



Provided by:
Overhauser Law Offices
LLC
www.iniplaw.org
www.overhauser.com

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

Landmark Signs Inc,)
an Indiana corporation,)
)
Plaintiff,)
)
vs.)
)
I C U Outdoor Advertising LLC,)
an Indiana limited liability company; and)
Lawrence M Yurko, an Indiana resident,)
)
Defendants.)

COMPLAINT

Now comes LANDMARK SIGNS, INC., Plaintiff herein, by its attorney, Cori A. Mathis, and complaining of I C U OUTDOOR ADVERTISING, LLC and LAWRENCE M. YURKO, (collectively the “Defendants”) states as follows:

The Parties

1. Landmark Signs, Inc. d/b/a Landmark Signs Group, formerly Landmark Outdoor Advertising Company Inc. (“LANDMARK”), is an Indiana corporation with its principal place of business in Chesterton, Indiana.
2. Lawrence M. Yurko (“YURKO”) is a resident of Indiana.
3. I C U Outdoor Advertising, LLC (“ICU”) is an Indiana limited liability company with its principal place of business in Valparaiso, Indiana.

Jurisdiction

4. This Honorable Court has jurisdiction over the subject matter of this action pursuant to Title 15, United States Code, Section 1121(a) (Lanham Act), and Title 28, United States Code, Sections 1331, 1338(a), 1338(b), and 1367.

5. This Honorable Court has personal jurisdiction over Defendants because they are incorporated in, do business in, reside in, or have engaged, and continue to engage, in acts of unfair competition, trademark infringement, and other torts in this District.

6. Venue properly lies in this district pursuant to Title 28, United States Code, Section 1391(b)(1) and 1391(b)(2).

Factual Allegations

7. LANDMARK has been designing, fabricating, installing, and repairing illuminated and non-illuminated signs throughout the United States for over thirty years.

8. LANDMARK has approximately thirty-five employees.

9. LANDMARK has marketed, advertised, and sold its products and services in connection with the trademark "Landmark" since at least as early as October 1983, and in connection with the trademarks "Landmark Sign," "Landmark Sign Group," and a stylized "Landmark Sign Group" since at least as early as March 1, 1999 (collectively the "Landmark Trademarks"). A true and accurate copy of the homepage of LANDMARK's website is attached as Exhibit "A" to this Complaint and by that reference is made a part hereof.

10. "Landmark Sign Group" was registered with the United States Patent and Trademark Office as Registration No. 2,932,838 from March 15, 2005, to October 16, 2015, by LANDMARK in connection with internally illuminated electric signs with a metal casing and neon tubes or florescent tubes to illuminate a translucent face thereon for use on theaters, banks, shopping centers, restaurants, hospitals, and industrial parks ("Landmark Sign Group Trademark"). A true and accurate copy of the registration information is attached as Exhibit "B" to this Complaint and by that reference is made a part hereof.

11. “Landmark Sign Group” is a registered trademark in Indiana for electric signs as File No. 2003-0571. A true and accurate copy of the Certificate of Trademark Registration is attached as Exhibit “C” to this Complaint and by that reference is made a part hereof.

12. “Landmark Sign Group” is a registered trademark in Illinois for electric signs as Registration No. 091177. A true and accurate copy of the registration information is attached as Exhibit “D” to this Complaint and by that reference is made a part hereof.

13. LANDMARK has a pending Federal trademark application for “Landmark Sign Group” as Serial Number 86/947,603 in connection with installation, maintenance and repair of illuminated signs and non-illuminated signs; custom fabrication and production of illuminated signs and non-illuminated signs; designing illuminated signs and non-illuminated signs. A true and accurate copy of the trademark application information is attached as Exhibit “E” to this Complaint and by that reference is made a part hereof.

14. LANDMARK has expended, and continues to expend, significant time, energy, and money designing, fabricating, installing, and maintaining signs identified by the Landmark Trademarks, advertising the Landmark Trademarks, and protecting the Landmark Trademarks.

15. By virtue of LANDMARK’s continued use, advertising, and promotion, the Landmark Trademarks are distinctive, well-recognized, and enjoy a widespread and favorable reputation for quality, consistency, and reliability.

16. YURKO was employed by LANDMARK as a salesman from 1990 to October 8, 2015.

17. YURKO gave verbal notice of his resignation to LANDMARK’s President on February 16, 2015, but continued his employment with LANDMARK up to, and including,

October 8, 2015. A true and accurate copy of YURKO's letter of resignation is attached as Exhibit "F" to this Complaint and by that reference is made a part hereof.

Defendants' Actions

18. On February 12, 2015, while employed by LANDMARK, YURKO organized ICU as a limited liability company with the Indiana Secretary of State. A true and accurate copy of the Certificate of Organization is attached as Exhibit "G" to this Complaint and by that reference is made a part hereof.

19. Upon information and belief, YURKO is the founder, sole owner, sole officer, and registered agent of ICU.

20. The web address for ICU's website is <http://icuoutdooradvertising.com/> and the web address for ICU's twitter account is <https://twitter.com/ICUOutdoor/>. True and accurate copies of the current homepage of ICU's website and first page of ICU's Twitter account are attached as Exhibit "H" to this Complaint and by that reference are made a part hereof.

21. ICU operates under the brands "I C U," "ICU Outdoor Advertising," and a logo (collectively "ICU Branding"). See Exhibit H.

