

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROLEX WATCH U.S.A., INC.,

Plaintiff,

v.

ALEXANDER ROZENFELD a/k/a
ALEXANDRE ROZENFELD, VICTORIA
ROZENFELD A/K/A VIKTORIYA
ROZENFELD, INDIVIDUALLY AND d/b/a
WWW.REPLICAMAHER.COM,
WWW.REPLICAEXPERT.US AND RV
VENTURE CAPITAL, INC.; UNKNOWN
WEBSITES 1-10; various John Does 1-10, and
Unknown Entities 1-10,

Defendants.

CIVIL ACTION NO. 2:06-cv-00799-
JAG-MCA

**PLAINTIFF'S PROPOSED
FINDINGS OF FACT AND
CONCLUSIONS OF LAW
IN SUPPORT OF PLAINTIFF'S
REQUEST FOR AWARD OF
STATUTORY DAMAGES PURSUANT
TO 15 U.S.C. § 1117(c)**

I. INTRODUCTION

(A) Jurisdiction and Venue

1. The claims in this action arise under the Federal Trademark Act of 1946, 15 U.S.C. § 1051 et seq. and under the statutory and common law of the State of New Jersey. The Court has subject matter jurisdiction over these claims by virtue of federal question jurisdiction, 28 U.S.C. § 1331 and 1338(a) and 15 U.S.C. § 1121, and by virtue of supplemental jurisdiction, 28 U.S.C. § 1338(b).

(B) The Civil Action:

2. Plaintiff Rolex Watch U.S.A. Inc. commenced an action by filing its Original Complaint on February 2, 2006 in the instant action against Alexander Rozenfeld A/K/A Alexandre Rozenfeld, Victoria Rozenfeld A/K/A Viktoriya Rozenfeld, Individually And D/B/A

Www.Replicamaker.Com, Www.Replicaexpert.Us And RV Venture Capital, Inc.; Unknown Websites 1-10; Various John Does 1-10, And Unknown Entities 1-10.

3. An Amended Complaint was filed on July 27, 2006.

4. All the individual defendants are Russian nationals.

5. At some time after the events complained of in the Complaint began, but prior to the time the defendants could be served with process in this Action, the individual defendants evidently fled to Russia.

6. The non-Unknown Websites, non-John Doe persons and non-Unknown Entity defendants were served by publication in Russia's Pravda and alternative service, including email service to addresses shown by affidavit to still be active utilized by the defendants, pursuant to an Order of this Court dated September 26, 2006. (The served defendants are collectively referred to as "Defendants")

7. Plaintiffs have charged the Defendants with federal trademark plaintiff's claims for trademark counterfeiting, trademark infringement, false designation of origin, tortuous conspiracy and unfair competition are the following under Federal and New Jersey law.

II. PROPOSED FINDINGS OF FACT:

The Rolex Trademarks

8. Rolex is the exclusive distributor and warrantor in the United States of Rolex watches, all of which bear one or more of Rolex's Trademarks described below. Rolex watches are identified by the trade name and trademark ROLEX and one or more of Rolex's trademarks.

9. Rolex is responsible for assembling, finishing, marketing and selling in interstate commerce high quality Rolex watches, watch bracelets and related products for men and women.

10. Rolex owns numerous trademarks, including, but not limited to, the trademarks and trade names ROLEX, PRESIDENT,  CROWN DEVICE (design), DATEJUST, DAY-DATE, GMT-MASTER, YACHT-MASTER, SUBMARINER and DAYTONA (hereinafter collectively referred to as the “Rolex Trademarks”) on and in connection with watches, watch bracelets and related products.

11. Rolex is the owner of the following federal trademark registrations in the U.S. Patent and Trademark Office:

Trademark	Registration No.	Registration Date	Goods
ROLEX	101,819	1/12/55	Watches, clocks, parts of watches and clocks, and their cases.
PRESIDENT	520,309	1/24/50	Wristbands and bracelets for watches made wholly or in part or plated with precious metals, sold separately from watches.
 CROWN DEVICE	657,756	1/28/58	Timepieces of all kinds and parts thereof.
DATEJUST	674,177	2/17/59	Timepieces and parts thereof.
GMT-MASTER	683,249	8/11/59	Watches.
DAY-DATE	831,652	7/4/67	Wristwatches.
OYSTER	239,383	3/6/28	Watches, movements, cases, dials, and other parts of watches.
OYSTER PERPETUAL	1,105,602	11/7/78	Watches and parts thereof.
YACHT-MASTER	1,749,374	1/26/93	Watches.
SUBMARINER	1,782,604	7/20/93	Watches.
ROLEX DAYTONA	1,960,768	3/5/96	Watches.
DAYTONA	2,331,145	3/21/00	Watches.

