

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION



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W.A.T.C.H. TV COMPANY, d/b/a)
WATCH COMMUNICATIONS,)
)
Plaintiff,)
)
vs.)
)
GREG JARMAN, ROGER CRIBLEZ,)
TOM KOLB, B. TODD MOSBY,)
and GRIT TECHNOLOGIES LLC)
)
Defendants.)

Case No.: 1:21-cv-550

JURY TRIAL DEMANDED

INJUNCTIVE RELIEF
REQUESTED

COMPLAINT

Plaintiff, W.A.T.C.H. TV Company, d/b/a Watch Communications (“Watch”), by counsel, Rothberg Law Firm LLP, for its Complaint for damages against Defendants, Greg Jarman, Roger Criblez, Tom Kolb, B. Todd Mosby, and Grit Technologies LLC (collectively, “Defendants”), alleges and states as follows:

INTRODUCTION AND NATURE OF THE CASE

1. This is an action involving blatant breaches of fiduciary duty, wilful misappropriation of trade secrets, and breach of contract.

2. Claims include unfair competition and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), unfair competition under common law, breach of contract (confidentiality, fiduciary duty of loyalty, and competing during employment), violation of the Indiana Uniform Trade Secrets Act, Ind. Code § 24-2-3-1 *et seq.*, violation of the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836, and civil conspiracy.

3. Watch seeks injunctive and monetary relief.

THE PARTIES

4. Watch is an Ohio corporation and subsidiary of Benton Ridge Telephone Company (sometimes referred to herein as “BRT”) with its principal place of business at 1805 N. Dixie Highway, Lima, Ohio 45801. Watch filed an Application for Certificate of a Foreign Corporation with the Indiana Secretary of State on September 21, 1995 and has a significant presence in Indiana.

5. Upon information and belief, Greg Jarman (“Jarman”), B. Todd Mosby (“Mosby”), and Tom Kolb (“Kolb”) are citizens of Indiana.

6. Upon information and belief, GRiT Technologies, LLC (“GRiT”) is an Indiana limited liability company with its principal place of business at 318 West Foster Heights Road, Rushville, Indiana 46173.

7. Upon information and belief, Roger Criblez (“Criblez”) is a principal and Chief Executive Officer of GRiT.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1367 because all supplemental state law claims arise out of the same case or controversy as the federal claims over which this Court has original jurisdiction.

9. This action is one over which this Court has original jurisdiction under 28 U.S.C. § 1331 arising under the laws of the United States of America, specifically the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*

10. Additionally, this action is one over which this Court has original jurisdiction under 28 U.S.C. § 1332, in that diversity of citizenship exists between the parties and the matter in controversy exceeds the sum value of \$75,000.00, exclusive of interest and costs.

11. This Court has personal jurisdiction over Jarman. Jarman is domiciled in this District and this action arises from Jarman's knowing and intentional breach of certain contractual, common law, and statutory obligations owed to Watch while acting within and causing injury within this State and District. For example, Jarman misappropriated documents, things, and ideas, and solicited customers from Watch while living and working in Indiana.

12. This Court has personal jurisdiction over Mosby. Mosby is domiciled in this District and this action arises from Mosby's knowing and intentional breach of certain common law and statutory obligations owed to Watch while acting within and causing injury within this State and District. For example, Mosby misappropriated documents, things, and ideas, and solicited customers from Watch while living and working in Indiana.

13. This Court has personal jurisdiction over Kolb. Kolb is domiciled in this District and this action arises from Kolb's knowing and intentional breach of certain contractual, common law, and statutory obligations owed to Watch while acting within and causing injury within this State and District. For example, Kolb misappropriated documents, things, and ideas, and solicited customers from Watch while living and working in Indiana.

14. This Court has personal jurisdiction over GRiT because it is a limited liability company organized under the laws of Indiana, has its principal place of business in Indiana, maintains an office, carries on a business venture, and has committed tortious acts in Indiana.

15. This Court has personal jurisdiction over Criblez. Criblez is a principal and Chief Executive Officer of GRiT, an Indiana limited liability company, and this action arises from Criblez's knowing and intentional breach of certain contractual, common law, and statutory obligations owed to Watch while acting within and causing injury within this State and District.