22. On March 31, 2015, YURKO represented to LANDMARK that he intended to forward any potential referrals that were looking for new signage to LANDMARK and that all projects that he was currently working on would be passed along to new LANDMARK contacts so long as commissions would be split. LANDMARK agreed. A true and accurate copy of the email exchange is attached as Exhibit "I" to this Complaint and by that reference is made a part hereof.

23. LANDMARK's art director is Jerry Lefere. His email address at LANDMARK is art2@landmarksign.com and his personal email address is jtwanglive@gmail.com.

24. While YURKO and Mr. Lefere were both employed by LANDMARK, YURKO instructed Mr. Lefere to perform design services for ICU. True and accurate copies of email exchanges between YURKO and Mr. Lefere regarding work to be done for ICU are attached as Exhibit "J" to this Complaint and by that reference is made a part hereof.

25. Starting in July 2015, YURKO instructed Mr. Lefere to design a custom sign for Dr. Michael E. Silvert. Although the design was created by a LANDMARK employee, it was provided to the customer under ICU Branding. True and accurate copies of the email correspondence and drawings are attached as Exhibit "K" to this Complaint and by that reference are made a part hereof.

26. YURKO communicated with Dr. Michael E. Silvert, on behalf of ICU, using YURKO'S LANDMARK email account and email address. See Exhibit K.

27. LANDMARK did not receive revenue for the sign from Dr. Michael E. Silvert. Upon information and belief, ICU received revenue for the sign.

28. Starting in August 2015, YURKO instructed Mr. Lefere to design a custom sign for Fairway Laser Systems. Although the design was created by a LANDMARK employee, it was provided to the customer under ICU Branding. True and accurate copies of the email correspondence and drawings are attached as Exhibit "L" to this Complaint and by that reference are made a part hereof.

29. YURKO communicated with Fairway Laser Systems, on behalf of ICU, using YURKO's LANDMARK email account and email address. See Exhibit L.

30. LANDMARK did not receive revenue for the sign from Fairway Laser Systems. Upon information and belief, ICU received revenue for the sign.

31. Upon information and belief, YURKO was soliciting Kindred Healthcare, Inc. for custom signs while he was employed by LANDMARK, and ICU received revenue from Kindred Healthcare, Inc. in 2015. A true and accurate copy of email correspondence between YURKO and Kindred Healthcare, Inc. is attached as Exhibit “M” to this Complaint and by that reference is made a part hereof.

32. LANDMARK had a valid business relationship with Kindred Healthcare, Inc. True and accurate copies of drawings are attached as Exhibit “N” to this Complaint and by that reference is made a part hereof.

33. YURKO knew of the existence of a valid business relationship between LANDMARK and Kindred Healthcare, Inc. See Exhibits M and N.

34. YURKO communicated with Kindred Healthcare, Inc., on behalf of ICU, using YURKO’s LANDMARK email account and email address. See Exhibits M and N.

35. In August and September 2015, YURKO instructed Mr. Lefere to design a sign that reads “Real Good” for Third Degree Fitness LLC. True and accurate copies of drawings of the signs are attached as Exhibit “O” to this Complaint and by that reference is made a part hereof.

36. The drawings of the signs were produced in connection with a stylized version of the Landmark Sign Group Trademark. See Exhibit O.

37. ICU used Classic Neon & Signs to fabricate and install the sign. A true and accurate copy of the invoice from Classic Neon & Signs is attached as Exhibit “P” to this Complaint and by that reference is made a part hereof.

38. LANDMARK did not receive revenue for the “Real Good” sign from Third Degree Fitness LLC. Upon information and belief, ICU received revenue for the sign. A true and

accurate copy of the invoice from ICU to Third Degree Fitness LLC is attached as Exhibit “Q” to this Complaint and by that reference is made a part hereof.

39. On October 27, 2015, YURKO requested photographs of several signs that LANDMARK fabricated and sold to customers so that YURKO could use them to advertise and promote ICU. A true and accurate copy of the request is attached as Exhibit “R” to this Complaint and by that reference is made a part hereof.

40. LANDMARK indicated that YURKO could not use the photographs unless he made it clear to the public that LANDMARK fabricated the signs by having the Landmark logo and the language, “Manufactured by [logo]” on each photograph. YURKO refused. A true and accurate copy of the email exchange is attached as Exhibit “S” to this Complaint and by that reference is made a part hereof.

41. Upon information and belief, ICU has never designed, fabricated, or installed signs at any Strack and Van Til, Ultra Foods, or Town & Country Food Market locations or at Loyola University Chicago, Hotel Chicago Downtown, Hotel Lincoln, Roosevelt University, MileNorth Hotel Chicago, the Chicago Shakespeare Theater, the Chicago Mercantile Exchange, Spin Global’s Chicago location, Kemper, Top Shop, FTW Chicago, or Bannockburn Executive Plaza.

42. LANDMARK designed, fabricated, and installed signs for Strack and Van Til. A true and accurate copy of a drawing of one of the signs is attached as Exhibit “T” to this Complaint and by that reference is made a part hereof.

43. ICU falsely designates Strack and Van Til as an ICU client on its website, and its homepage includes a photograph under ICU branding of LANDMARK employees installing the

Strack & Van Til sign. True and accurate copies of webpages from ICU's website are attached as Exhibit "U" to this Complaint and by that reference are made a part hereof.

44. ICU's Twitter account includes a photograph of the Strack and Van Til sign under ICU Branding and the literally false or misleading statements, "From old, to new! Looks great @StrackAndVanTil! Great work Larry, Pres @ICUOutdoor!" and, "Here are some signs that our President Larry Yurko has done!" and "Our clients include . . . Strack and Van Til." A true and accurate copy of ICU's tweet is attached as Exhibit "V" to this Complaint and by that reference are made a part hereof.