12. The Rolex Trademarks are arbitrary and fanciful marks that are entitled to the highest level of protection afforded by law.

13. The Rolex Trademarks are associated with Rolex in the minds of consumers, the public and the trade.

14. Rolex and its predecessors have used the Rolex Trademarks for many years on and in connection with Rolex watches and related products.

15. The Rolex Trademarks identify high quality products originating with Rolex.

16. Based upon Rolex's extensive advertising, sales and the wide popularity of Rolex's products, the Rolex Trademarks have acquired secondary meaning so that any product and advertisement bearing such marks is immediately associated by consumers, the public and the trade as being a product and affiliate of Rolex.

17. Rolex has gone to great lengths to protect its name and enforce the Rolex Trademarks.

18. The Rolex Trademarks are in full force and effect and, with the exception of DAY-DATE, have become incontestable pursuant to 15 U.S.C. § 1065.

Defendants' Counterfeiting and Infringing Activities

19. Long after Rolex's adoption and use of the Rolex Trademarks on its products and after Rolex's federal registration of the Rolex Trademarks, defendants began selling, offering for sale, distributing, promoting and advertising watches in interstate commerce bearing counterfeits and infringements of the Rolex Trademarks as those marks appear on Rolex's products and as shown in the Rolex Trademarks.

20. The spurious marks or designations used by defendants in interstate commerce are identical with, or substantially indistinguishable from, the Rolex Trademarks on goods covered by the Rolex Trademarks.

21. Upon information and belief, the Maker Website and the Expert Website have been used to advertise, distribute, promote, offer for sale, and sell watches bearing counterfeits of one or more of the Rolex Trademarks.

22. On or about July 25, 2005, Rolex's counsel discovered that the Registrant information for the Maker Website listed Michael Kavtaskin in Russia and the e-mail address kavtaskin@mail.ru.

23. On August 2, 2005, Rolex's counsel wrote to the Web hosting service for www.replicamaker.com, Add2Net, Inc. – Lunarpages Division, 100 East La Habra Blvd., La Habra, California 90361, concerning the Maker Website, which was offering for sale counterfeit Rolex watches.

24. Rolex's counsel did not receive a response to its August 2, 2005 letter.

25. On August 3, 2005, Rolex's counsel wrote Kavtaskin via e-mail to kavtaskin@mail.ru, informing him of the illegality and potential penalties for the sale of counterfeit Rolex merchandise from the Maker Website.

26. Rolex's counsel did not receive a response to its August 3, 2005 e-mail.

27. On November 7, 2005, Rolex's investigator placed an order for a Rolex Daytona watch on the Maker Website. He received a confirmation email from orders@replicamaker.com indicating that his MasterCard would be charged \$195.00. The confirmation email included the address: RV Venture Capital, Inc. 56 Westbury Drive, Sparta, Sussex, New Jersey, United

States, 07871-2500, Phone: 530-690-8301, Fax: 530-869-7983, Email: support@replicamaker.com.

28. The Maker Website also displayed as a point of contact the address RV Venture Capital, Inc. 56 Westbury Drive, Sparta, New Jersey, Phone: 530-690-8301, Fax: 530-869-7983, Email: support@replicamaker.com.

29. On November 8, 2005, Rolex's investigator received a PayPal confirmation that his \$195.00 had been received by RV Venture Capital, Inc. at email address rvcapital@yahoo.com, with a contact email of ruclub@yahoo.com.

30. On November 15, 2005, Rolex's investigator received an email from orders@replicamaker.com confirming his order and payment. The email was signed Victoria Rozenfeld and included the Sparta, New Jersey address, which public records indicate is registered to Alexander and Victoria Rozenfeld.

31. On November 27, 2005, Rolex's investigator received a package from Russia. The return address on this package was Prok Alexander, St. Acad. Anohina, 38-1-64, Moscow, 119602, Russia, the same address listed under the name Michael Kavtaskin in the Whois information for www.replicamaker.com.

