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**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

WEEKENDS ONLY, INC.,	)	
	)	
<i>Plaintiff,</i>	)	
	)	<b>CIVIL NO.</b> _____
v.	)	
	)	
AK DISTRIBUTION LLC,	)	
KASH SUBSIDIARIES, INC.,	)	
one or both d/b/a	)	
WEEKENDS ONLY FURNITURE &	)	
MATTRESS CLEARANCE OUTLET,	)	<b>JURY TRIAL DEMANDED</b>
	)	
<i>Defendants.</i>	)	

**COMPLAINT FOR TRADEMARK INFRINGEMENT**

Plaintiff Weekends Only, Inc. ("Plaintiff"), by and through counsel, comes now and asserts claims against Defendants AK Distribution LLC and KASH Subsidiaries, Inc. one or both whom are doing business as "Weekends Only Furniture & Mattress Clearance Outlet" ("Defendants") for trademark infringement under federal and state law, violation of the Indiana state unfair competition law, false designation of origin, injury to business reputation and/or trademarks, common law unfair competition, and shows the court as follows:

**Parties**

1. Plaintiff Weekends Only, Inc. is a corporation organized under the laws of the State of Missouri and maintains its principal office at 349 Marshall Avenue, 3<sup>rd</sup> Floor, St. Louis, Missouri, 63119.

2. According to the Indiana Secretary of State's website, Defendant AK Distribution LLC is a Limited Liability Company organized under the laws of the State of Indiana which maintains its principal office at 3725 North Wells Street, Fort Wayne, IN 46808. See attached hereto Exhibit 1 incorporated herein as though set out in full.

3. According to the public tax information from the website for the Auditor's Office for Allen County, Indiana, Defendant AK Distribution LLC is the owner of record of the real property located at 3725 North Wells Street, Fort Wayne, IN 46808. See attached hereto Exhibit 2 incorporated herein as though set out in full.

4. According to the Indiana Secretary of State's website, KASH Subsidiaries, Inc. is a corporation organized under the laws of the State of Indiana which maintains its principal office at 3725 North Wells Street, Fort Wayne, IN 46808. See attached hereto Exhibit 3 incorporated herein as though set out in full.

5. Upon information and belief, one or both of these entities is doing business as "Weekends Only Furniture & Mattress Clearance Outlet" at the property located at 3725 North Wells Street, Fort Wayne, IN 46808.

6. Prior to filing this lawsuit, Plaintiff communicated with Defendants through Loren Klopfenstein, who is listed as the Registered Agent of Defendant AK Distribution LLC (Exhibit 2) and the President of KASH Subsidiaries, Inc. (Exhibit 3).

### **Jurisdiction and Venue**

7. The Court has original subject matter jurisdiction over federal Lanham Act claims pursuant to 15 U.S.C. § 1125, and 28 U.S.C. §§ 1331 and 1338. The Court

has supplemental jurisdiction over the Indiana State law claims pursuant to 28 U.S.C. § 1367(a) because those claims are so closely related to the federal claims brought herein as to form, part of the same case or controversy.

8. The Court has personal jurisdiction over Defendants because, on information and belief, Defendants have their principal place of business located in Fort Wayne, Indiana.

9. Defendants' products, including the products complained of and hereinafter defined as Infringing Products, are marketed and sold to persons in Indiana through their Fort Wayne location.

10. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) & (c). Defendants are subject to personal jurisdiction in the State of Indiana at the time this action commenced. Defendants' contacts are substantial enough with the State of Indiana to subject them to personal jurisdiction.

#### **Facts Common to All Claims**

11. Plaintiff has used the WEEKENDS ONLY trademark (the "WEEKENDS ONLY trademark") and the WEEKENDS ONLY FURNITURE OUTLET trademark (the "WEEKENDS ONLY FURNITURE OUTLET trademark") since approximately 1997.

12. Plaintiff is the lawful owner of U.S. Registration Numbers: 2,669,149; 2,697,959; 2,834,336; and 2,891, 146 (collectively, the "Marks").

13. Plaintiff is the lawful owner of U.S. Registration Number 2,669,149,

registered on December 31, 2002, for the WEEKENDS ONLY FURNITURE OUTLET trademark for: Retail store services featuring furniture in Class 35.

14. Plaintiff is the lawful owner of U.S. Registration Number 2,697,959, registered on March 18, 2003, for the WEEKENDS ONLY FURNITURE OUTLET design trademark for: Retail store services featuring furniture in Class 35.