45. A representative of Strack and Van Til responded, "@ICUOutdoor Looks awesome! We truly appreciate all your hard work!" See Exhibit V.

46. LANDMARK designed, fabricated, and installed signs for Ultra Foods. True and accurate copies of drawings of the signs are attached as Exhibit "W" to this Complaint and by that reference are made a part hereof.

47. ICU falsely designates Ultra Foods as an ICU client on its website. A true and accurate copy of a webpage from ICU's website is attached as Exhibit "X" to this Complaint and by that reference is made a part hereof.

48. LANDMARK designed, fabricated, and installed signs for Loyola University Chicago. True and accurate copies of drawings of the signs are attached as Exhibit "Y" to this Complaint and by that reference are made a part hereof.

49. ICU falsely designates Loyola University Chicago as an ICU client on its website. A true and accurate copy of a webpage from ICU's website is attached as Exhibit "Z" to this Complaint and by that reference is made a part hereof.

50. LANDMARK designed, fabricated, and installed signs for Town & Country Food Market. True and accurate copies of drawings of the signs are attached as Exhibit “AA” to this Complaint and by that reference are made a part hereof.

51. ICU falsely designates Town & Country Food Market as an ICU client on its website. A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “BB” to this Complaint and by that reference is made a part hereof.

52. LANDMARK designed, fabricated, and installed signs at Hotel Chicago Downtown. A true and accurate copy of a drawing of the signs is attached as Exhibit “CC” to this Complaint and by that reference is made a part hereof.

53. ICU’s Twitter account included a photograph of the Hotel Chicago Downtown sign under ICU Branding with the literally false or misleading statement, “The signage that Larry Yurko and ICU Outdoor Advertising did @thehotelchicago looks wonderful!” A true and accurate copy of ICU’s tweet is attached as Exhibit “DD” to this Complaint and by that reference is made a part hereof.

54. ICU’s Twitter account currently includes a photograph of the Hotel Chicago Downtown sign under ICU Branding. A true and accurate copy of ICU’s tweet is attached as Exhibit “EE” to this Complaint and by that reference is made a part hereof.

55. ICU falsely designates Hotel Chicago Downtown as an ICU client on its website, and its homepage includes photographs of the Hotel Chicago signs under ICU Branding. True and accurate copies of the webpages are attached as Exhibit “FF” to this Complaint and by that reference are made a part hereof.

56. LANDMARK designed, fabricated, and installed signs at Hotel Lincoln. True and accurate copies of drawings of the signs are attached as Exhibit “GG” to this Complaint and by that reference are made a part hereof.

57. ICU’s Twitter account includes photographs of the Hotel Lincoln signs under ICU Branding with the literally false or misleading statements, “Your signage looks wonderful @HotelLincoln! Glad our CEO Larry could be of service.” A true and accurate copy of ICU’s tweet is attached as Exhibit “HH” to this Complaint and by that reference is made a part hereof.

58. LANDMARK designed, fabricated, and installed a sign at Roosevelt University. A true and accurate copy of a drawing of the sign is attached as Exhibit “II” to this Complaint and by that reference is made a part hereof.

59. ICU’s Twitter account includes photographs of the Roosevelt University sign under ICU Branding and the literally false or misleading statements, “Our clients include . . . Roosevelt Univ,” “Wonderful sign done by Larry Yurko, Pres. at ICU. Looking great @RooseveltU! If you need anything else, just ask!” True and accurate copies of ICU’s twitter account and its tweets are attached as Exhibit “JJ” to this Complaint and by that reference are made a part hereof.

60. ICU falsely designates Roosevelt University as an ICU client on its website. A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “KK” to this Complaint and by that reference is made a part hereof.

61. LANDMARK designed, fabricated, and installed signs at MileNorth Hotel Chicago. True and accurate copies of the drawings of the signs are attached as Exhibit “LL” to this Complaint and by that reference are made a part hereof.

62. ICU's Twitter account included a photograph of the MileNorth Hotel Chicago signs under ICU Branding and the literally false or misleading statement, "How do you think the signage that @ICUOutdoor and CEO Larry designed and installed for @MileNorthHotel looks?" A true and accurate copy of ICU's tweet is attached as Exhibit "MM" to this Complaint and by that reference is made a part hereof.

63. ICU's Twitter account currently includes a photograph of the MileNorth Hotel Chicago signs under ICU Branding and the literally false or misleading statement, "Here are some signs that our President Larry Yurko has done!" A true and accurate copy of ICU's tweet is attached as Exhibit "NN" to this Complaint and by that reference is made a part hereof.

64. ICU falsely designates MileNorth Hotel as an ICU client on its website, and its homepage includes a photograph of one of the MileNorth Hotel signs under ICU Branding. True and accurate copies of the webpages are attached as Exhibit "OO" to this Complaint and by that reference are made a part hereof.

65. LANDMARK designed, fabricated, and installed a sign at the Chicago Shakespeare Theater. A true and accurate copy of a drawing of the sign is attached as Exhibit "PP" to this Complaint and by that reference is made a part hereof.

66. ICU's Twitter account includes a photograph of the Chicago Shakespeare Theater sign under ICU Branding and the literally false or misleading statement, "Hey @chicagoshakes, great sign! Glad our President could help out." A true and accurate copy of ICU's tweet is attached as Exhibit "QQ" to this Complaint and by that reference is made a part hereof.

