to compensate for the injuries inflicted by NAML. Accordingly, North American is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

52. By reason of NAML's acts alleged herein, North American is entitled to recover NAML's profits, actual damages, and the costs of the action, or statutory damages under 15 U.S.C. § 1117, on election by North American, in the amount of not less than One Thousand Dollars (\$1,000) nor more than One Hundred Thousand Dollars (\$100,000) for the domain name infringement.

53. This is an exceptional case making North American eligible for an award of attorney's fees under 15 U.S.C. § 1117.

COUNT II

Trademark Infringement of the NORTHAMERICAN Marks Under 15 U.S.C. § 1114(1)

54. North American realleges and incorporates by reference each of the allegations contained in the proceeding paragraphs as though fully set forth here.

55. NAML's use in commerce of the Infringing Mark, the Infringing Domain, and the website displayed at the Infringing Domain, is likely to cause and has caused confusion, mistake, and to deceive.

56. NAML's website at the Infringing Domain displays testimonials and service information that are likely to cause confusion, mistake, and to deceive.

57. NAML's use of the Infringing Mark and Infringing Domain is likely to cause and has caused initial confusion among the general public.

58. The above-described acts of NAML constitute trademark infringement in violation of 15 U.S.C. § 1114(1), entitling North American to relief.

59. NAML has unfairly profited from the infringing actions alleged.

60. By reason of NAML's acts, North American has suffered damage to the goodwill associated with the NORTHAMERICAN Marks.

61. NAML's activities have irreparably harmed, and if not enjoined, will irreparably harm, North American and its long-used federally registered NORTHAMERICAN Marks.

62. NAML's activities have irreparably harmed, and if not enjoined, will irreparably harm, the general public who has an interest in being free from confusion, mistake, and deception.

63. By reason of NAML's acts, North American's remedy at law is not adequate to compensate it for the injuries inflicted by NAML. Accordingly, North American is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

64. By reason of NAML's willful acts, North American is entitled to damages, and that those damages be trebled under 15 U.S.C. § 1117.

65. This is an exceptional case making North American eligible for an award of attorney's fees under 15 U.S.C. § 1117.

COUNT III
Unfair Competition and False Designation of Origin of NORTHAMERICAN Marks under
15 U.S.C. § 1125(a)

66. North American realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as though fully set forth here.

67. NAML's use in commerce of the Infringing Mark, the Infringing Domain, and its associated website, is likely to cause and has caused confusion, or to cause mistake, or to deceive the relevant public that the Infringing Mark, the Infringing Domain, and the website displayed at the Infringing Domain are authorized, sponsored, or approved by or affiliated with North American.

68. NAML's use of the Infringing Mark, the infringing Domain, and its associated website, is likely to cause and has caused initial interest and confusion among the general public.

69. NAML's acts described above constitute trademark infringement of the NORTHAMERICAN Marks and false designation of origin in violation of 15 U.S.C. § 1125(a).

70. NAML has unfairly profited from the actions alleged.

71. By reason of NAML's acts alleged herein, North American has suffered damage to the goodwill associated with the NORTHAMERICAN Marks.

72. NAML's activities have irreparably harmed, and if not enjoined, will continue to irreparably harm the general public who has an interest in being free from confusion, mistake, and deception.

73. By reason of NAML's acts, North American's remedy at law is not adequate to compensate for the injuries inflicted by NAML. Accordingly, North American is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

74. By reason of NAML's willful acts, North American is entitled to damages, and that those damages be trebled under 15 U.S.C. § 1117.

75. This is an exceptional case making North American eligible for an award of attorneys' fees under 15 U.S.C. § 1117.

COUNT VI
Unfair Competition and Trademark Infringement of the NORTHAMERICAN Marks
Under Common Law

76. North American realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as though fully set forth here.

77. NAML has used in commerce the Infringing Mark, the Infringing Domain, and the associated website, in connection with its business.

78. NAML's use in commerce of the Infringing Mark, the Infringing Domain, and the associated website, in connection with NAML's business is likely to cause and has caused confusion or mistake or to deceive as to the source of origin of NAML's services.

79. NAML's acts described above constitute trademark infringement and unfair competition under common law entitling North American to relief.

80. NAML has unfairly profited from the actions alleged herein.

81. By reason of NAML's acts herein, North American has suffered damage to the good will associated with the NORTHAMERICAN Marks and has suffered irreparable harm.

82. By reason of NAML's acts, North American's remedy at law is not adequate to compensate it for the injuries inflicted by NAML. Accordingly, North American is entitled to preliminary and permanent injunctive relief.

83. North American is informed and believes and on that basis alleges that NAML's conduct has been intentional and willful and in conscious disregard of North American's rights.

REQUEST FOR RELIEF

Therefore, North American respectfully requests judgment as follows:

1. That the Court enter a judgment that NAML has:

(a) violated and infringed the rights of North American in the NORTHAMERICAN Marks under 15 U.S.C. § 1125(d);

(b) violated and infringed the rights of North American in the NORTHAMERICAN Marks under 15 U.S.C. § 1114(1);

(c) violated and infringed the rights of North American in the NORTHAMERICAN Marks under 15 U.S.C. § 1125(a); and

(d) violated and infringed the rights of North American in the NORTHAMERICAN Marks under common law;

2. That NAML be ordered to transfer the Infringing Domain, and any other domain name it owns which is identical or confusingly similar to the NORTHAMERICAN Marks to North American;

3. That NAML, its agents, representatives, employees, assigns and suppliers, and all persons acting in concert or privity with NAML, be permanently enjoined from the following activities:

(a) Registering or using, in any manner, any Internet domain name that incorporates, in whole or in part, the NORTHAMERICAN Marks, or any name, mark, or designation confusingly similar thereto;

(b) Using any of the NORTHAMERICAN Marks, or any other name, mark, designation, or depiction in a manner that is likely to cause confusion regarding whether NAML is affiliated or associated with or sponsored by North American;

(c) Registering any Internet domain name that incorporates, in whole or in part, the NORTHAMERICAN Marks, or any name, mark, or designation confusingly similar thereto;

(d) Practicing trademark infringement, unfair competition, false designation of origin, passing off, false advertising, against North American or misappropriation of North American's trademark rights; and

(e) Assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs 3(a) through 3(d) above;

4. That NAML be ordered to engage in corrective advertising to the extent necessary to correct any consumer confusion or misperceptions resulting from NAML's unlawful acts complained of above;

5. That NAML be ordered to account to North American for, and disgorge, all profits it has derived by reason of the unlawful acts complained of above;

6. That NAML be ordered to pay damages, and that those damages be trebled, under 15 U.S.C. § 1117;

7. That NAML be ordered to pay statutory damages under 15 U.S.C. § 1117(d), on election by North American, in the amount of no less than One Thousand Dollars (\$1,000) nor more than One Hundred Thousand Dollars (\$100,000) for its domain name infringement;

8. That NAML be ordered to pay North American's reasonable attorney fees, prejudgment interest, and costs of this action under 15 U.S.C. § 1117 and common law;

9. That NAML be ordered to file with the Court and serve upon North American a written report under oath setting forth in detail the manner and form in which NAML has complied with the injunction and judgment within thirty (30) days after the service of the injunction and judgment upon NAML; and

10. That the Court award all other appropriate relief.

DEMAND FOR JURY TRIAL

North American demands trial by jury of all claims so triable.

Respectfully Submitted,

DATED: 8/2/13

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