

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

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U.S. DISTRICT COURT
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TEXAS-EASTERN

MAJOR LEAGUE BASEBALL)
PROPERTIES, INC.,)
)
Plaintiff,)
)
vs.)
)
MAJOR LEAGUE MOVING LLC)
)
DR. EDWIN BEDFORD, JR., d/b/a)
MAJOR LEAGUE MOVING,)
)
and)
)
ASSOCIATED CAPITAL SERVICES,)
INC.,)
)
Defendants.)

BY _____

Civil Action No. 4:07cv565

**COMPLAINT AND APPLICATION FOR PRELIMINARY
AND PERMANENT INJUNCTIVE RELIEF**

Plaintiff Major League Baseball Properties, Inc. ("MLBP"), as and for its complaint against Defendants Major League Moving, LLC, Dr. Edwin W. Bedford, Jr. and Associated Capital Services, Inc. (collectively "Defendants"), alleges as follows:

I. JURISDICTION AND PARTIES

1. This Court has subject matter jurisdiction over the federal trademark claims pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction over the related state law claims pursuant to 28 U.S.C. § 1367. This Court also has subject matter jurisdiction over all of the claims in this action pursuant to 28 U.S.C. § 1332, as there exists complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

2. Plaintiff MLBP is a New York corporation with its principal place of business at 245 Park Avenue, New York, New York 10167. MLBP acts as licensing agent for each of the 30 Major League Baseball clubs (the “MLB Clubs”), the Office of the Commissioner of Baseball (the “BOC”) and their respective affiliated and related entities (collectively, “Major League Baseball” or the “Major League Baseball Entities”). MLBP is responsible for, among other things, licensing the manufacture, production, distribution and promotion of retail goods and the rendering and promotion of services, bearing and/or identified by the trademarks and service marks of MLBP and the Major League Baseball Entities, and for the protection and enforcement of such marks.

3. Defendant Dr. Edwin W. Bedford, Jr. is a citizen and resident of the state of Texas domiciled and/or conducting business at 801 Sandy Creek, Allen, Texas 75002. Upon information and belief, Dr. Bedford is a principal in Defendant Major League Moving, LLC and/or is the owner and operator of the moving company doing business under the name “Major League Moving.” Upon information and belief, Dr. Bedford personally participated in and directed the infringing activities at issue in this case. Defendant Bedford may be served by delivering a copy of the summons and complaint to him at his address as set forth above.

4. Defendant Major League Moving, LLC is a Nevada limited liability company whose sole principal place of business is located in Las Vegas, Nevada. Upon information and belief, Major League Moving LLC owns and/or operates the moving company doing business under the name “Major League Moving” and transacts business in this District. This Defendant may be served by delivering a copy of the summons and Complaint to Defendant Bedford at the address set forth above.

5. Defendant Associated Capital Services, Inc. is a Nevada corporation whose sole principal place of business is located in Las Vegas, Nevada. Upon information and belief, Associated Capital Services, Inc., is a member and manager of Major League Moving, LLC. Associated Capital does not maintain a registered agent in the state of Texas but transacts substantial business here and has committed the offenses listed below. It may be served by delivering a copy of the Summons and Complaint to its registered agent, Nevada Corporate Headquarters Inc., 101 Convention Center Dr., Suite 700, Las Vegas, Nevada 89126.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events giving rise to the claims stated in this Complaint occurred in this district and the Defendants reside and/or conduct business there.

II. FACTS

Plaintiff's Strong Rights in the Silhouetted Batter Logo and Major League Marks

7. For decades and long prior to any use by Defendants of the names, marks and domain names at issue in this litigation, MLB, its predecessors, and their affiliated and related entities (including, without limitation, the Major League Baseball Entities), licensees and/or sponsors have used names, marks and domain names that comprise or contain the words MAJOR LEAGUE, MAJOR LEAGUE BASEBALL and/or the acronym MLB (the "MAJOR LEAGUE Marks"), as the primary identifying brand of Major League Baseball and in connection with baseball games and exhibitions and a wide variety of goods and services associated with Major League Baseball.

8. For decades and long prior to any use by Defendants of the marks at issue in this litigation, MLB, its predecessors, and their affiliated and related entities (including, without

limitation, the Major League Baseball Entities), licensees and/or sponsors have used the distinctive silhouetted batter logo design as shown below.