67. ICU falsely designates Chicago Shakespeare Theater as an ICU client on its website. A true and accurate copy of a webpage from ICU's website is attached as Exhibit "RR" to this Complaint and by that reference is made a part hereof.

68. LANDMARK designed, fabricated, and installed a sign at the Chicago Mercantile Exchange. A true and accurate copy of a drawing of the sign is attached as Exhibit “SS” to this Complaint and by that reference is made a part hereof.

69. ICU’s Twitter account includes a photograph of the Chicago Mercantile Exchange sign under ICU Branding and the literally false or misleading statements, “The signage that Larry Yurko at ICU did @CMEGroup in Chicago! We think it looks great, what do you think?” A true and accurate copy of ICU’s tweet is attached as Exhibit “TT” to this Complaint and by that reference is made a part hereof.

70. LANDMARK designed, fabricated, and installed signs for Spin Global’s location in Chicago. True and accurate copies of drawings of the signs are attached as Exhibit “UU” to this Complaint and by that reference is made a part hereof.

71. ICU’s website includes photographs under ICU Branding of LANDMARK employees installing the Spin Global sign and the false and misleading statements, “From intricate high-rise installations in busy downtown Chicago to coordinated multi-site installations across the nation, I C U will handle all the details to assure the project is completed on time and on budget.” A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “VV” to this Complaint and by that reference is made a part hereof.

72. ICU’s Twitter account includes photographs under ICU Branding of LANDMARK employees transporting the Spin Global sign, LANDMARK employees installing the sign, photographs of the sign, and the literally false or misleading statements, “Great work on the signs Larry!” and “Nice work Larry, Pres of ICU!” True and accurate copies of ICU’s tweets are attached as Exhibit “WW” to this Complaint and by that reference are made a part hereof.

73. LANDMARK designed, fabricated, and installed a sign at Kemper. A true and accurate copy of a drawing of the signs is attached as Exhibit “XX” to this Complaint and by that reference is made a part hereof.

74. ICU’s website includes a photograph of the Kemper sign on its homepage under ICU Branding. A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “YY” to this Complaint and by that reference is made a part hereof.

75. ICU initiated and engaged in an online discussion on Reddit and posted a photograph of the Kemper sign, Spin Global sign, and Hotel Chicago sign, and made the literally false or misleading statement, “We did the spin one in front, the Kemper one way in the back, and the Hotel Chicago as well!” True and accurate copy of relevant excerpts from the Reddit discussion and the photograph are attached as Exhibit “ZZ” to this Complaint and by that reference are made a part hereof.

76. LANDMARK designed, fabricated, and installed signs at Top Shop. True and accurate copies of the drawings of the signs are attached as Exhibit “AAA” to this Complaint and by that reference is made a part hereof.

77. ICU’s Twitter account includes a photograph of the Top Shop signs under ICU Branding and the literally false or misleading statement, “Here are some signs that our President Larry Yurko has done.” A true and accurate copy of ICU’s tweet is attached as Exhibit “BBB” to this Complaint and by that reference is made a part hereof.

78. ICU falsely designates Top Shop as an ICU client on its website. A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “CCC” to this Complaint and by that reference is made a part hereof.

79. LANDMARK designed, fabricated, and installed a sign at FTW Chicago. A true and accurate copy of a drawing of the sign is attached as Exhibit “DDD” to this Complaint and by that reference is made a part hereof.

80. ICU’s Twitter account includes a photograph of the FTW Chicago sign under ICU Branding and the literally false or misleading statements, “There’s a sign by Larry Yurko, President at ICU OutdoorAdvertising.com! Looks great @ftwchicago!” A true and accurate copy of ICU’s tweet is attached as Exhibit “EEE” to this Complaint and by that reference is made a part hereof.

81. ICU includes a photograph of the FTW Chicago sign on its homepage under ICU branding. A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “FFF” to this Complaint and by that reference is made a part hereof.

82. LANDMARK designed, fabricated, and installed a sign for Bannockburn Executive Plaza. A true and accurate copy of a drawing of the sign is attached as Exhibit “GGG” to this Complaint and by that reference is made a part hereof.

83. ICU includes a photograph of the Bannockburn Executive Plaza sign on its homepage under ICU Branding. A true and accurate copy of a webpage from ICU’s website is attached as Exhibit “HHH” to this Complaint and by that reference is made a part hereof.

84. ICU’s website includes a photograph under ICU Branding of letters being painted in LANDMARK’s warehouse by a LANDMARK employee and the false and misleading statements, “Our artisans work in all mediums from dimensional aluminum letters to hand-bent neon signs. Using the highest quality materials and the latest fabrication techniques, I C U is able to produce monumental signage solutions that withstand the test of time and the elements.” True

and accurate copies of the webpages are attached as Exhibit “III” to this Complaint and by that reference are made a part hereof.

85. ICU’s website includes a photograph under ICU Branding of YURKO standing in LANDMARK’s warehouse next to letters that LANDMARK employees fabricated. A true and accurate copy of the webpages are attached as Exhibit “JJJ” to this Complaint and by that reference are made a part hereof.

86. Upon information and belief, ICU does not have the capability to fabricate or install signs.

87. LANDMARK has not given ICU or YURKO consent or authority to use the Landmark Trademarks or to use signs that LANDMARK designed, fabricated, and/or installed, including, but not limited to, signs that YURKO worked on while he was an employee of LANDMARK, to market or promote ICU.