For example, Criblez misappropriated documents, things, and ideas, and solicited customers from Watch while operating a business located in Indiana.

16. Pursuant to 28 U.S.C. § 1391(b)(2), venue is proper in this District in that a substantial part of the events or omissions giving rise to this action occurred in this District. Further, trade secrets and other proprietary information misappropriated by Defendants were created in this District. Additionally, Defendants Jarman, Kolb, and Mosby are residents of this District as defined in 28 U.S.C. § 1391(b)(1).

FACTUAL BACKGROUND

17. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

Watch's Proprietary Information and Trade Secrets

18. Watch is largely engaged in the business of providing broadband Internet access and related services to consumers and enterprise customers in rural areas of Ohio, Indiana, Illinois, and Kentucky, through partnerships with Original Equipment Manufacturers ("OEM"), Industrial Service Organizations, Technology Solutions Providers, Agricultural Cooperatives, Electric Cooperatives, State and Local Government Agencies, Non-Profit Organizations, Real Estate Investment Trusts, and Tower Service Corporations.

Jarman and Southern Networks

19. Jarman was hired by Watch in February 2014.

20. From February 2014 to April 2016, Jarman acted as Watch's Indiana Technology Manager. From April 2016 to March 2018, Jarman acted as Watch's Chief Technology Officer. In March 2018, Watch elected Jarman to the positions of Vice President of Operations and Chief Operating Officer.

21. In February 2019, Jarman was working on a project with partner companies “SS” and “BPC” with the purpose of saving BPC’s 700MHz spectrum holdings in Indiana from loss due to lack of use. In March 2019, SS notified Jarman that BPC required assistance in Tennessee for the same purpose. Jarman approached Ken Williams (“Williams”), Watch President and Chief Executive Officer, regarding the opportunity and Williams instructed Jarman that Watch was not interested in the Tennessee project at that time since Watch did not have a presence in Tennessee.

22. On or about April 8, 2019, Jarman presented the opportunity to the Watch Board of Directors but did not mention Tennessee.

23. Sometime in May, Jarman presented to Williams that he had brokered a deal wherein Watch was receiving a 10% commission for Jarman’s assistance in brokering a deal between SS, BPC, and Southern Networks (“Southern”), which enabled SS and BPC to avoid the loss of BPC’s 700MHz spectrum holdings in Tennessee. Jarman reassured Williams that Watch’s only role in this transaction was in connecting the three aforementioned businesses to facilitate the spectrum save in Tennessee.

24. On or about June 15, 2019, Watch received a check for \$45,000.00 from BPC for the project in Tennessee.

25. On or about June 17, 2019, Jarman presented Williams with an invoice in the amount of \$40,500 from Southern. Jarman explained that the invoice represented the 90% of the funds to be distributed to Southern, a Tennessee based company, and that Watch was entitled to the remaining 10%.

26. Traditionally, in a transaction of this nature Watch would wire funds or mail a check to the receiving company. However, Jarman insisted that Southern needed payment

immediately and that he personally hand deliver the check to a Southern representative in Tennessee. A check dated June 17, 2019 was made payable to Southern and was picked up by Jarman on June 18, 2019. Jarman's sense of urgency and the nature of the request raised alarms with Williams.

27. Amid concerns of impropriety, Williams contacted Chris Daniels ("Daniels"), newly hired Present and Chief Executive Officer of Watch. Daniels questioned Jarman about the transaction and asked Jarman to provide details and a copy of the agreement with Southern. Jarman provided the contract with BPC and a contract with Southern.

28. Jarman and Daniels travelled together from June 19-21, 2019 for Watch business meetings and events in Evansville, Indiana and St. Louis, Missouri.

29. On June 20, 2019, Williams attempted to place a hold on the check, but was informed by the bank that it had cleared Watch's account the previous day.

30. Prior to this, Watch was had been told it had no business or contractual relationship with a Tennessee organization. The contract with Southern created the very relationship Watch representatives had instructed Jarman to avoid.