32. Inside the package received on November 27, 2005 was a counterfeit Rolex Daytona Cosmograph ("Counterfeit Watch 1").

33. Counterfeit Watch 1 contains marks, dials, bracelet links, bezels, cases and movements that are not of Rolex origin.

34. On or about November 30, 2005, Rolex's counsel followed an email string on an Internet message board and determined that an individual posted a message indicating that he or

she was operating a website called www.wisecampaign.com in connection with another website, www.replicamaker.com.

35. Rolex's counsel further discovered that the WHOIS information for the website www.wisecampaign.com listed Viktoriya Rozenfeld as the administrative contact and a location of Sparta, New Jersey along with the telephone number 973-726-3535. Public records linked this telephone number to the address "56 Westbury Drive, Sparta, New Jersey 07871-2500, Alexandre Rozenfeld," the same address listed on the Website.

36. Additionally, Rolex's counsel also discovered that the whois information for the website www.wisecampaign.com listed the email address rvcapital@yahoo.com under the name Viktoriya Rozenfeld.

37. On December 7, 2005, eBay.com seller "rvcapital" posted an auction for a counterfeit Rolex Cosmograph Daytona under the title "Roleks Daytona".

38. eBay.com responded to a Personal Information Request for the seller "rvcapital" with the following account information: Viktoriya Rozenfeld, 56 Westbury Drive, Sparta, New Jersey 07871, Telephone: 973-726-3535, Email: rvcapital@yahoo.com.

39. On December 19, 2005, Rolex's counsel wrote to Defendants via e-mail and first class mail to rvcapital@yahoo.com and RV Venture Capital, Inc., 56 Westbury Drive, Sparta, New Jersey 07871, informing them of the illegality and potential penalties for the sale of counterfeit Rolex merchandise from the Website.

40. Plaintiff's counsel did not receive a response to its December 19, 2005 letter.

41. On March 21, 2006, after the initial Complaint in this matter was filed, Rolex's investigator discovered that the Maker website was directing consumers to www.replicaexpert.us.

42. The Expert Website is being used to advertise, distribute, promote, offer for sale, and sell watches bearing counterfeits of one or more of the Rolex Trademarks.

43. On March 21, 2006, Rolex's investigator contacted Add2Net, Inc. – Lunarpages Division, 100 East La Habra Blvd., La Habra, CA 90361, the web host for the Expert Website. The web host provided the following contact information for the Expert Website: Victoria Rozenfeld, 56 Westbury Drive, Sparta, New Jersey. The representative for the web host would not provide a telephone number for the account, but did provide rvcapital@yahoo.com as the e-mail address.

44. On April 9, 2006, Rolex's investigator placed an order for a Rolex GMT Master II watch ("Counterfeit Watch 2") from the Expert Website.

45. After placing his order, a confirmation e-mail was sent from orders@replicaexpert.us. The e-mail included the telephone number 530-690-8301 and fax number 530-869-7983, the same contact numbers listed on the Maker Website.

46. Counterfeit Watch 2 was received on April 24, 2006, with the return address listed as Arutjan, 87 Phadeera, 4-14, Moscow, Russia 125047.

47. Counterfeit Watch 2 bears various counterfeit Rolex Trademarks.

48. Counterfeit Watch 2 contains marks, dials, bracelet links, bezels, cases and movements that are not of Rolex origin.

49. Rolex's investigator confirmed that RV Venture Capital, Inc. charged \$429.00 to his PayPal account as payment for Counterfeit Watch 2.

50. The acts of defendants are calculated to confuse and to deceive the public and are performed with full knowledge of Rolex's rights.

51. Defendants are not now, nor have they ever been, associated, affiliated or connected with, or endorsed or sanctioned by Rolex.

52. Rolex has never authorized or consented in any way to the use by defendants of the Rolex Registered Trademarks or copies thereof.

53. The use by defendants of the Rolex Trademarks or copies thereof on defendants' products is likely to cause consumers, the public and the trade to believe erroneously that the goods sold by defendants emanate or originate from Rolex, or that said items are authorized, sponsored, or approved by Rolex, even though they are not.

54. This confusion causes irreparable harm to Rolex and weakens the distinctive quality of the Rolex Trademarks.

55. By using counterfeits and infringements of the Rolex Trademarks on defendants' goods, defendants are trading on the goodwill and reputation of Rolex and creating the false impression that defendants' goods are Rolex's legitimate products.

56. Defendants have been unjustly enriched by illegally using and misappropriating Rolex's intellectual property for defendants' own financial gain.