88. LANDMARK has not given ICU or YURKO consent or authority to designate signs that LANDMARK designed, fabricated, and/or installed, including, but not limited to, signs that YURKO worked on while he was an employee of LANDMARK, as signs that ICU designed, fabricated, and/or installed.

Count I
(Federal Unfair Competition in Violation of 15 U.S.C. § 1125(a)(1)(A))

89. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

90. ICU is intentionally using the Landmark Trademarks, false designations of origin, false or misleading descriptions of fact, and false or misleading representations of fact in connection with custom signs and related services in commerce and passing off LANDMARK’s custom signs and related services as its own.

91. YURKO, on behalf of ICU, solicited and communicated with several sign customers and potential sign customers using the Landmark Trademarks and confusingly similar trademarks.

92. ICU's use of the Landmark Trademarks, false designations of origin, false or misleading descriptions of fact, and false or misleading representations of fact have induced and are likely to continue to induce the public to believe, contrary to fact, that LANDMARK's signs originated with ICU and that the related services were performed by ICU.

93. Due to ICU's use of the Landmark Trademarks, false designations of origin, false or misleading descriptions of fact, and false or misleading representations of fact consumers and potential consumers are confused as to the source of the signs and related services and do not know who fabricated the signs or performed the related services.

94. ICU is capitalizing on the goodwill and reputation of LANDMARK and ICU's use of the Landmark Trademarks, false designations of origin, false or misleading descriptions of fact, and false or misleading representations of fact have caused, and continue to cause, irreparable commercial injury to LANDMARK.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that ICU has engaged in unfair competition in violation of 15 U.S.C. § 1125(a)(1)(A);

B. Entry of a judgment directing ICU to:

(i) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all images of LANDMARK's warehouse, offices, employees, trucks, and equipment;

(ii) remove from its website, Twitter account, other social media websites and discussion boards, and from any other commercial advertising and promotional materials all images of signs that were sold to customers by LANDMARK;

(iii) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all statements or representations that would cause the public to believe, contrary to fact, that signs sold to customers by LANDMARK originated from ICU;

(iv) remove from its sign drawings, invoices, website, Twitter account, and from any other commercial advertising and promotional materials the Landmark Trademarks and any confusingly similar marks; and

(v) conduct corrective advertising to notify customers, vendors, and all other persons involved in ICU's business that ICU and LANDMARK are separate and distinct entities;

C. Entry of a judgment that YURKO, on his behalf, on behalf of ICU or on behalf of any other entity, and ICU, its officers, agents, employees, attorneys, successors and assigns, parents, and affiliates, and all others privy or acting in concert therewith, be enjoined pending disposition of this action and permanently thereafter from:

(i) using images of LANDMARK's warehouse, offices, employees, trucks, and equipment in connection with the advertising, marketing, promotion, sale, and maintenance of custom signs;

(ii) using images of signs that were sold to customers by LANDMARK in connection with the advertising, marketing, promotion, sale, and maintenance of custom signs;

(iii) making any statement or representation that would cause the public to believe, contrary to fact, that signs sold to customers by LANDMARK originated from ICU;

(iv) using Landmark Trademarks or any confusingly similar marks in connection with the advertising, marketing, sale and maintenance of custom signs; and

(v) otherwise infringing the Landmark Trademarks;

D. Entry of a judgment requiring ICU to pay LANDMARK such damages as LANDMARK has sustained as a result of the aforesaid false designations of origin and directing that such damages be trebled in accordance with Section 35 of the Lanham Act, 15 U.S.C. § 1117;

E. Entry of a judgment requiring ICU to account to LANDMARK for and pay to LANDMARK all gains and profits ICU has realized which are attributable to the aforesaid acts;

F. Entry of a judgment requiring ICU to cover the costs for LANDMARK's corrective advertising;

G. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees; and

H. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

COUNT II
(Federal Unfair Competition in Violation of 15 U.S.C. § 1125(a)(1)(B))

95. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

96. ICU is intentionally deceiving consumers with words and images on its website, Twitter account, and other commercial advertising and promotion relating to signs that LANDMARK designed, fabricated, and/or installed.

97. ICU is using the words and images on its website, Twitter account, and other commercial advertising and promotion to influence customers to buy ICU's products and services.

98. ICU's words and images on its website, Twitter account, and other commercial advertising and promotion are commercial speech.

99. ICU's words and images relating to signs that LANDMARK designed, fabricated, and/or installed are literally false or misleading descriptions and representations of fact in commercial advertising and promotion.

100. ICU's words and images of warehouses and sign installations are literally false or misleading descriptions and representations of fact in commercial advertising and promotion.

101. ICU's literally false or misleading descriptions and representations of fact actually deceived and/or have the tendency to deceive a substantial segment of the population.

