

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION



Provided by:
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MY MARKET, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Case No.:
)	
BATTH MARKETS, INC. and)	
CHHATERPAL SINGH,)	
)	
Defendants.)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, My Market, LLC (“My Market”), by and through its counsel, for its Complaint against Defendants, Batth Markets, Inc. (“Batth Markets”) and Chhaterpal Singh (“Singh”) (collectively, “Defendants”), hereby alleges and states as follows:

PRELIMINARY STATEMENT

1. This is an action for the violation of the laws of the United States relating to trademark infringement under the Declaratory Judgment Act, 28 U.S.C. § 2201 and the Lanham Act, 15 U.S.C. § 1051 et seq., along with associated claims under Indiana law; an action for unfair competition, false designation of origin, and trademark dilution under the Lanham Act, 15 U.S.C. § 1125, along with associated claims under Indiana law.

2. My Market seeks injunctive and monetary relief.

THE PARTIES

3. My Market is an Indiana domestic limited liability company with a principal office address at 4220 S. Hanna Street, Fort Wayne, Indiana 46806.

4. Batth Markets is a domestic for-profit corporation with a principal place of business at 2857 Odell Street, Brownsburg, Indiana 46112.

5. Upon information and belief, Singh owns and operates Batth Markets.

6. Singh is an individual residing at 2857 Odell Street, Brownsburg, Indiana 46112.

JURISDICTION

7. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. § 1331 and 1338(a) and (b), and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

8. This action is one over which this Court has original jurisdiction under 28 U.S.C. § 1331 because it arises under the laws of the United States of America, specifically the provisions of the Lanham Act and the Declaratory Judgment Act.

9. The Court has jurisdiction over Defendants because Defendants are conducting business, are carrying on a business venture, and have committed tortious acts in this State and District.

VENUE

10. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), in that Defendants reside in this District.

FACTS COMMON TO ALL CLAIMS

11. My Market has obtained a federal trademark registration for the service mark “MY MARKET FISH · CHICKEN SANDWICHES · SHRIMP” under U.S. Trademark Registration Number 6,935,101, which was registered on December 27, 2022, and is used in association with “restaurant services” in International Class 43 (the “Mark”). A true and accurate copy of the registration is attached hereto as Exhibit “A” and incorporated by reference.

12. My Market uses its Mark to identify itself in the community and has developed the reputation of a good company that offers a quality selection of goods at fair prices, provides excellent customer service, and maintains a clean storefront in the business of convenience stores.

13. My Market has spent considerable amounts of money in establishing the Mark in the minds of its consumers as a source of a quality selection of goods at fair prices, excellent customer service, and a clean storefront.

14. As a result of extensive and continuous advertising, promotion, and use of the Mark in connection with operating as a convenience store, and through favorable industry and trade acceptance and recognition, the consuming public and trade recognize and identify the Mark with My Market.

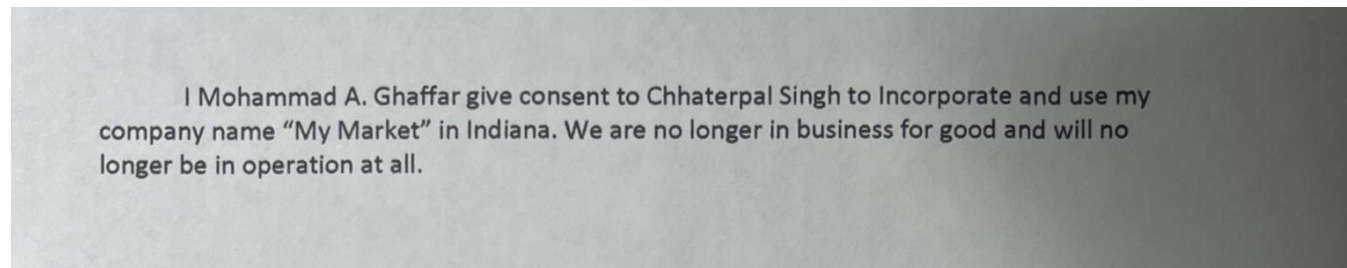
15. My Market has been operating under the Mark since as early as 2022 in connection with the food industry. Since that time, My Market has experienced consistent growth.

16. Accordingly, the Mark is an asset of incalculable value as an identifier of My Market, its high-quality services, and its goodwill.

STATEMENT OF FACTS

17. On or around July 9, 2024, counsel for My Market was engaged in the process of reinstating My Market with the Indiana Secretary of State after an administrative dissolution and discovered that Defendants have fraudulently obtained a Certificate of Assumed Business Name to do business as My Market (the "Fraudulent Certificate"). A true and accurate copy of the Fraudulent Certificate is attached hereto as Exhibit "B."