57. Furthermore, defendants have unfairly benefited and profited from Rolex's outstanding reputation for high quality products and its significant advertising and promotion of Rolex watches and the Rolex Trademarks.

58. Defendants have disparaged Rolex, its Rolex Trademarks and its Rolex watch products by creating a false association with Rolex, its genuine goods and its Rolex Trademarks.

59. Defendants have misappropriated Rolex's advertising ideas and style of doing business with regard to the advertisement, promotion, distribution and sale of Rolex's genuine products.

60. Rolex has had no control over the nature and quality of the products sold by defendants bearing counterfeits and infringements of the Rolex Trademarks.

61. Among other things, defendants' distribution, sale, offers of sale, promotion and advertisement of its products has reflected adversely on Rolex as the believed source of origin thereof, hampered continuing efforts by Rolex to protect its outstanding reputation for high quality, originality and distinctive goods, and tarnished the goodwill and demand for genuine Rolex watches and products and, upon information and belief, will continue to do so.

62. Upon information and belief, defendants have acted with reckless disregard for Rolex's rights or were willfully blind in connection with their unlawful activities.

63. Upon information and belief, defendants have willfully and maliciously engaged in their counterfeiting and infringing activities.

64. As a result of the foregoing, this case constitutes an exceptional case as defined by 15 U.S.C. § 1117(a).

65. As a result of the foregoing, this case constitutes a case of intentional counterfeiting as defined by 15 U.S.C. § 1117(b).

66. Rolex has suffered irreparable harm and damages as a result of the acts of defendants in an amount that cannot be determined because of the lack of cooperation by defendants and the absence of discovery or independently-verifiable data as to defendants' sales.

67. The injuries and damages sustained by Rolex have been directly and proximately caused by defendants' wrongful advertisement, promotion, distribution, sale and offers of sale of their goods bearing infringements or counterfeits of the Rolex Trademarks.

III. PROPOSED CONCLUSIONS OF LAW

A. Jurisdiction and Venue

1. Defendants are subject to the jurisdiction of this Court because they were all domiciled in and conducted substantial business within this District.

2. This Court has subject matter jurisdiction over the claims in this action which relate to trademark counterfeiting and infringement and false designations of origin, false descriptions and cybersquatting (cyberpiracy) pursuant to the provisions of 15 U.S.C. §§ 1121 and 1125(d)(1)(A) and 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has supplemental jurisdiction over the claims in this Complaint which arise under the statutory and common law of the State of New Jersey pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative fact.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

B. Plaintiff's Trademarks

1. The Rolex Trademarks have become incontestable pursuant to 15 U.S.C. § 1065.

C. Defendant's violations of Federal and New Jersey Law

1. Defendants have used spurious designations that are identical with, or substantially indistinguishable from, the Rolex Trademarks on goods covered by registrations for the Rolex Trademarks.

2. Defendants have used these spurious designations knowing they are counterfeit in connection with the advertisement, promotion, sale, offering for sale and distribution of goods.

3. Defendants' use of the Rolex Trademarks to advertise, promote, offer for sale, distribute and sell defendants' watches was and is without the consent of Rolex.

4. Defendants' unauthorized use of the Rolex Trademarks on and in connection with defendants' advertisement, promotion, sale, offering for sale and distribution of watches through the World Wide Web constitute defendants' use of the Rolex Trademarks in commerce.

5. Defendants' unauthorized use of the Rolex Trademarks as set forth above has been and is likely to: (a) cause confusion, mistake and deception; (b) cause the public to believe that defendants' watches are the same as Rolex's watches or that defendants are authorized, sponsored or approved by Rolex or that defendants are affiliated, connected or associated with or in some way related to Rolex; and (c) result in defendants unfairly benefiting from Rolex's advertising and promotion and profiting from the reputation of Rolex and its Rolex Trademarks all to the substantial and irreparable injury of the public, Rolex and Plaintiff's Rolex Trademarks and the substantial goodwill represented thereby.

6. Defendants' acts as aforesaid constitute trademark counterfeiting in violation of Section 32 of the Lanham Act, 15 U.S.C. §1114.

7. Defendants' acts are both willful and malicious.

8. Based on Rolex's extensive advertising under the Rolex Trademarks, its extensive sales and the wide popularity of Rolex Watches, the Rolex Trademarks have acquired a secondary meaning so that any product and advertisement bearing such trademarks is immediately associated by purchasers and the public as being a product and affiliate of Rolex.