15. Plaintiff is the lawful owner of U.S. Registration Number 2,834,336, registered on April 20, 2004, for the WEEKENDS ONLY trademark for: Retail store services featuring furniture in Class 35.

16. Plaintiff is the lawful owner of U.S. Registration Number 2,891, 146, registered on July 13, 2004, for the WEEKENDS ONLY design trademark for: Retail store services featuring furniture in Class 35.

17. Since at least 1997, Plaintiff has manufactured, distributed and sold the proprietary products, and has continuously maintained exclusive rights over the WEEKENDS ONLY and WEEKENDS ONLY FURNITURE OUTLET trademarks. Plaintiff currently operates in Missouri and Indiana, continuously selling its product online and through brick and mortar locations.

18. Plaintiff has invested substantial resources in developing and promoting the Marks and the goods and services in connection with which the Marks are used.

19. The WEEKENDS ONLY trademark is distinctive.

20. The WEEKENDS ONLY FURNITURE OUTLET trademark is distinctive.

21. The WEEKENDS ONLY trademark is well-recognized and the goodwill associated with it has become a valuable asset of Plaintiff.

22. The WEEKENDS ONLY FURNITURE OUTLET trademark is well-recognized and the goodwill associated with it has become a valuable asset of Plaintiff.

23. In addition to trademark registrations, Plaintiff owns the domain name <http://www.weekendsonly.com>.

24. Upon information and belief, Defendants have infringed upon and have used confusingly similar versions of the WEEKENDS ONLY and WEEKENDS ONLY FURNITURE OUTLET trademarks, without express authorization from Plaintiff (hereinafter “Infringing Trademark”). Upon information and belief, as of the date of the filing of this Complaint, Defendants still infringe upon and use the Infringing Trademark without express authorization. See attached hereto Exhibit 4 incorporated herein as though set out in full.

25. Upon information and belief, Defendants have used the Infringing Trademark in connection with products in a manner that creates a likelihood of confusion. Further, upon information and belief, Defendants do business within states where Plaintiff also does business. Upon information and belief, there is a high likelihood that the continued use and promotion by Defendants of the Infringing Trademark will cause additional confusion in the marketplace as to the source of the goods sold by Plaintiff and Defendants. The overlap in services and customers and the confusingly similar names and marks is likely to cause confusion.

**COUNT I**  
**Infringement of Federally-Registered Trademark**

26. As described in this Complaint, Defendants have infringed upon Plaintiff's registered trademark in commerce by various acts, including, without limitation, the adoption of the Infringing Trademark and the sale and advertisement of retail store services featuring furniture in connection with the Infringing Trademark.

27. Defendants' adoption and use of the Infringing Trademark is without permission or authority from Plaintiff and is likely to cause confusion, mistake and/or intended to deceive those in the relevant markets.

28. Defendants have adopted and used the Infringing Trademark in connection with retail store services featuring furniture with constructive notice of the Plaintiff's registration under 15 U.S.C. §1072.

29. By engaging in the complained-of conduct, Defendants used in commerce, without the consent of Plaintiff, a reproduction, counterfeit, copy or colorable imitation of the registered trademark and/or reproduced, counterfeited, copied or color-ably imitated the registered trademark or applied a reproduction, counterfeit, copy or colorable imitation of the registered trademark to its website and other tangible items intended to be used in commerce or reach consumers in violation of 15 U.S.C. §1114.

30. Defendants have received actual notice from Plaintiff of the Plaintiff's registration and has continued to use the Infringing Mark.

31. Defendants' infringing activities have caused and, unless enjoined by this Court, will continue to cause, irreparable injury and other damages to Plaintiff, its business, its reputation and goodwill because Plaintiff has no adequate remedy at law.

**COUNT II**  
**Infringement of Common Law Rights in Trademarks**

32. As described in this Complaint, Defendants have infringed upon Plaintiff's common law rights to its trademark. A likelihood of confusion exists between Plaintiff's trademarks and Defendants' Infringing Trademark.

33. Defendants' infringement of Plaintiff's common law trademark has caused damages to Plaintiff, entitling Plaintiff to an award of damages.

34. Defendants' infringing activities have caused and, unless enjoined by this Court, will continue to cause, irreparable injury and other damage to Plaintiff, its business, its reputation and goodwill because Plaintiff has no adequate remedy at law.

