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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
2014 MAY 29 PM 1:04
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRISBA
CLERK

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HARMONY SCHOOL
CORPORATION,

PLAINTIFF,

V.

SCHOOL REFORM INITIATIVE,
INC.,

DEFENDANT.

Case No. _____

COMPLAINT FOR TRADEMARK
INFRINGEMENT AND RELATED
CLAIMS

DEMAND FOR JURY TRIAL

Plaintiff HARMONY SCHOOL CORPORATION ("Harmony") brings this Complaint against Defendant SCHOOL REFORM INITIATIVE, INC. ("SRI") to seek relief from Defendant's ongoing infringement of Harmony's valuable trademarks. In support of its Complaint, Harmony alleges:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Harmony is an Indiana non-profit corporation with its principal place of business located at 909 E. Second Street, Bloomington, Indiana 47402. NSRF is program of Harmony that provides professional development services within the field of education.

2. On information and belief, Defendant SRI is a Colorado corporation with its principal place of business located at 11522 W. Tennessee Place, Lakewood, Colorado 80226. SRI is a direct competitor of Harmony and is also primarily in the business of professional development within the field of education.

3. This Complaint arises under the Lanham Act, 15 U.S.C. § 1051 et. seq., and under the common law.

4. This Court has jurisdiction over Harmony's federal claims pursuant to 15 U.S.C. §§ 1121 and 1125(a), and 28 U.S.C. §§ 1331 and 1338(a). Jurisdiction over Harmony's state law claims and common law unfair competition claim lies under 28 U.S.C. §§ 1338(b) and 1367(a). Venue is proper under 28 U.S.C. § 1391(b).

5. On information and belief, SRI has conducted workshops within the State of Indiana and within this district, SRI has facilitators within the State of Indiana and within this district, and current and past members of SRI's Board of Directors reside within the State of Indiana and within this district. This Court has personal jurisdiction over SRI and venue is proper in the Southern District of Indiana because SRI is transacting business within this district, the complained of infringement has occurred and continues to occur within this district, and Harmony is being harmed within this district.

PLAINTIFF'S TRADEMARKS

6. Harmony owns United States Trademark Registration No. 2,925,985 for the service mark "CRITICAL FRIENDS GROUP," as used in connection with providing training in the field of improving teacher practice and student achievement to coaches and members of groups of educators. A copy of Harmony's trademark registration for the mark CRITICAL FRIENDS GROUP is attached hereto as Exhibit A.

7. Harmony's federally registered mark CRITICAL FRIENDS GROUP has obtained incontestable status pursuant to the Lanham Act § 15, 15 U.S.C. § 1065, as acknowledged by the United States Patent and Trademark Office on January 27, 2011.

8. Harmony first adopted and began using the mark CRITICAL FRIENDS GROUP and the common law mark CFG (hereinafter collectively referred to as the "Marks") no later than the year 2000 and has used the Marks as service marks in connection with providing training to educators, coaches and students continuously since then.

9. Harmony has common law trademark rights in the Marks through actual use in interstate commerce beginning no later than the year 2000 and continuing since.

DEFENDANT'S WRONGFUL CONDUCT

10. On information and belief, the individual Gene Thompson-Grove worked for Harmony from approximately 2000 to 2009, during which time she was actively involved in Harmony's use and federal registration of the mark CRITICAL FRIENDS GROUP; and, after ceasing her work with Harmony, Thompson-Grove immediately and with full knowledge of Harmony's trademark rights began working with SRI. On information and belief, Gene Thompson-Grove serves on SRI's Board of Directors.

11. On information and belief, SRI began using the Marks in connection with the service of providing training in the field of improving teacher practice and student achievement to coaches and educators at least as early as 2009.

12. On information and belief, SRI is currently offering such service under the Marks.

13. SRI is not, and never has been, authorized by Harmony to use its Marks in connection with such service.

14. SRI's use of the Marks is likely to cause confusion or mistake or to deceive the consuming public into believing that SRI is affiliated, connected, sponsored, approved, or otherwise associated with Harmony, in violation of state and federal trademark law.