18. To obtain the Fraudulent Certificate, Defendants filed the letter copied below:



I Mohammad A. Ghaffar give consent to Chhaterpal Singh to Incorporate and use my company name "My Market" in Indiana. We are no longer in business for good and will no longer be in operation at all.

A true and accurate copy of the letter is attached hereto as Exhibit "C" (the "Fraudulent Letter").

19. Mohammad Ghaffar never saw the Fraudulent Letter before it was filed with the Indiana Secretary of State.

20. Mohmmad Ghaffar never signed the Fraudulent Letter.

21. Mohmmad Ghaffar never consented Singh's using the name "My Market."

22. Mohmmad Ghaffar never represented to Singh or anyone else that My Market was no longer in business and would no longer be in operation.

23. The Fraudulent Letter is patently false.

24. However, after obtaining the Fraudulent Certificate, Defendants started conducting business as "My Market."

25. Defendants did business as "My Market" by operating a convenience store under the name "My Market" in Kingston, Indiana selling a variety of goods including fried chicken and sandwiches just like My Market. A true and accurate depiction of Defendants' Facebook page for My Market is attached hereto as Exhibit "D."

26. The DuPont Factors weigh in favor of Defendants' use of the name "My Market" being confusingly similar for likelihood of confusion purposes.

27. By using the name "My Market," Defendants operated a business which solicited customers by using My Market's business name and reputation.

28. Defendants are aware of My Market's Mark due to Defendants acknowledgement in the Fraudulent Letter that Defendants needed Mohammad Ghaffar's permission to use the name "My Market."

29. Upon information and belief, Defendants' have continuously used "My Market" since as early as August 29, 2023.

30. Each time Defendants use the Mark constitutes a separate act of trademark infringement.

31. Defendants' use of the Mark as a name for its business causes initial interest confusion by luring customers to its services by the similarity of the name to the Mark.

32. Defendants' use of the Mark as its name is likely to cause confusion, mistake, or deception by customers as to the source of its services. Customers are likely to purchase goods from Batth Markets under the mistaken belief My Market is affiliated with Batth Markets, thereby resulting in loss of sales by My Market.

33. My Market has no control over the price or quality of the goods being offered by Batth Markets, the quality of Batth Markets' customer service, or the cleanliness of Batth Markets' stores. Because of the confusion as to the source caused by Defendants, My Market's valuable goodwill with respect to the Mark is at Defendants' mercy.

34. Defendants' use of the Mark as a name has caused and will cause confusion, mistake, and deception of customers as to the source of origin of its goods and services.

35. Defendants' use of the Mark has resulted in dilution of My Market's exclusive rights in connection with its Mark and has been to My Market's detriment.

36. Defendants' actions have been willful and deliberate. Defendants' use of the Mark is an obvious attempt to trade on My Market's goodwill, My Market has acquired in association with its business, its trademark, and its customer service.

37. The goodwill of My Market's business under the Mark is of enormous value, and My Market will suffer irreparable harm if Defendants are allowed to continue to use the Mark, to the detriment of My Market's reputation and goodwill.

38. Defendants' actions will continue unless enjoined by this Court.

39. Further, by obtaining the Fraudulent Certificate, Defendants directly interfered with My Market's ability to sell tobacco products and lottery tickets causing My Market to suffer pecuniary damages.

COUNT I - TRADEMARK INFRINGEMENT

40. My Market re-alleges and incorporates paragraphs 1 through 39 of this Complaint as if fully set forth herein.

41. Defendants' use of the Mark in connection with the operation of a convenience store is without My Market's consent.

42. The similarity between the Mark and Defendants' use of the name My Market is identical as to appearance, sound, and connotation.

43. The nature of the services Bath Markets is rendering in connection with its use of the name is identical to the nature of the services described in the registration for the Mark.

44. The trade channels between My Market and Bath Markets are similar, if not identical.

45. The purchasing conditions under which sales are made by My Market and Bath Markets is similar, if not identical.

46. The use of the name is intended to lure customers to Bath Markets' services based on My Market's well-known and highly-valued name and business reputation.

47. As a direct result of Defendants' infringement, My Market suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, My Market, LLC, by counsel, respectfully requests the Court for, among other relief, an order declaring that Defendants' actions infringed the Mark and an award of actual damages; Defendants' profits; enhanced damages; reasonable attorneys' fees and the costs of this action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. § 1116, 1117; together with prejudgment and post-judgment interest.