(the “Silhouetted Batter Logo”), predominantly in the color combination of blue, white and red (the “MLB Color Scheme”), alone or together with the MAJOR LEAGUE Marks, as the primary identifying brand of Major League Baseball and in connection with baseball games and exhibitions and a wide variety of goods and services associated with Major League Baseball. The Silhouetted Batter Logo is used as, and has become the graphic equivalent of, the MAJOR LEAGUE Marks.

9. Long prior to any use by Defendants of the names, marks or domain names at issue in this litigation, MLBP and its affiliated and related entities (including, without limitation, the Major League Baseball Entities) have used domain names that comprise or contain the MAJOR LEAGUE Marks in connection with baseball games and exhibitions and a wide variety of goods and services associated with Major League Baseball.

10. Through its extensive licensing and sponsorship programs, MLBP has licensed hundreds of entities the rights to use the Silhouetted Batter Logo and the MAJOR LEAGUE Marks on or in connection with a wide variety of goods and services. MLBP has also entered into numerous sponsorship arrangements spanning a broad array of industries, including with Mayflower Transit, a well-known moving company, John Hancock, a well-known insurance company, and such other well-known companies as Chevrolet, Century 21, DHL, Home Depot, MasterCard, Pepsi, Holiday Inn and Bank of America. These sponsorship arrangements provide

the participating companies with the status of “Official Sponsors of Major League Baseball” and the right to use the Silhouetted Batter Logo and MAJOR LEAGUE Marks in connection with their sponsorship activities and in advertising and promotions for their respective companies and their goods and/or services.

11. MLBP and its affiliated and related entities (including, without limitation, the Major League Baseball Entities), their licensees and sponsors have extensively promoted and advertised goods and services bearing the Silhouetted Batter Logo and the MAJOR LEAGUE Marks, including, without limitation, through the MLB ROAD SHOW (which utilizes traveling, high-tech 18 wheel trucks, bearing the Silhouetted Batter Logo and other marks of MLBP and the Major League Baseball Entities, outfitted to give an all encompassing baseball entertainment experience as part of an annual nationwide summer concert tour), and have sold such goods and offered such services in commerce throughout the United States.

12. As a result of the extensive use of the Silhouetted Batter Logo and MAJOR LEAGUE Marks, not only in connection with the Major League Baseball Entities’ well-known baseball games, exhibitions and services, but also in connection with a wide variety of licensed merchandise sold and/or rendered in the United States as well as widespread use in connection with a broad array of sponsorship activities spanning various diverse industries, such marks have for many decades, and long prior to any use made by Defendants, functioned as unique identifiers and synonyms in the public mind for MLBP and its affiliated and related Major League Baseball Entities. As a result, the Silhouetted Batter Logo and the MAJOR LEAGUE Marks are famous and possess significant goodwill of great value to MLBP and the Major League Baseball Entities.

13. MLBP owns numerous federal trademark registrations for the Silhouetted Batter Logo and the MAJOR LEAGUE Marks. Copies of these registrations are attached hereto as Exhibit A.

Defendants' Unlawful Activities

14. Defendants are engaged in the operation of a moving business in Allen, Texas and/or Las Vegas, Nevada operating under the name "Major League Moving," which provides residential and commercial moving and packing services, as well as insurance to cover losses related to such services. As part of and in connection with that business, Defendants have essentially taken on Major League Baseball's corporate identity by reproducing and using MLBP's identical famous Silhouetted Batter Logo in the colors blue, white and red, the MLB Color Scheme, and using such logo and MLB Color Scheme together with the name and mark MAJOR LEAGUE MOVING as the primary identifier for Defendants' moving, packing and insurance services. Defendants prominently display these infringing names, marks and designs in the MLB Color Scheme on the sides of Defendants' fleet of commercial and residential moving trucks, on various of their promotional and marketing materials and items, on their employee uniforms, and on Defendants' website located at www.majorleaguemoving.com, which utilizes a baseball theme (including pages or sections entitled "Home Plate," "Home Run Moving Company," "Batting a 1000 in Customer Service," as well as a "Company Slogan: Major League Moving – where you will always get a straight pitch and no curves. We make it easy to hit homeruns."), images of Shea Stadium (the home stadium of the New York Mets Major League Baseball club) and official Major League Baseball products, a logo copying one of the Baseball Hall of Fame's logos and logos of and references to Chevrolet, which is a prominent

national sponsor of MLBP. Copies of printouts from Defendants' website showing Defendants' unauthorized, infringing uses are attached hereto as Exhibit B.