9. Defendants' activities constitute defendants' use in commerce of the Rolex Trademarks. Defendants use of the Rolex Trademarks in connection with defendants' sale, offers

of sale, distribution, promotion and advertisement of their goods bearing infringements or counterfeits of the Rolex Trademarks.

10. Defendants have used the Rolex Trademarks, knowing they are the exclusive property of Rolex, in connection with defendants' sale, offers for sale, distribution, promotion and advertisement of their goods.

11. Defendants' activities have created and do create the false and misleading impression that defendants are sanctioned, assigned or authorized by Rolex to use the Rolex Trademarks to advertise, manufacture, distribute, appraise, offer for sale or sell watches bearing the Rolex Trademarks when defendants are not so authorized.

12. Defendants have engaged and do engage in the aforementioned activity with the intent to confuse and deceive the public into believing that defendants and the watches they sell are in some way sponsored, affiliated or associated with Rolex, when in fact they are not.

13. Defendants' use of one or more of the Rolex Trademarks has been without the consent of Rolex, is likely to cause confusion and mistake in the minds of the public and, in particular, tends to and does falsely create the impression that the goods advertised, promoted, distributed and sold by defendants are warranted, authorized, sponsored or approved by Rolex when, in fact, it is not.

14. Defendants' unauthorized use of the Rolex Trademarks has resulted in defendants unfairly benefiting from Rolex's advertising and promotion, and profiting from the reputation of Rolex and the Rolex Trademarks, to the substantial and irreparable injury of the public, Rolex and the Rolex Trademarks and the substantial goodwill represented thereby.

15. Defendants' acts constitute willful trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. §1114.

16. In connection with defendants' advertisement, promotion, distribution, sales and offers of sales of their goods, defendants have used in commerce, and continue to use in commerce, the Rolex Trademarks.

17. In connection with defendants' advertisement, promotion, distribution, sales and offers of sales of their goods, defendants have affixed, applied and used false designations of origin and false and misleading descriptions and representations, including the Rolex Trademarks, which tend falsely to describe the origin, sponsorship, association or approval by Rolex of the goods defendants sell.

18. Defendants have used one or more of the Rolex Trademarks with full knowledge of the falsity of such designations of origin, descriptions and representations, all to the detriment of Rolex.

19. Defendants' use of the Rolex Trademarks on the Maker and Expert Websites and on defendants' goods constitutes false descriptions and representations tending falsely to describe or represent defendants and defendants' products as being authorized, sponsored, affiliated or associated with Rolex.

20. Defendants have used one or more of the Rolex Trademarks on the Maker and Expert Websites and goods with the express intent to cause confusion and mistake, to deceive and mislead the public, to trade upon the reputation of Rolex and improperly to appropriate to themselves the valuable trademark rights of Rolex.

21. Defendants' acts constitute the use in commerce of false designations of origin and false or misleading descriptions or representations, tending to falsely or misleadingly describe or represent defendants' products as those of Rolex in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

22. Defendants deliberately and intentionally used without Rolex's consent copies and colorable imitations of the Rolex Trademarks in connection with the sale and advertisement of watches within the State of New Jersey, with the intention to deceive, or to assist in deceiving the public as to the source, sponsorship and origin of the watches or with the intention to defraud, or to assist defrauding Rolex, constituting trafficking or attempting to traffic in counterfeit marks in violation of N.J.S.A. 56:3-13.16.

23. Defendants' actions as alleged herein have caused and will continue to cause irreparable damage and injury to Rolex.

24. The actions of defendants as alleged above were done deliberately and intentionally.

25. The actions of defendants as alleged above created the likelihood of confusion and actual confusion by misleading the public as to the source, sponsorship, association or affiliation of the watches they sold, in violation of the common law of unfair competition of the State of New Jersey.

26. The actions of defendants as alleged above constitute misappropriation of the goodwill of Rolex and unfair competition, in violation of the common law of unfair competition of the State of New Jersey.

27. The actions of defendants as alleged above were committed with the intention of passing off or palming off their products as if such products were those of Rolex, with the intent to deceive and defraud the public, in violation of the common law of unfair competition of the State of New Jersey.

28. Defendants' actions as alleged herein have caused and will continue to cause irreparable damage and injury to Rolex if not enjoined by this Court.