**COUNT III**  
**Unfair and Deceptive Trade Practices in Violation of**  
**Indiana Code § 24-5-0.5-1 et seq.**

35. As described in this Complaint, Defendants' use of the Infringing Mark has the tendency or capacity to mislead or create the likelihood of deception as to the distinctive quality of and/or origin of the WEEKENDS ONLY and WEEKENDS ONLY FURNITURE OUTLET trademarks under Ind. Code § 24-5-0.5-1 et seq.

36. Defendants' conduct constitutes an unfair or deception act and/or an unfair

method of competition.

37. Defendants' conduct was in or affecting commerce.

38. Defendants' conduct proximately caused actual injury to Plaintiff and to Plaintiff's business, and will, unless enjoined by this court, continue to cause irreparable injury and other damages to Plaintiff, its business, its reputation and good will.

**COUNT IV**  
**False Designation of Origin Under 15 U.S.C. § 1125(a)**

39. As described in this Complaint, Defendants' adoption and use of the Infringing Mark constitutes a false designation of origin and/or a false and misleading description of its goods and is likely to cause confusion, cause mistake and/or to deceive as to the affiliation, connection or association of Plaintiff or as to the origin, sponsorship or approval of the goods of Plaintiff in violation of 15 U.S.C. § 1125(a).

40. Defendants' infringing activities have caused and, unless enjoined by this Court, will continue to cause, irreparable injury and other damage to Plaintiff, its business, its reputation and goodwill because Plaintiff has no adequate remedy at law.

**COUNT V**  
**Common Law Unfair Competition**

41. The above actions of Defendants are a form of unfair competition that is prohibited under the common law of the State of Indiana.

42. Defendants' conduct has unfairly damaged Plaintiff's ability to compete, has caused confusion in the marketplace, has affected Plaintiff's reputation and relationship with customers, and otherwise constitutes unfair competition.



43. Plaintiff has been damaged by this misconduct in an amount to be determined at trial.

**COUNT VI**  
**Motion for Permanent Injunctive Relief**

44. Plaintiff seeks permanent injunctive relief pursuant to Indiana common law, Indiana Code Chapter 34, Article 26, and 15 U.S.C. §1116.

45. Plaintiff has no adequate remedy at law or otherwise for the harm or damage done by Defendants because Plaintiff's business will be irreparably damaged and such damage is difficult, if not impossible, to quantify. Plaintiff will suffer irreparable harm, damage, and injury unless the acts and conduct of Defendants complained of above are enjoined because Defendants' continued conduct is likely to cause confusion among customers and vendors that will result in a loss of customers, reputation, goodwill, revenue, and profits, diminished marketing and advertising, and trademark dilution.

WHEREFORE, Plaintiff respectfully prays that the Court enter judgment against Defendants for the following relief:

1. That the Court enter judgment against Defendants on all claims;
2. That the Court award damages against Defendants and in favor of Plaintiff;
3. That the Court enter a permanent injunction restraining Defendants, together with its officers, employees, agents, successors and assigns or others acting in concert with them, from using the infringing trademarks and domain names in connection with its business;

4. That Plaintiff have a trial by jury; and
5. That the Court grants to Plaintiff such other relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff, by counsel, and under Fed. R. Civ. P. 38, demands a trial by jury of all issues triable of right by jury.

Respectfully submitted,

*s/Mark S. Kittaka*

\_\_\_\_\_  
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jhoekel@armstrongteasdale.com

*Attorneys for Plaintiff WEEKENDS ONLY, INC.*

Name Searched On:**AK DISTRIBUTION LLC (Legal)****Current Information**Entity Legal Name:**AK DISTRIBUTION LLC**Entity Address:**3725 NORTH WELLS STREET, FORT WAYNE, IN 46808****General Entity Information:**Control Number: **2009060500309**Status: **Active**Entity Type: **Domestic Limited Liability Company (LLC)**Entity Creation Date: **6/5/2009 12:37:06 PM**Entity Date to Expire:Entity Inactive Date:**This entity is current with Business Entity Report(s).****There are no other names on file for this Entity.**Registered Agent(name, address, city, state, zip):**LOREN L. KLOPFENSTEIN  
3725 NORTH WELLS STREET  
FORT WAYNE, IN 46808**Principals(name, address, city, state, zip - when provided)**This Limited Liability Company Does Not Have Managers.**Transactions:

Date Filed	Effective Date	Type
06/05/2009	06/05/2009	Articles of Organization

**Corporate Reports:****Years Paid**

2011 2013 2015

**Years Due**

None

**Additional Services Available:**

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[USDC IN/ND case 1:15-cv-00156-TLS-SLC document 1 filed 06/19/15 page 12 of 16](#)

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# WELCOME TO ALLEN COUNTY, INDIANA

Search

Enter Owner Name for Search:

AK DISTRIBUTION

2015

Search

Address  
Tax ID  
Number  
Duplicate  
Number



Duplicate Nbr:	1844723	Parcel Number:	02-07-26-301-002.000-073
Tax Unit:	073 - FW Washington	Tax Type:	R
Owner of Record:	AK Distribution LLC	Tax Rate:	3.3979000
Tax Yr / Pay Yr:	2014 / 2015	HMCR:	7.614400



Select Tax Year: 2015

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Owner(s) of Record  
AK Distribution LLC

Property Information

Tax ID Nbr:	02-07-26-301-002.000-073
Parcel Number:	02-07-26-301-002.000-073
Property Type:	Commercial
State Property Type:	R - Real
Property Class:	480
Property Class Description:	COMMERCIAL WAREHOUSE
Government Owned:	False
Status:	Active
Homestead Ineligible:	
Ineligible Date:	

Mailing Address

Address 1:	6314 Lima Rd
Address 2:	
Country Code:	USA
Other Country:	
Zip Code:	46818 -
City:	Fort Wayne
State/Province:	IN

Property Address

Address 1:	3725 N Wells St
Address 2:	
Country Code:	USA
Zip Code:	46808 -
City:	Fort Wayne
State/Province:	IN

Name Searched On:**KASH SUBSIDIARIES (Legal)****Current Information**Entity Legal Name:**KASH SUBSIDIARIES, INC.**Entity Address:**3725 NORTH WELLS STREET, FORT WAYNE, IN 46808****General Entity Information:**Control Number: **2007022200571**Status: **Active**Entity Type: **For-Profit Domestic Corporation**Entity Creation Date: **2/22/2007**Entity Date to Expire:Entity Inactive Date:**This entity is current with Business Entity Report(s).****There are no other names on file for this Entity.**Registered Agent(name, address, city, state, zip):**TOM KELLY****3725 NORTH WELLS STREET  
FORT WAYNE , IN 46808**Principals(name, address, city, state, zip - when provided)**ANTHONY O. CROWELL****Incorporator****119 EAST OAK FOREST DRIVE  
BLUFFTON , IN 46714****loren klopfenstein****President****3725 North Wells Street  
fort wayne , in 46808**Transactions:

Date Filed	Effective Date	Type
02/22/2007	02/22/2007	Articles of Incorporation

**Corporate Reports:****Years Paid**

2009 2011 2013 2015

**Years Due**

None

**Additional Services Available:**

USDC IN/ND case 1:15-cv-00156-TLS-SLC document 1 filed 06/19/15 page 15 of 16

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EXHIBIT 4

https://www.facebook.com/WeekendsOnlyClearanceOutlet?ref=ts

**Wow!** Weekend's Only Clearance Outlet Shopping & Retail

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Timeline About Photos Reviews More

68 people like this

1 person has been here

Closed now · Opens Tomorrow 12:00PM - 8:00PM  
Get additional info

Invite friends to like this Page

4.5 of 5 stars · 2 reviews  
View Reviews

ABOUT

3725 N Wells St  
Fort Wayne, Indiana  
(260) 755-1874

Ask for Weekend's Only Clearance Outlet's website

PHOTOS

Post Photo / Video

Write something...

Post

**Wow!** Weekend's Only Clearance Outlet  
October 16, 2012 · 🌐

NO interest financing for 6 months! NO interest financing for 12 months!  
OH MY! Be sure to come in this Friday 12pm-8pm!

Like · Comment · Share

**Wow!** Weekend's Only Clearance Outlet  
October 13, 2012 · 🌐

Ready for new furniture, but do not have the money??!! No problem. Not only do we offer low low low prices, but also no interest financing for 6 months and even 12 month no interest financing!

Like · Comment · Share

**Wow!** Weekend's Only Clearance Outlet added 14 new photos to the album: Stationary Couch.  
October 13, 2012 · 🌐

Brand new products. Fresh out of the box!

Always safe shopping  
www.paypal.com  
Check out simply and securely at millions of online stores with just an email and password

Gala Gorgeous  
Badgley Mischka, Tadashi and more.

FWDS02 112842v1