15. Defendants' deliberate use of names, marks, logos, designs, color schemes and a domain name that are virtually identical or confusingly similar to MLBP's Silhouetted Batter Logo, MAJOR LEAGUE Marks and MLB Color Scheme, alone or together with names, marks, logos, designs, domain names and/or baseball themes and indicia and/or official products licensed by Major League Baseball that identify or are associated with or emanate from MLBP and/or the Major League Baseball Entities, is likely to cause confusion, mistake or deception as to the source or origin of Defendants' goods or services, and is likely to cause consumers to draw the false impression that Defendants' goods or services are associated with, authorized, endorsed or sponsored by, or that Defendants are a sponsor of, MLBP and/or the Major League Baseball Entities. Defendants' use is also likely to dilute MLBP's rights in its valuable and famous marks.

16. Defendants have performed the aforementioned acts without MLBP's permission or authority and without any legitimate license to manufacture, distribute, offer for sale or sell goods or services in connection with names, marks, designs, logos or domain names comprising or containing the Silhouetted Batter Logo, the MAJOR LEAGUE Marks and/or the MLB Color Scheme.

17. Defendants have performed the aforementioned infringing acts in willful and deliberate violation of MLBP's trade name, trademark, and trade dress rights, in an intentional effort to cause confusion among purchasers and potential purchasers as to the source or origin of Defendants' goods or services, and in order to trade upon the significant, valuable goodwill created by and associated with MLBP and the Major League Baseball Entities. Moreover, upon

information and belief, Defendants' use of the infringing designations has, in fact, caused actual confusion in the marketplace, including a recent instance of actual confusion involving a potential customer in Dallas, Texas.

18. Prior to viewing the Defendants' current website located at www.majorleaguemoving.com, MLBPA repeatedly contacted Defendant Edwin W. Bedford, Jr. in an effort to cause him to voluntarily cease any infringing conduct and thereby avoid the need for potentially expensive and burdensome litigation. In response, Dr. Bedford assured MLBPA in writing that he would remove the Silhouetted Batter Logo from his moving trucks, stationery and other materials. Notwithstanding such representation, it later came to MLBPA's attention that Defendants, in bad faith, continued and indeed expanded their infringing uses of the Silhouetted Batter Logo, MAJOR LEAGUE Marks, MLB Color Scheme, representations of official MLBPA products, other baseball-themed indicia and the majorleaguemoving.com domain name in connection with their Major League Moving business, in blatant and willful disregard of MLBPA's rights, and as a result of such activities, are causing ongoing and escalating likelihood of and actual confusion in the marketplace, including the actual confusion which has recently come to MLBPA's attention, and dilution of MLBPA's valuable trademark rights.

19. Upon information and belief, by virtue of their unlawful conduct, Defendants have made substantial profits and gains to which they are not in law or equity entitled.

As a result of the foregoing, MLBPA has been damaged and has suffered, and continues to suffer, immediate and irreparable injury for which it has no adequate remedy at law.

COUNT I
(Federal Trademark Infringement)

20. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19 above with the same force and effect as if set forth fully herein.

21. Defendants' acts as described above constitute infringement of registered trademarks in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

COUNT II
(False Designation of Origin)

22. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19 above with the same force and effect as if set forth fully herein.

23. Defendants' acts as described above constitute the use in commerce of false designations of origin in violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

COUNT III
(Texas Unfair Business Practices Act)

24. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19 above with the same force and effect as if set forth herein.

25. Defendants' acts as described above constitute false, misleading or deceptive acts or practices in the conduct of any trade or in commerce in violation of Tex. Bus. & Com. Code § § 1741 et seq.

COUNT IV
(Unfair Competition)

26. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19 above with the same force and effect as if set forth fully herein.

27. Defendants' acts as described above constitute unfair competition under the common law of the State of Texas.

COUNT V
(Common Law Trademark Infringement)

28. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19 above with the same force and effect as if set forth fully herein.

29. Defendants' acts as described above constitute trademark infringement under the common law of the State of Texas.

COUNT VI
(Federal Trademark Dilution)

30. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-19 above with the same force and effect as if set forth fully herein.