31. No longer trusting Jarman's judgment or explanation of the business relationship, Watch representatives researched Southern. The limited information available indicated that Southern was an LLC organized at Jarman's brother-in-law's home address. Daniels confronted Jarman with the new information. Jarman acknowledged that Southern was in fact owned by his brother-in-law, but informed Daniels that nothing unscrupulous had taken place and that all parties in the contractual agreement (BPC, SS and Southern) had accomplished the intended goal of the agreement. Daniels also confronted Jarman with the fact that the check was made payable to Southern, a Tennessee LLC, but was deposited in a bank account within twenty-four (24)

hours of being issued in Jarman's home town in Southern Indiana. Jarman explained that he had deposited the check into an account for Southern at a national bank before joining Daniels on the Watch business trip on June 19, 2019. Jarman reassured Daniels he had no personal ties to Southern and had gained no personal benefit from the transaction.

32. As a result of the transaction with Southern, and the deception surrounding it, on or about September 30, 2019, Jarman was removed from his roles as Chief Technical Operator and Chief Operating Officer and assigned to the role of Chief Development Officer ("CDO").

33. As CDO, Jarman focused on business development, including managing strategic partnerships and creating new revenue streams. While at Watch, Jarman established relationships with partners including Microsoft, Land O' Lakes, agricultural cooperatives, rural electric cooperatives, and providers of agricultural Internet of Things ("IoT") solutions. Jarman was also instructed that he was no longer authorized to execute documents on behalf of Watch and that doing so would result in his termination.

Jarman and GRiT Technologies

34. In September 2020, Watch learned that Jarman had been working on a joint venture with Diamond Ventures and Microsoft.

35. On or about June 17, 2020, Jarman presented a PowerPoint to Diamond Ventures outlining the proposed venture with Microsoft. The presentation mentioned the involvement of a service provider called "GRiT".

36. GRiT is a limited liability company organized with the Indiana Secretary of State on July 23, 2020. The founding members of GRiT were Criblez and Mosby.

37. Criblez was a former accountant and Controller of Watch. Criblez's employment with Watch ended in January 2020.

38. Mosby was formerly the Chief Operating Officer of Sit-Co Solutions, LLC (“Sit-Co”), a company Watch acquired out of bankruptcy in 2019. Kolb was the owner and President of Sit-Co at the time of Watch’s acquisition.

39. When Watch acquired Sit-Co, it also brought Kolb on as an employee. Kolb’s employment with Watch ended in April 2020.

40. Jarman, Criblez, and Kolb all signed detailed confidentiality agreements contracting to protect Watch’s product designs, marketing strategies, customer lists, pricing policies, and other confidential information. The aforementioned information is not generally available to the public.

41. According to GRiT’s website, Criblez currently serves as its Chief Executive Officer, Mosby serves as Vice President and Chief Marketing Officer, and Kolb as Chief Development Officer.

42. GRiT’s website states that it provides broadband services and IoT solutions with a focus on rural Internet services.

43. Watch became concerned about Jarman’s potential involvement in GRiT due to several factors including, Jarman’s close and personal relationship with Criblez; Jarman’s inclusion of GRiT in the Diamond Ventures opportunity; Criblez and Mosby’s lack of technical expertise in rural broadband or IoT services. In addition, Watch noted the direct parallels between the GRiT and Watch business models and Jarman’s job description as Watch’s CDO.

44. Daniels confronted Jarman about the presentation provided to Diamond Ventures and Jarman’s involvement with GRiT. Jarman admitted that he was assisting GRiT in finding opportunities outside of Watch’s geographical area of focus, but that he was helping Criblez as a friend and had no further involvement with GRiT.

45. On or about September 3, 2020, Daniels instructed Jarman not to include Criblez or GRiT in any future business opportunities. Jarman agreed.

Watch Discovers Jarman's Disloyalty as Employee

46. In January 2021, Watch discovered that GRiT's Articles of Organization include Jarman's personal residence as its principal office address, commonly known as 318 West Foster Heights Road, Rushville, Indiana 46173.

47. Subsequently, Watch learned that Jarman was holding himself out as a GRiT principal to Hometown Cable of Coldwater, Michigan. Further, Jarman, acting as a GRiT principal, had planned additional meetings with Hometown in the future.

48. As a result, Watch planned to terminate Jarman, but on January 20, 2021 Jarman sent an email to Daniels resigning from his job at Watch. Shortly thereafter, Jarman accepted a position with Wabash Heartland Innovation Network ("WHIN"). WHIN is a partner/customer of Watch.