102. ICU's deception is likely to influence purchasing decisions.

103. ICU's literally false or misleading descriptions and representations of fact have injured LANDMARK by direct diversion of sales to ICU and by a lessening of the goodwill associated with LANDMARK's products and services.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that ICU has engaged in unfair competition in violation of 15 U.S.C. § 1125(a)(1)(B);

B. Entry of a judgment directing ICU to:

(i) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all images of LANDMARK's warehouse, offices, employees, trucks, and equipment;

(ii) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all images of warehouses, offices, trucks, and equipment that are not owned by ICU;

(iii) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all images of signs that were sold to customers by LANDMARK;

(iv) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all statements or representations that would cause the public to believe, contrary to fact, that signs sold to customers by LANDMARK originated from ICU;

(v) remove from its sign drawings, invoices, website, Twitter account, and from any other commercial advertising and promotional materials the Landmark Trademarks and any confusingly similar marks; and

(vi) conduct corrective advertising to notify customers, vendors, and all other persons involved in ICU's business that ICU and LANDMARK are separate and distinct entities;

C. Entry of a judgment that YURKO, on his behalf, on behalf of ICU or on behalf of any other entity, and ICU, its officers, agents, employees, attorneys, successors and assigns, parents, and affiliates, and all others privy or acting in concert therewith, be enjoined pending disposition of this action and permanently thereafter from:

(i) using images of LANDMARK's warehouse, offices, employees, trucks, and equipment in connection with the advertising, marketing, promotion, sale, and maintenance of custom signs;

(ii) using images of signs that were sold to customers by LANDMARK in connection with the advertising, marketing, promotion, sale, and maintenance of custom signs;

(iii) making any statement or representation that would cause the public to believe, contrary to fact, that signs sold to customers by LANDMARK originated from ICU;

(iv) using Landmark Trademarks or any confusingly similar marks in connection with the advertising, marketing, sale and maintenance of custom signs; and

(v) otherwise infringing the Landmark Trademarks;

D. Entry of a judgment requiring ICU to pay LANDMARK such damages as LANDMARK has sustained as a result of the aforesaid false advertising and directing that such damages be trebled in accordance with Section 35 of the Lanham Act, 15 U.S.C. § 1117;

E. Entry of a judgment requiring ICU to account to LANDMARK for and pay to LANDMARK all gains and profits ICU has realized which are attributable to the aforesaid acts;

F. Entry of a judgment requiring ICU to cover the costs for LANDMARK's corrective advertising;

G. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees; and

H. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

COUNT III
(Breach of Fiduciary Duty)

104. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

105. YURKO owed LANDMARK a fiduciary duty of loyalty while he was employed by LANDMARK.

106. YURKO began actively and directly competing with LANDMARK for his benefit, for the benefit of ICU, and to the exclusion of LANDMARK, since at least as early as February 12, 2015.

107. Unbeknownst to LANDMARK, YURKO, for the benefit of ICU, directly and actively competed with LANDMARK for customers while YURKO was employed by LANDMARK, including, but not limited to, Kindred Healthcare, Inc., Fairway Laser Systems, Dr. Michael E. Silvert, and Third Degree Fitness LLC.

108. Unbeknownst to LANDMARK, YURKO, for the benefit of ICU, directly and actively competed with LANDMARK for employees while YURKO was employed by LANDMARK, including, but not limited to, LANDMARK's art director.

109. YURKO repeatedly engaged in self-dealing while he was employed by LANDMARK in breach of his fiduciary duty.

110. YURKO, for the benefit of ICU, directly solicited LANDMARK customers to transfer their substantial business away from LANDMARK and to ICU.

111. LANDMARK was damaged, and continues to be damaged, by YURKO's breach of his fiduciary duty.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that YURKO breached his fiduciary duty to LANDMARK;

B. Entry of a judgment that YURKO relinquish to LANDMARK all compensation that he received during the period of employment with LANDMARK in which he was breaching his fiduciary duty;

C. Entry of a judgment requiring YURKO to pay LANDMARK such damages as LANDMARK has sustained as a result of the aforesaid breach of fiduciary duty;

D. Entry of a judgment requiring YURKO to account to LANDMARK for and pay to LANDMARK all gains and profits YURKO has realized which are attributable to the aforesaid acts;

E. Entry of a judgment awarding LANDMARK punitive damages as provided by law; and

F. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

COUNT IV
(Indiana Unfair Competition and
Tortious Interference with a Business Relationship)

112. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

113. LANDMARK repeats and realleges paragraphs 90 through 94 as though fully set forth herein.

114. LANDMARK repeats and realleges paragraphs 105 through 111 as though fully set forth herein.

115. ICU is intentionally and deliberately creating confusion concerning the source of goods and services.

116. The natural and probable tendency and effect of ICU's acts, practices, and conduct alleged herein is to deceive the public so as to pass off the goods and business of LANDMARK as that of ICU's goods and business.

117. LANDMARK has been damaged, and continues to be damaged, by ICU passing off LANDMARK's goods and services as its own.

118. YURKO, for his benefit, for the benefit of ICU, and to the exclusion of LANDMARK, intentionally interfered with LANDMARK's business relationships while he was employed by LANDMARK, including, but not limited to, Kindred Healthcare, Inc.

119. YURKO used illegal means in achieving his end by breaching his fiduciary duty to LANDMARK as its employee.

120. YURKO capitalized on opportunities that he usurped and transactions that had their inception before the termination of the employment relationship with LANDMARK for YURKO's benefit, for the benefit of ICU, and to the exclusion of LANDMARK.

121. LANDMARK has been damaged, and continues to be damaged, by YURKO's and ICU's tortious interference with LANDMARK's business relationships.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that Defendants tortiously interfered with LANDMARK's business relationships and unfairly competed in violation of Indiana common law;

B. Entry of a judgment requiring Defendants to pay LANDMARK such damages as LANDMARK has sustained as a result of the unfair competition and tortious interference;

C. Entry of a judgment requiring Defendants to account to LANDMARK for and pay to LANDMARK all gains and profits Defendants have realized which are attributable to the aforesaid acts;

D. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees;

E. Entry of a judgment awarding LANDMARK punitive damages as provided by law; and

F. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

COUNT V
(Tortious Interference with a Prospective Economic Advantage)

122. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

123. LANDMARK repeats and realleges paragraphs 105 through 111 as though fully set forth herein.

124. LANDMARK repeats and realleges paragraphs 115 through 121 as though fully set forth herein.

125. LANDMARK had valid business relationships with several customers and a reasonable expectancy of continuing those business relationships, including, but not limited to, Kindred Healthcare, Inc.