COUNT II - TRADEMARK INFRINGEMENT
(FALSE DESIGNATION OF ORIGIN)

48. My Market re-alleges and incorporates paragraphs 1 through 47 of this Complaint as if fully set forth herein.

49. Defendants' use of the Mark constitutes a false designation of origin. That false designation is likely to deceive and has deceived My Market's customers and prospective customers into believing Batth Markets and the services Batth Markets offers are affiliated with or otherwise sponsored by My Market. As a consequence, Defendants' actions are likely to divert and have diverted customers away from My Market.

50. Defendants' use of the Mark is likely to cause confusion and deception in the marketplace and divert potential sales of My Market to Batth Markets.

51. My Market has no control over the nature and quality of Batth Markets' customer service or the nature and quality of the goods or services being offered by Batth Markets.

52. Any failure, neglect, or default by Batth Markets in providing excellent customer service or quality goods will reflect adversely on My Market as the believed source or origin of the services.

53. This hampers My Market's efforts to continue to protect its outstanding reputation for offering high quality goods at a reasonable price, providing excellent customer service, and maintaining a clean storefront.

54. That adverse reflection has resulted, and will result, in the loss of sales by My Market and has negated the considerable expenditures by My Market to promote its services under the Mark - all to the detriment of My Market.

55. As a direct result of Defendants' infringement, My Market suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, My Market, LLC, by counsel, respectfully requests the Court for, among other relief, an order declaring that Defendants' actions infringed the Mark and an award of actual damages; Defendants' profits; enhanced damages; reasonable attorneys' fees and the costs of this action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. § 1116, 1117; together with prejudgment and post-judgment interest.

COUNT III - TRADEMARK DILUTION

56. My Market re-alleges and incorporates paragraphs 1 through 55 of this Complaint as if fully set forth herein.

57. Defendants' use and advertisement of its services under the Mark have or are likely to injure My Market' business reputation and have or are likely to dilute the

distinctive quality of My Market's name, services, and customer service in violation of both Indiana law and Federal statutes.

58. My Market has been, and will continue to be, irreparably harmed, damaged, and injured as a result of Defendants' infringements and threatened infringements of My Market's trademark rights.

59. Defendants unlawfully and wrongfully derive, and will continue to derive, income and profits from its infringing acts.

60. As direct result of Defendants' infringement, My Market suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, My Market, LLC, by counsel, respectfully requests the Court for, among other relief, an order declaring that Defendants' actions infringed the Mark and an award of actual damages; Defendants' profits; enhanced damages; reasonable attorneys' fees and the costs of this action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. § 1116, 1117; together with prejudgment and post-judgment interest.

COUNT IV - UNFAIR COMPETITION

61. My Market re-alleges and incorporates paragraphs 1 through 60 of this Complaint as if fully set forth herein.

62. My Market hereby alleges unfair competition in violation of the Lanham Act, 15 U.S.C. § 1125, along with associated claims under Indiana law.

63. Defendants, by their unauthorized appropriation and use of My Market's Mark, have engaged in acts of wrongful deception of the purchasing public, wrongful

designation as to the source and sponsorship of goods and services, wrongful deprivation of My Market's good name and reputation, and the wrongful deprivation of My Market's right to public recognition and credit as the owner of its Mark.

64. My Market's claims concerning Defendants' unfair competition, deceptive advertising, and unfair trade practices are all individually related to My Market's trademark infringement action, since all actions are based on the same operative facts.

65. Defendants deliberately infringed My Market's Mark, and their actions were malicious and willful. Further, Defendants published the Mark with the intent to confuse or deceive the public and My Market's customers. Defendants have been unjustly enriched as a result of its actions.

66. As a direct result of Defendants' unfair competition and unfair trade practices against My Market, My Market suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, My Market, LLC, by counsel, respectfully requests the Court for, among other relief, an order declaring that Defendants' actions infringed the Mark and an award of actual damages; Defendants' profits; enhanced damages; reasonable attorneys' fees and the costs of this action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. § 1116, 1117; together with prejudgment and post-judgment interest.

COUNT IV - CONVERSION

67. My Market re-alleges and incorporates paragraphs 1 through 66 of this Complaint as if fully set forth herein.

68. Ind. Code. § 34-24-3-1 creates a private right of action against “a person who knowingly or intentionally exerts unauthorized control over property of another person” causing pecuniary loss.

69. A person entitled to relief under Ind. Code. § 34-24-3-1 is permitted to recover treble damages, the cost of the action, and reasonable attorney’s fees.

70. Under Ind. Code. § 34-24-3-1, a plaintiff’s burden of proof regarding whether or not a defendant committed criminal conversation is by a preponderance of the evidence. *James v. Brink & Erb., Inc.*, 452 N.E.2d 414, 416 (Ind. Ct. App. 1983).