49. Following Jarman's resignation, Watch reviewed Jarman's work calendar and email. Jarman's Watch email and calendar show that he was involved with and sharing Watch information with GRiT as early as May 2020. On numerous occasions, while employed by Watch, Jarman forwarded emails from his Watch email account to Mosby at GRiT. The emails contained proprietary information related to Watch partner/customers including Microsoft, Land O' Lakes, and potential acquisitions.

50. During Jarman's employment, Watch paid travel expenses for Jarman to travel to several states. Watch later discovered that Jarman was engaged in GRiT business on these trips.

51. Upon information and belief, Jarman not only planned to form his own competing business while an employee of Watch, he actually began soliciting Watch's partners/customer for GRiT while still employed by Watch.

52. Jarman linked his personal calendar with his Watch calendar indicating his intentional deception. There were at least two calendar entries per week, during normal business hours, wherein Jarman was engaging in business operations intended to benefit GRiT. Jarman would code these entries on his Watch calendar to avoid detection and spell them out clearly on his personal calendar.

53. Additionally, upon Jarman's resignation, Watch discovered Southern's Articles of Incorporation and learned that Southern was formed by Jarman. Southern's officers were Jarman's wife and children. Other emails discovered in Jarman's Watch email indicated that Jarman had received additional funds for the same transaction which were never disclosed to Watch.

54. Despite having frequent conversations with Watch management, Jarman never voluntarily disclosed his activities that were for his personal gain, as well as the gain of GRiT and the remaining Defendants, to Watch's detriment.

55. Since Jarman's departure, Watch has learned from their partners that Jarman and other GRiT representatives led Watch's partners to believe that GRiT was also a partner or otherwise affiliated with Watch. Jarman, GRiT, and the remaining Defendants used Watch's goodwill to Watch's detriment to establish competing relationships with these partners.

56. For example, Jarman used Watch's partnership with Microsoft to establish GRiT as a Microsoft partner in Northern Ohio, Northern Indiana, Northern Illinois, and Wisconsin. Jarman pursued opportunities with Microsoft and Land O' Lakes, representing that GRiT and

other partners were aligned with Watch for activities in Wisconsin and Pennsylvania. Further, Jarman travelled to meet with Land O' Lakes representatives and their partners to develop business for GRiT at Watch's expense. As a result, Jarman conducted a meeting between GRiT and Land O' Lakes on January 22, 2021 during which GRiT presented their proposal to deploy broadband and related services for Land O' Lakes in Eastern Wisconsin.

57. As recently as February 24, 2021, Daniels received a phone call from a long-standing partner of Watch expressing concern. The partner had reached out to Jarman believing that Jarman was still employed by Watch. The partner described to Jarman an opportunity in Central Ohio and another in Northeast Ohio to determine whether Watch would be interested in pursuing them. The partner disclosed that he was then asked to sign a document with a GRiT logo and at that time came to realize that Jarman was no longer a representative of Watch. Jarman then introduced Mosby to the partner. The partner further disclosed that Mosby arranged a meeting with the partner that included Jarman, Criblez, and Kolb.

58. Watch sent Jarman a cease and desist letter dated January 21, 2021.

59. Watch sent Criblez, Mosby, Kolb, and GRiT cease and desist letters dated January 25, 2021.

60. To date, the Defendants have not ended their unlawful activities.

61. Upon information and belief, Defendants' acts are willful with the deliberate intent to trade on goodwill generated by Watch, cause confusion and deception in the marketplace, and divert potential sales of Watch's services to the Defendants.

62. Defendants' acts are causing, and unless restrained, will continue to cause damage and immediate irreparable harm to Watch and to its valuable reputation and goodwill with the consuming public for which Watch has no adequate remedy at law.

Count One - False Designation of Origin and Unfair Competition
Under 15 U.S.C. § 1125(a) / Lanham Act § 43(a)
(Against All Named Defendants)

63. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

64. Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), prohibits, *inter alia*, the use by a person of a false or misleading designation of origin or representation in connection with the offering for sale and sale of goods which is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of such person with another person, or which is likely to cause confusion, mistake, or deception as to the origin, source, sponsorship, or approval of such goods.