126. Defendants had knowledge of LANDMARK's business relationship with Kindred Healthcare, Inc. and LANDMARK's expectancy of continuing that business relationship.

127. YURKO solicited LANDMARK customers, including Kindred Healthcare, Inc., for YURKO's benefit, for the benefit of ICU, and to the exclusion of LANDMARK, while he was employed by LANDMARK.

128. YURKO engaged in intentional and unjustified interference of LANDMARK's expectancy of business relationships, including, but not limited to, LANDMARK's expectancy of a continuing business relationship with Kindred Healthcare, Inc.

129. YURKO's and ICU's tortious interference induced or caused a breach or termination of LANDMARK's prospective economic advantage and LANDMARK has suffered, and continues to suffer, damages as a result.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that Defendants tortiously interfered with LANDMARK's prospective economic advantage in violation of Illinois common law;

B. Entry of a judgment requiring Defendants to pay LANDMARK such damages as LANDMARK has sustained as a result of the tortious interference;

C. Entry of a judgment requiring Defendants to account to LANDMARK for and pay to LANDMARK all gains and profits Defendants have realized which are attributable to the aforesaid acts;

D. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees;

E. Entry of a judgment awarding LANDMARK punitive damages as provided by law; and

F. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

COUNT VI
(Illinois Deceptive Trade Practices)

130. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

131. LANDMARK repeats and realleges paragraphs 90 through 94 as though fully set forth herein.

132. ICU, in the course of business, vocation, and occupation, is passing off LANDMARK's custom signs and related services as its own.

133. ICU's conduct is causing a likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by LANDMARK.

134. ICU is using deceptive representations and designations of origin in connection with custom signs and related services.

135. ICU's acts, practices, and conduct, as alleged herein, constitute deceptive trade practices and unfair methods of competition done with the intent that consumers would rely upon the deception.

136. LANDMARK has suffered, and continues to suffer damages as a result of ICU's deceptive trade practices.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that ICU has engaged in deceptive trade practices in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*

B. Entry of a judgment directing ICU to:

(i) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all images of LANDMARK's warehouse, offices, employees, trucks, and equipment;

(ii) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all images of signs that were sold to customers by LANDMARK;

(iii) remove from its website, Twitter account, other social media websites and discussion boards and from any other commercial advertising and promotional materials all statements or representations that would cause the public to believe, contrary to fact, that signs sold to customers by LANDMARK originated from ICU; and

(iv) conduct corrective advertising to notify customers, vendors, and all other persons involved in ICU's business that ICU and LANDMARK are separate and distinct entities;

C. Entry of a judgment that ICU, its officers, agents, employees, attorneys, successors and assigns, parents, and affiliates, and all others privy or acting in concert therewith, be enjoined pending disposition of this action and permanently thereafter from:

(i) using images of LANDMARK's warehouse, offices, employees, trucks, and equipment in connection with the advertising, marketing, promotion, sale, and maintenance of custom signs;

(ii) using images of signs that were sold to customers by LANDMARK in connection with the advertising, marketing, promotion, sale, and maintenance of custom signs; and

(iii) making any statement or representation that would cause the public to believe, contrary to fact, that signs sold to customers by LANDMARK originated from ICU;

D. Entry of a judgment requiring ICU to pay LANDMARK such damages as LANDMARK has sustained as a result of the aforesaid deceptive trade practices;

E. Entry of a judgment requiring ICU to account to LANDMARK for and pay to LANDMARK all gains and profits ICU has realized which are attributable to the aforesaid acts;

F. Entry of a judgment requiring ICU to cover the costs for LANDMARK's corrective advertising;

G. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees;

H. Entry of a judgment awarding LANDMARK punitive damages as provided by law; and

I. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

**Count VII
(Federal Trademark Infringement)**

137. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

138. While the Landmark Sign Group Trademark was registered with the United States Patent and Trademark Office, YURKO, on behalf of ICU, solicited and communicated with several sign customers and potential sign customers using “Landmark Sign” and a stylized “Landmark Sign Group,” which are likely to cause consumer confusion with the Landmark Sign Group Trademark. See Exhibits “K” through “M,” “O” and “Q.”

139. Upon information and belief, ICU continues to solicit and communicate with sign customers and potential sign customers using the Landmark Sign Group Trademark and/or confusingly similar marks.

140. ICU knew that LANDMARK marketed, advertised, and sold its products and services in connection with “Landmark Sign Group.”

141. ICU’s acts, practices, and conduct were undertaken in bad faith and in an intentional and deliberate attempt to capitalize on the goodwill and reputation of LANDMARK and the Landmark Sign Group Trademark, and to confuse the public as to the source of the goods and services.

142. ICU’s acts, practices, and conduct are likely to cause consumer confusion, mistake and deception as to the source of the goods and services, and such use is a willful infringement of LANDMARK’s exclusive rights in the Landmark Sign Group Trademark.

143. Upon information and belief, ICU has unlawfully derived, and continues to derive, income, gains, and profits from the infringing conduct.