15. Harmony advised SRI in a letter dated March 18, 2014, that Harmony owned the CRITICAL FRIENDS GROUP mark. In the letter, Harmony demanded that SRI cease and desist using the CRITICAL FRIENDS GROUP mark.

16. Despite these demands, and in contravention of them, SRI has refused to stop its unauthorized use of the trademarks. SRI has willfully infringed and continues to willfully infringe Harmony's rights in each of the above marks.

17. On information and belief, SRI adopted and used the Marks with the willful intent to deceive the public as to the ownership of the mark, or the source of the services, or both. SRI is using the Marks with actual knowledge that Harmony owns and uses the Marks.

PLAINTIFF'S HARM FROM DEFENDANT'S WRONGFUL CONDUCT

18. As a result of the aforesaid acts of SRI, Harmony has suffered and continues to suffer substantial damages and irreparable injury.

19. Harmony has no adequate remedy at law and, unless SRI is restrained and enjoined by this Court, said acts will continue to cause damage and irreparable injury to Harmony and to its goodwill and business reputation.

20. Harmony cannot ascertain the precise amount of its damages at this time.

FIRST CLAIM FOR RELIEF
FEDERAL TRADEMARK INFRINGEMENT
IN VIOLATION OF § 32 OF THE LANHAM ACT

21. Plaintiff repeats and realleges Paragraphs 1 to 20.

22. Defendant's activities, as alleged above, constitute intentional and willful infringement of Harmony's rights in and to its federally registered CRITICAL FRIENDS GROUP mark, U.S. Trademark Reg. No. 2,925,985, in violation of Lanham Act § 32, 15 U.S.C. § 1114.

SECOND CLAIM FOR RELIEF
UNFAIR COMPETITION
IN VIOLATION OF § 43(a) OF THE LANHAM ACT

23. Plaintiff repeats and realleges Paragraphs 1 to 20.

24. Defendant's activities, as alleged above, constitute unfair competition in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

THIRD CLAIM FOR RELIEF
COMMON LAW TRADEMARK INFRINGEMENT

25. Plaintiff repeats and realleges Paragraphs 1 to 20.

26. Defendant's activities, as alleged above, constitute trademark infringement in violation of the common law.

FOURTH CLAIM FOR RELIEF
COMMON LAW UNFAIR COMPETITION

27. Plaintiff repeats and realleges Paragraphs 1 to 20.

28. Defendant's activities, as alleged above, constitute unfair competition in violation of the common law.

REQUEST FOR RELIEF

WHEREFOR, Plaintiff respectfully requests that the Court enter an Order:

(A) Enjoining Defendant and each of its servants, employees, agents, representatives, affiliates and all persons acting on behalf or at the direction of, or in concert or participation with, each of them from:

- (i) Using the Marks or any other trademark, service mark, or trade name that is confusingly similar to either of the Marks;
- (ii) Representing in any manner that any of Defendant's services are affiliated, connected, sponsored, approved or otherwise associated with Plaintiff, or vice versa; and
- (iii) Taking any other action likely to cause confusion, mistake or deception as to the source or origin of Defendant's services or of Plaintiff's services.

(B) Directing Defendant to file with the Court and serve on Plaintiff within thirty days after entry and service on Defendant of such injunction a report in

writing under oath setting forth in detail the manner and form in which Defendant has complied with the injunction;

(C) Requiring Defendant to deliver up to Plaintiff for destruction all products, labels, signs, prints, business cards, forms, packages, wrappers and all advertising or promotional material in the possession, custody, or control of Defendant bearing the Marks, or any other name or mark which is confusingly similar to either mark;

(D) Requiring Defendant to remove all references to the Marks, or any other name or mark which is confusingly similar to either of the Marks, from all of Defendant's websites and other digital materials.

(E) Awarding Plaintiff compensatory damages for its losses and an accounting of Defendant's profits from their acts of infringement and unfair competition, including interest thereon, and trebling such award of profits and damages because of the deliberateness and willfulness of Defendant's acts;

(F) Requiring Defendant to pay Plaintiff's reasonable costs and attorneys' fees incurred in this action; and

(G) Awarding Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: May 29, 2014

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

Dated: May 29, 2014

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