65. Although unregistered, Watch is entitled to protection under Section 43(a) of the Lanham Act. The mark “Watch Communications” is used or displayed in the sale or advertising of Watch’s provision of broadband Internet access and related services to consumers and enterprise customers when such services are rendered in interstate commerce. The services are provided in a way sufficiently public to identify or distinguish Watch’s services to the public.

66. As explained more fully in the fact sections above, which are incorporated here by reference, Defendants’ use of “Watch Communications” or any confusingly similar name in connection with broadband Internet access and related services could cause a likelihood of consumer confusion and has in fact caused such confusion.

67. Defendants’ unauthorized use in interstate commerce of Watch’s mark, as well as its false representations of an affiliation with Watch as alleged herein, constitute use of a false designation of origin and misleading description and representation of fact.

68. Defendants' conduct as alleged herein is willful and is intended to and is likely to cause confusion, mistake or deception as to the affiliation, connection or association of Defendants with Watch.

69. Defendants' conduct as alleged herein is intended to and is likely to cause confusion, mistake or deception as to the origin, source, sponsorship, or affiliation of the Defendants' services.

70. Defendants' conduct as alleged herein constitutes unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

71. Defendants' conduct as alleged herein is causing immediate and irreparable harm and injury to Watch, and to its goodwill and reputation, and will continue to both damage Watch and confuse the public unless permanently enjoined by this court.

72. Watch is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

**Count Two - Breach of Contract (Confidentiality)
(Against Defendants Jarman, Criblez and Kolb)**

73. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

74. Jarman, Criblez and Kolb entered into valid and binding Agreements Regarding Confidential Information and Non-Solicitation (the "Agreement") with Watch's parent company, BRT, at the time of their employment.

75. The Agreement provides that the individual Defendants will not divulge, during their employment and thereafter, confidential information, including but not limited to: financial

records, business, marketing, and strategic plans, customer lists, personnel and payroll records regarding current and former employees, vendors, and suppliers, trade secrets, and any other sources of information maintained by BRT (the “Confidential Information”).

76. The Agreements, including the confidentiality provisions contained within, are binding on the individual Defendants and BRT and its affiliates and subsidiaries.

77. While still employed by Watch and thereafter, Jarman used Watch’s Confidential Information in violation of the Agreement.

78. While still employed by Watch and thereafter, Jarman used the Confidential Information for the benefit of GRiT Technologies.

79. After their employment with Watch Criblez and Kolb used Watch’s Confidential Information in violation of the Agreements.

80. After their employment with Watch Criblez and Kolb used Watch’s Confidential Information for the benefit of GRiT Technologies.

81. Watch takes reasonable steps to protect the privacy of its Confidential Information.

82. Watch has been damaged by individual Defendant’s breach of the Agreements.

**Count Three - Breach of Contract (Competing During Employment)
(Against Defendant Jarman)**

83. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

84. Jarman entered into a valid and binding Agreement with Watch’s parent company, BRT.

85. That Agreement, including the restrictive covenants contained therein, is binding on Jarman and all of BRT’s successors and assigns – including Watch.

86. While still employed by Watch, Jarman served as an agent or representative of GRiT and shared Watch's Confidential Information with GRiT in violation of the Agreement.

87. GRiT competes with Watch.

88. Jarman's service to GRiT while employed by Watch violated his Agreement with Watch.

89. Jarman misappropriated time scheduled for Watch duties and diverted his time to GRiT duties as evidenced in his personal calendar entries and emails.

90. As explained more fully in the fact sections above, which are incorporated here by reference, while still employed by Watch, Jarman acted as an outside recruiter for GRiT, disclosed Watch's Confidential Information to GRiT, Criblez, Kolb, and Mosby.

91. Jarman's acts on behalf of GRiT and in violation of his fiduciary duty to Watch were conducted, in part, using Jarman's Watch email account and while on Watch business trips paid for by Watch.

92. Watch has been damaged as a result of Jarman's breach of said Agreement.

**Count Four - Breach of Contract (Fiduciary Duty of Loyalty)
(Against Defendant Jarman)**

93. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

94. Jarman owed Watch, as its employee and CDO, a fiduciary duty of loyalty.

95. Jarman breached that duty of loyalty in undertaking activity for the benefit of GRiT while still employed by Watch.

96. As explained more fully in the fact sections above, which are incorporated here by reference, while still employed by Watch, Jarman acted as an outside recruiter for GRiT, disclosed Watch's Confidential Information to GRiT, Criblez, Kolb, and Mosby.