144. LANDMARK's business and goodwill have been and will continue to be irreparably harmed by ICU's activities unless ICU is enjoined.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that ICU has infringed LANDMARK's rights in the Landmark Trademarks in violation of 15 U.S.C. § 1114;

B. Entry of a judgment declaring that ICU has otherwise injured LANDMARK's goodwill and reputation in the manner complained of herein;

C. Entry of a judgment directing ICU to:

(i) remove from its sign drawings, invoices, website, Twitter account, and from any other commercial advertising and promotional materials the Landmark Sign Group Trademark and any confusingly similar marks; and

(ii) conduct corrective advertising to notify customers, vendors, and all other persons involved in ICU's business that ICU and LANDMARK are separate and distinct entities;

D. Entry of a judgment that ICU, its officers, agents, employees, attorneys, successors and assigns, parents, and affiliates, and all others privy or acting in concert therewith, be enjoined pending disposition of this action and permanently thereafter from:

(i) using the Landmark Sign Group Trademark or any confusingly similar marks in connection with the advertising, marketing, sale and maintenance of custom signs; and

(ii) otherwise infringing the Landmark Sign Group Trademark.

E. Entry of a judgment requiring ICU to pay LANDMARK such damages as LANDMARK has sustained as a result of the aforesaid trademark infringement and directing that such damages be trebled in accordance with Section 35 of the Lanham Act, 15 U.S.C. § 1117;

F. Entry of a judgment requiring ICU to account to LANDMARK for and pay to LANDMARK all gains and profits ICU has realized which are attributable to the aforesaid acts of the trademark infringement;

G. Entry of a judgment requiring ICU to cover the costs for LANDMARK's corrective advertising;

H. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees; and

I. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

**Count VIII
(Indiana and Illinois Trademark Infringement)**

145. LANDMARK repeats and realleges paragraphs 7 through 88 as though fully set forth herein.

146. YURKO, on behalf of ICU, solicited and communicated with several sign customers and potential sign customers using the Landmark Trademarks and confusingly similar trademarks.

147. Upon information and belief, ICU continues to solicit and communicate with sign customers and potential sign customers using the Landmark Trademarks and/or confusingly similar marks.

148. ICU knew that LANDMARK marketed, advertised, and sold its products and services in connection with “Landmark,” “Landmark Sign Group,” and a stylized version of “Landmark Sign Group.”

149. ICU’s acts, practices, and conduct were undertaken in bad faith and in an intentional and deliberate attempt to capitalize on the goodwill and reputation of LANDMARK and the Landmark Trademarks, and to confuse the public as to the source of the goods and services.

150. ICU’s acts, practices, and conduct are likely to cause consumer confusion, mistake and deception as to the source of the goods and services, and such use is a willful infringement of LANDMARK’s exclusive rights in the Landmark Trademarks.

151. Upon information and belief, ICU has unlawfully derived, and continues to derive, income, gains, and profits from the infringing conduct.

152. LANDMARK’s business and goodwill have been and will continue to be irreparably harmed by ICU’s activities.

153. ICU’s acts, practices, and conduct, as alleged herein, violate LANDMARK’s state and common law rights in the Landmark Trademarks.

NOW THEREFORE, LANDMARK prays for the following relief:

A. Entry of a judgment declaring that ICU has infringed LANDMARK’s rights in the Landmark Trademarks in violation of IC § 24-2-1 and 765 ILCS § 1036/1;

B. Entry of a judgment declaring that ICU has otherwise injured LANDMARK’s goodwill and reputation in the manner complained of herein;

C. Entry of a judgment directing ICU to:

(i) remove from its sign drawings, invoices, website, Twitter account, and from any other commercial advertising and promotional materials the Landmark Trademarks and any confusingly similar marks; and

(ii) conduct corrective advertising to notify customers, vendors, and all other persons involved in ICU's business that ICU and LANDMARK are separate and distinct entities;

D. Entry of a judgment that ICU, its officers, agents, employees, attorneys, successors and assigns, parents, and affiliates, and all others privy or acting in concert therewith, be enjoined pending disposition of this action and permanently thereafter from:

(i) using Landmark Trademarks or any confusingly similar marks in connection with the advertising, marketing, sale and maintenance of custom signs; and

(ii) otherwise infringing the Landmark Trademarks.

E. Entry of a judgment requiring ICU to pay LANDMARK such damages as LANDMARK has sustained as a result of the aforesaid trademark infringement and directing that such damages be trebled in accordance with Section 35 of the Lanham Act, 15 U.S.C. § 1117;

F. Entry of a judgment requiring ICU to account to LANDMARK for and pay to LANDMARK all gains and profits ICU has realized which are attributable to the aforesaid acts of the trademark infringement;

G. Entry of a judgment requiring ICU to cover the costs for LANDMARK's corrective advertising;

H. Entry of a judgment that this case is an exceptional one and that LANDMARK be awarded its reasonable attorneys' fees; and

I. Entry of a judgment granting such other and further relief as the court deems just and proper, including an award of the costs of this proceeding.

Dated: April 15, 2016

LANDMARK SIGNS, INC.

By: s/ Cori A. Mathis
Cori A. Mathis,
Attorney for the Plaintiff

Cori A. Mathis (#31617-45)
HILBRICH CUNNINGHAM DOBOSZ
VINOVICH & SANDOVAL, LLC
2637 – 45TH Street
Highland, Indiana 46311
(219) 924-2427
(219) 924-2481 facsimile