31. MLBP's Silhouetted Batter Logo and MAJOR LEAGUE Marks are famous and were famous long prior to Defendants' use of the names, marks and domain name at issue in this case.

32. The acts of Defendants described above constitute dilution of the distinctive quality of the famous and distinctive Silhouetted Batter Logo and MAJOR LEAGUE Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

WHEREFORE, Plaintiff respectfully requests the following relief:

A. That Defendants and their agents, servants, representatives, employees, successors and assigns, and all those persons or entities in active concert or participation with any of them who receive actual notice of the injunctive order, immediately and permanently be enjoined from using the Silhouetted Batter Logo, the MAJOR LEAGUE Marks and any colorable imitations of the same, including without limitation the name and mark MAJOR LEAGUE MOVING, alone or together with the MLB Color Scheme or other Major League Baseball products, images and/or indicia, and the domain name majorleaguemvoing.com, on or

in connection with any goods or services, or committing any other acts which falsely represent or which have the effect of falsely representing that the goods or services of Defendants are associated with, authorized, endorsed or sponsored by, or that Defendants are a sponsor of, MLB or any of the other Major League Baseball Entities.

B. That within ten (10) days of the order of this Court, the Silhouetted Batter Logo, the MAJOR LEAGUE Marks, or any colorable imitations of the same (including without limitation the name and mark MAJOR LEAGUE MOVING, alone or with the MLB Color Scheme or other Major League Baseball products, images and/or indicia, or the majorleaguemoving.com domain name) be completely and permanently removed from (i) Defendants' trucks, vehicles, equipment and all other items bearing such marks; and (ii) Defendants' website or other online or offline listings, including, without limitation, the website located at www.majorleaguemoving.com.

C. That within ten (10) days of the order of this Court, all merchandise, signs, advertising, marketing and promotional materials, packing materials, wrappings, catalogs, decals, stationery, work orders, employee uniforms or other goods or printed matter bearing the Silhouetted Batter Logo, the MAJOR LEAGUE Marks, or any colorable imitations of the same (including without limitation the name and mark MAJOR LEAGUE MOVING, alone or with the MLB Color Scheme or other Major League Baseball products, images and/or indicia, or the majorleaguemoving.com domain name), and all machinery, plates, molds, matrices or other material for producing, printing, or distributing such items in Defendants' possession, custody or control, be delivered up for destruction or other disposition at Plaintiff's sole discretion.

D. That Defendants be directed to file with the Court and serve upon Plaintiff, within 30 days after entry of final judgment, a report in writing and under oath setting

forth in detail the manner and form in which Defendants have complied with the provisions set forth in Paragraphs A, B and C above.

E. That Plaintiff be granted an equitable accounting of Defendants' profits and awarded judgment in an amount reflecting Plaintiff's damages or Defendants' profits, whichever is greater, arising from Defendants' trademark infringement, false designation of origin and unfair competition, such damages to be trebled pursuant to 15 U.S.C. § 1117 by reason of the willfulness of Defendants' acts, together with interest therein.

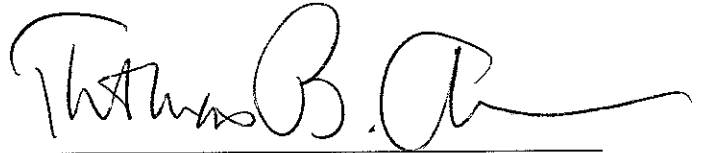
F. That Defendants be directed to transfer the domain name www.majorleaguemoving.com to Plaintiff.

G. That Defendants be required to issue and pay for appropriate notice to the public through corrective advertising or other means acceptable to and in a format approved by Plaintiff clarifying any public confusion caused by Defendants' prior unlawful conduct and making clear that Defendants and their goods or services are not and have never been associated with, authorized, endorsed or sponsored by MLB or any of the other Major League Baseball Entities.

H. That the Court award Plaintiff its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a), together with the costs of this action.

I. That Plaintiff be granted such other and further relief as the Court deems just and proper.

Respectfully submitted,



Thomas B. Alleman 01017485
of
Winstead PC
1201 Elm, Suite 5400
Dallas, Texas 75270
214 745 5400 phone
214 745 5390 fax

and

Richard S. Mandel, Esq.
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9200

ATTORNEYS FOR PLAINTIFF

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