97. Jarman's acts on behalf of GRiT and in violation of his fiduciary duty to Watch were conducted, in part, using Jarman's Watch email account and while on Watch business trips paid for by Watch.

98. Watch has been damaged as a result of Jarman's breach of said fiduciary duty of loyalty.

**Count Five - Indiana Uniform Trade Secrets Act, Ind. Code § 24-2-3-1 *et seq.*
(Against All Named Defendants)**

99. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

100. Watch developed and maintained substantial trade secrets related to rural broadband and IoT services.

101. Pursuant to the Indiana Uniform Trade Secrets Act, Ind. Code § 24-2-3-1, *et seq.* ("IUTSA"), Defendants have a duty not to misappropriate information they know or have reason to know is trade secret information.

102. Defendants knew or had reason to know that Watch's confidential and proprietary information they misappropriated and provided to GRiT was trade secret information.

103. In their positions within Watch, Defendants had access to and misappropriated confidential information including, but not limited to: financial records, business, marketing, and strategic plans, customer lists, personnel and payroll records regarding current and former employees, vendors, and suppliers, and trade secrets.

104. Defendants used their knowledge of and misappropriation of those trade secrets for the benefit of GRiT, namely, in pursuing sales deals and sales strategies for GRiT, including targeting Watch's customers.

105. Defendants' conduct was willful.

106. Watch takes reasonable steps to protect the privacy of its trade secrets.

107. Watch has suffered harm as a result of the unlawful misappropriation of its trade secrets, including, but not limited to, sales.

108. Watch has expended funds in attorneys' fees to investigate and seek to stop Defendants' illegal conduct.

**Count Six - Violation of the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836
(Against All Named Defendants)**

109. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

110. Watch maintains trade secrets related to broadband services and IoT.

111. Watch derives economic value from these trade secrets because they are not known to Watch's competitors, allowing Watch to gain a competitive advantage in the market through the strategies and information it invests in developing.

112. Watch maintains these trade secrets as internally confidential by limiting access to a small number of individuals whose role is critical in the development, analysis, or implementation of the information.

113. Individuals accessing the information are subject to employee agreements containing non-disclosure obligations and other restrictive covenants.

114. Jarman's solicitations were directed at individuals and entities whose identities and contact information were acquired via his employment at Watch. As used and maintained by Watch, such sales lists constitute trade secrets.

115. At the time of disclosure, Jarman knew or had reason to know that his use of the trade secrets was improper and occurred under circumstances giving rise to a duty to maintain the secrecy of the trade secret pursuant to his Employment Agreement. Jarman's unauthorized

use of that information therefore constitutes wilful and malicious misappropriation of Watch's trade secrets.

116. Watch requests that the Court issue an order providing for the seizure of any property necessary to prevent Jarman's continued dissemination of Watch's trade secrets, pursuant to 18 U.S.C. § 1836(b). Watch also seeks injunctive relief to prevent Jarman's continued misappropriation of Watch's trade secrets. Watch is further entitled to damages for its actual losses caused by Jarman's misappropriation and for Jarman's unjust enrichment caused by his misappropriation of Watch's trade secrets, along with any exemplary damages for Jarman's wilful and malicious misappropriation authorized by 18 U.S.C. § 1836(b)(3).

**Count Seven - Civil Conspiracy
(Against All Named Defendants)**

117. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

118. Upon information and belief, Jarman, Mosby, Criblez, Kolb, and GRiT, prior to Jarman's resignation with Watch, conspired and planned to engage in unlawful activities to start a competing business and misappropriate Watch proprietary materials for use in providing services to Watch customers and to directly compete against Watch to provide those services. The Defendants' actions show a concerted attempt to breach fiduciary and contractual duties owed to Watch.

119. Defendants' involvement in this concerted action was intentional.

120. Defendants kept this conspiracy secret and did not inform anyone in Watch's upper management of their plans and activities.

121. Watch has been damaged by Defendants' involvement in this conspiracy and is entitled to actual damages suffered as a result of Defendants' illegal civil conspiracy, as well as

any of Defendants' profits that are attributable to the conspiracy that are not taken into account in computing actual damages.