29. The actions of defendants as alleged above were done deliberately and intentionally.

30. The actions of defendants as alleged above were a real agreement or confederation with a common design to perpetrate one or more torts for an unlawful purpose or by an unlawful means.

31. Each and every defendant is equally and vicariously liable to Rolex for its damages proximately caused thereby.

D. Statutory Damages

1. Plaintiff is Entitled To The Maximum In Statutory Damages

a. Pursuant to the Lanham Act, the term counterfeit mark means

- i. A counterfeit of a mark that is registered on the Principal Register in the United States Patent and Trademark Office for such goods or services sold, offered for sale, or distributed and that is in use, whether or not the person against whom relief is sought knew such mark was so registered; or
- ii. a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of this Act are made available by reason of section 110 of the Act entitled “An Act to incorporate the United States Olympic Association

15 U.S.C. § 1116(d)(B)(i) and (ii).

b. The statutory damages provision of the Trademark Act states:

In a case involving the use of a counterfeit mark (as defined in § 34(d), 15 U.S.C. § 1116(d)) in connection with the sale, offering for sale, or distribution of goods or services, the Plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits under

subsection (a) an award of statutory damages for any such use in connection with the sale, offering for sale or distribution of goods or services in the amount of

a. not less than \$500 or more than \$100,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed as the court considers just; or

b. If the court finds that the use of the counterfeit mark was willful, not more than \$1,000,000 per counterfeit mark per type of goods or

services sold, offered for sale, or distributed, as the court considers just.

15 U.S.C. § 1117(c).

c. In amending § 1117 of the Trademark Act to provide for recovery of statutory damages, Congress recognized that “a civil litigant may not be able to prove actual damages if a sophisticated, large-scale counterfeiter has hidden or destroyed information about his counterfeiting.” (S. Rep. No. 177, 104th Cong. 1995).

d. It is often the case that counterfeiters’ records are frequently non-existent, inadequate or deceptively kept in order to willfully deflate the level of counterfeiting activity actually engaged in, making proving actual damages in these cases extremely difficult if not impossible. *Id.*

e. Courts have recognized deterrence of the particular defendant and deterrence of others as proper objectives of a statutory damages award. *See Rolex Malletier and Oakley, Inc. v. Veit*, 211 F. Supp. 2d 567, 583 (“The purpose of the Trademark Act is to take the incentive out of counterfeiting and strengthen the civil remedies against counterfeiters”); *Fitzgerald Pub. Co. v. Baylor Pub. Co.*, 807 F.2d 1110, 1117 (2nd Cir. 1986)(“Awards of

statutory damages serve two purposes – compensatory and punitive”); *Dive N’ Surf, Inc. v. Anselowitz*, 834 F. Supp. 379 (M.D. Fla. 1993).

f. The applicable section of the amended Lanham Act requires the plaintiff to prove a defendant’s willfulness in order to recover the maximum in statutory damages. See, 15 U.S.C. § 1117(c).

g. Willfulness can be inferred by the fact that a defendant continued infringing behavior after being given notice. *Rolex*, 211 F. Supp. 2d at 583; *Choice Hotels, Inc. v. Pennave Assoc.*, 159 F.Supp.2d 780, 786 (E.D. Pa. 2001); *Video Views, Inc. v. Studio 21*, 925 F.2d 1010, 1021 (7th Cir. 1991) (“evidence that notice had been afforded to the alleged infringer before the specific act found to have constituted infringement occurred is perhaps the most persuasive evidence of willfulness... “); *Wildlife Express Corp. v. Carol Wright Sales, Inc.*, 18 F.3d 502 (7th Cir. 1994); *International Korwin Corp. v. Kowalczyk*, 855 F.2d 375, 381 (7th Cir. 1988) (willfulness may be demonstrated where the infringer is provided notice of its infringing conduct). A letter informing the defendant of possible infringement “clearly provides notice.” *Chi-Boy Music v. Charlie Club, Inc.*, 930 F.2d 1224, 1227 (7th Cir. 1991). Additionally, infringement after a cease and desist letter is “more blameworthy”. *Rolex*, 211 F. Supp. 2d at 583.

h. The purpose of § 1117 is to take the incentive out of counterfeiting and strengthen the civil remedies available against counterfeiters. S. Rep. No. 177, 104 Cong. (1995).

iv. The Defendants have willfully infringed upon and counterfeited twelve (12) of Plaintiffs’ registered Trademarks despite receiving cease and desist communications, as well as notice of the proceedings in this action, including the entry of default

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