71. My Market hereby alleges that by obtaining the Fraudulent Certificate, Defendants exerted unauthorized control over My Market’s license with the Indiana Secretary of State.

72. As a result of Defendants exerting unauthorized control over My Market’s license with the Indiana Secretary of State, My Market has been denied the right to sell tobacco products and lottery tickets.

73. My Market has suffered real pecuniary damages as a result of not being able to sell tobacco products and lottery tickets in an amount to be determined at trial.

WHEREFORE, Plaintiff, My Market, LLC, by counsel, respectfully requests the Court for, among other relief, an award of actual damages; treble damages; reasonable attorney’s fees, and the costs of this action together with prejudgment and post-judgment interest.

RELIEF REQUESTED

WHEREFORE, Plaintiff, My Market, LLC, by counsel, prays that this Court enter the following judgment and order:

1. In favor of My Market, LLC on all Counts of the Complaint;
2. Declare that Defendants have infringed My Market's rights in the Mark and has violated § 43(a) of the Lanham Act;
3. That Defendants account for and pay to My Market actual damages and Batth Markets' profits, adequate to compensate My Market for trademark infringement of My Market's Mark, to the extent permitted by applicable law, and an amount up to three times the amount of its actual damages for Defendants' trademark infringement, in accordance with 15 U.S.C. § 1117.
4. That Defendants, their officers, directors, agents, servants, employees, members, successors, distributors, assigns, and attorneys, and all those controlled by or in active concert or participation with them, be preliminarily and permanently enjoined and restrained from:
 - a. Further infringement of My Market's Mark;
 - b. Using the Mark or other name or designation that comprises or includes the Mark or any other mark, logo, name, or designation that gives rise to a likelihood of confusion, mistake, or deception with respect to My Market's Mark; and

- c. Doing any other act or thing likely to induce the mistaken belief that Batth Markets is in any way affiliated with, associated with, or sponsored by My Market.

5. That, pursuant to 15 U.S.C. § 1118, Defendants be ordered to deliver to My Market or destroy all products, labels, packages, brochures, wrappers, advertisements, promotions, displays, catalogs, Internet webpages, and all other matter, whether in paper or electronic form, in the custody or under the control of Defendants that constitute, bear, or depict the Mark or any confusingly similar variations thereof as described herein;

6. That Defendants be ordered by this court to account for and pay to My Market damages adequate to compensate My Market for the infringement of the Mark and, to the extent permitted by applicable law, said damages to be increased up to three times the amount found or assessed in view of the willful nature of the continued infringement;

7. That My Market be awarded additional monetary relief in an amount to be fixed by the Court in its discretion as just, including:

- a. All profits received by Batth Markets from sales or revenues of any kind made as a result of the acts of infringement and unfair competition, said amount to be trebled due to Defendants' willful actions in accordance with 15 U.S.C. § 1117;
- b. All damages sustained by My Market as a result of Defendants' actions, said damages to be trebled due to Defendants' willful actions; and

c. Awarding My Market punitive and exemplary damages as the court finds appropriate to deter any future willful infringement.

8. Ordering Defendants to compensate My Market for the advertising and other expenditures necessary to dispel any public confusion caused by Defendants' unlawful acts complained of herein;

9. Directing Defendants to file with the Court and serve on My Market within 30 days after issuance of an injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the Injunction;

10. Granting such other and further relief as the Court may deem proper to prevent the public from deriving the false impression that any goods or services sold, distributed, licensed, marketed, advertised, promoted, or otherwise offered or circulated by Defendants are in any way approved, endorsed, licensed, sponsored, authorized or franchised by or associated, affiliated or otherwise connected with My Market.

11. Directing that Defendants take any and all corrective action necessary to abate any likelihood of confusion between its website and social media profiles and the websites and social medial profiles owned by My Market.

12. Declaring this an exceptional case and, because of the exceptional nature of this case resulting from Defendants' deliberate and willful actions, this Court award to My Market all reasonable attorney's fees, costs, and disbursements incurred by it as a result of this action pursuant to 15 U.S.C. § 1117;

13. Awarding My Market its costs and reasonable attorneys' fees under 17 U.S.C. §§ 412, 505.

14. Awarding My Market its actual damages, treble damages, reasonable attorney's fees, and the cost of this action under Ind. Code. § 34-24-3-1.

15. Awarding My Market pre-judgment and post-judgment interest, costs, and expenses for this suit; and

16. Affording My Market such other further relief as the Court may deem just and proper under the circumstances.

Respectfully submitted,

CARSON LLP

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REQUEST FOR JURY TRIAL

Plaintiff, My Market, LLC, by counsel, requests that the Court empanel a jury to hear all claims herein so triable.

Respectfully submitted,

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