**Count Eight – Unfair Competition in Violation of Common Law
(Against All Named Defendants)**

122. Watch repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

123. As explained more fully in the fact sections above, which are incorporated here by reference, Defendants have intentionally engaged in unfair competition in violation of the common law of the State of Indiana.

124. Although unregistered, Watch is entitled to protection under Section 43(a) of the Lanham Act. The mark "Watch Communications" is used or displayed in the sale or advertising of Watch's provision of broadband Internet access and related services to consumers and enterprise customers when such services are rendered in interstate commerce. The services are provided in a way sufficiently public to identify or distinguish Watch's services to the public.

125. As explained more fully in the fact sections above, which are incorporated here by reference, Defendants' use of "Watch Communications" or any confusingly similar name in connection with broadband Internet access and related services could cause a likelihood of consumer confusion and has in fact caused such confusion.

126. Defendants' unauthorized use in interstate commerce of Watch's trade secrets and proprietary information, as well as its false representations of an affiliation with Watch as alleged herein, constitute unfair competition under Indiana law.

127. Defendants' conduct as alleged herein is willful and is intended to and is likely to cause confusion, mistake or deception as to the affiliation, connection or association of Defendants with Watch.

128. Defendants' conduct as alleged herein is intended to and is likely to cause confusion, mistake or deception as to the origin, source, sponsorship, or affiliation of the Defendants' services.

129. Defendants' acts have caused, and will continue to cause, irreparable injury to Watch.

WHEREFORE, Watch requests judgment against the Defendants as follows:

1. That the Court issue a permanent injunction against Jarman enforcing the contract between Jarman and Watch and prohibiting Jarman from interfering with the contract;
2. That Watch be reimbursed for all wages and other benefits paid to Jarman during the period of time that he was both working for Watch and competing against Watch;
3. That the Court issue a permanent injunction prohibiting Defendants from misappropriating Watch trade secrets;
4. That the Court issue a permanent injunction enforcing the confidentiality agreements between Watch and Defendants Jarman, Criblez and Kolb;
5. That Watch be awarded actual, compensatory, consequential, liquidated, and special damages against Defendants in an amount to be determined at trial;
6. That Watch be awarded punitive damages against Defendants;
7. That Watch be awarded attorneys' fees and costs associated with bringing and prosecuting this action against Defendants;
8. That Defendants have violated Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a));
9. That the Court grant an injunction permanently enjoining the Defendants, their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns,

and all of those in active concert and participation with any of the foregoing persons or entities who receive actual notice of the Court's order by personal service or otherwise from:

- a. Making or displaying any statement, representation or depiction that is likely to lead the public or the trade to believe that (i) Defendants' services are in any manner approved, endorsed, licensed, sponsored, authorized or franchised by or associated, affiliated or otherwise connected with Watch; or (ii) Watch's services are in any manner approved, endorsed, licensed, sponsored, authorized or franchised by or associated, affiliated or otherwise connected with Defendants;
- b. Using or authorizing any third party to use in connection with any business, goods, or services any false description, false representation, or false designation of origin, or any marks, names, words, symbols, devices or trade dress that falsely associate such business, goods and/or services with Watch or tend to do so; and
- c. Aiding, assisting or abetting any other individual or entity in doing any act prohibited by sub-paragraphs (a) and (b);

10. That the Court order Defendants account to and pay over to Watch all profits realized by their wrongful acts in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)) enhanced as appropriate to compensate Watch for the damages caused thereby;

11. That that this is an exceptional case pursuant to Section 35(a) of the Lanham Act and award Watch its costs and reasonable attorneys' fees thereunder (15 U.S.C. § 1117(a));

12. That Watch be awarded an amount up to three times the amount of its actual damages, in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(b));

13. That Watch be awarded pre- and post-judgment interest; and

14. That Watch be awarded such other and further relief against Defendants as this Court deems just and proper in the premises.

JURY DEMAND

Plaintiff, W.A.T.C.H TV Company, d/b/a Watch Communications, by counsel, hereby demands a trial by Jury as to all issues so triable.

Respectfully submitted,

ROTHBERG LOGAN & WARSCO LLP

/s/ Rachel J. Guin

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