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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

LESLIE T. GIBLIN and LES GIBLIN
BOOKS, INC.,

Plaintiffs,

Vs.

DEXTER YAGER, DOYLE YAGER
and INTERNET SERVICES
CORPORATION,

Defendants.

Civil Action No.: 0 03 1349 17

COMPLAINT

JURY TRIAL DEMANDED

Nature of Action

1. Plaintiffs Leslie T. Giblin and Les Giblin Books, Inc. ("Giblin Books") seek injunctive relief and damages for copyright infringement and trademark infringement under the laws of the United States.

Parties

- 2. Mr. Giblin is a resident of New Jersey.
- 3. Giblin Books is a Florida corporation with its principal place of business in Florida.
- 4. Defendant Dexter Yager maintains residences in North Carolina and Florida.
- 5. Defendant Doyle Yager is a resident of South Carolina.
- 6. Defendant InterNET Services Corporation ("InterNET") is a North Carolina corporation with its principal place of business in South Carolina.

Jurisdiction and Venue

7. This action arises under the Copyright Act of 1976 (17 U.S.C. § 101 et seq.) and Section 43 of the Lanham Act (15 U.S.C. § 1125(a)).

8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338.

9. The venue of this action is properly laid in the District of South Carolina pursuant to 28 U.S.C. § 1391(b) and 1400(a).

10. This Court has personal jurisdiction over the Defendants, who have minimum contacts with this State and District by conducting business and committing torts here.

Allegations Common To All Claims For Relief

11. Mr. Giblin is the author and copyright holder of the book Skill With People.

12. Mr. Giblin registered his copyright in Skill With People with the United States Copyright Office originally in 1968.

13. The registration number for Mr. Giblin's copyright is TX-4-157-453.

14. Mr. Giblin's copyright in Skill With People is still valid and has not been assigned or transferred.

15. Giblin Books is the exclusive licensee of Mr. Giblin and has the right to sublicense the reproduction and translation rights to Skill With People to third parties.

16. Over 2,000,000 copies of Skill With People have been sold since its first printing in 1968.

17. Skill With People has been published in numerous foreign languages, including Spanish.

18. The Spanish version of Skill With People was first published on or about January 1, 1972.

19. Mr. Giblin has filed for renewal through Form RE and the Addendum to Form RE for the copyright in the Spanish version of Skill With People.

20. InterNET is part of a popular multilevel marketing business network.
21. InterNET actively markets, distributes and sells Skill With People to its members and uses the sale of Skill With People as an income-generating tool for its multilevel marketing network and the members of its downline and the downline of InterNET's founder.
22. Dexter Yager is the founder of InterNET.
23. Doyle Yager is the son of Dexter Yager and is a current Officer of InterNET.
24. Doyle Yager has previously held the position of Chief Executive Officer of InterNET and is the only shareholder listed in InterNET's original Articles of Incorporation.
25. Dexter Yager, with his son Doyle Yager, wrote Basic People Skills – Everyday Skills For Success (the "Infringing Book").
26. The Infringing Book lists a copyright of 2002 by Dexter R. Yager, Sr.
27. The United States Copyright Office has no record of either an application for, or registration of, a copyright for the Infringing Book.
28. InterNET publishes the Infringing Book.
29. Dexter, Doyle and/or InterNET have translated the Infringing Book into Spanish.
30. InterNET also publishes the Spanish language version of the Infringing Book.
31. The Spanish language version of the Infringing Book lists a copyright of 2002 by Dexter R. Yager, Sr.
32. The United States Copyright Office has no record of either an application for, or registration of, a copyright for the Spanish language version of the Infringing Book.
33. InterNET boasts that its 400,000 square foot facility in Fort Mill, South Carolina has extensive production and duplication facilities.

34. The Infringing Book is an income-generating tool that Dexter Yager and Doyle Yager wrote and InterNET published to replace Skill With People.

35. The Infringing Book directly copies and paraphrases the content and format of, and the expression of the ideas behind, Skill With People.

36. A comparison of The Tables of Contents for Skill With People and the Infringing Book demonstrate the substantial similarity (and outright copying by Dexter Yager, Doyle Yager and InterNET) between Skill With People and the Infringing Book.

37. Chapter 1 of Skill With People is titled “Understanding People and Human Nature.”

38. The Introduction to the Infringing Book is titled “Understanding People.”

39. Chapter 2 of Skill With People is titled “How to Skillfully Talk to People.”

40. Chapter 1 of the Infringing Book is titled “Talking to People – Skillfully.”

41. Chapter 3 of Skill With People is titled “How to Skillfully Make People Feel Important.”

42. Chapter 5 of the Infringing Book is titled “Making People Feel Valuable.”

43. Chapter 4 of Skill With People is titled “How to Skillfully Agree with People.”

44. Chapter 6 of the Infringing Book is titled “Agreeing with People.”

45. Chapter 5 of Skill With People is titled “How to Skillfully Listen to People.”

46. Chapter 7 of the Infringing Book is titled “Listening to People.”

47. Chapter 6 of Skill With People is titled “How to Skillfully Influence People.”

48. Chapter 8 of the Infringing Book is titled “Persuading People.”

49. Chapter 7 of Skill With People is titled “How to Skillfully Convince People.”

50. Chapter 9 of the Infringing Book is titled “Gaining Credibility With People.”

51. Chapter 8 of Skill With People is titled “How to Skillfully Make Up Peoples’ Minds.”
52. Chapter 10 of the Infringing Book is titled “Helping People Decide.”
53. Chapter 9 of Skill With People is titled “How to Skillfully Set Peoples’ Moods.”
54. Chapter 11 of the Infringing Book is titled “Setting the Mood for People.”
55. Chapter 10 of Skill With People is titled “How to Skillfully Praise People.”
56. Chapter 12 of the Infringing Book is titled “Praising People is Empowering.”
57. Chapter 11 of Skill With People is titled “How to Skillfully Critique People.”
58. Chapter 13 of the Infringing Book is titled “Empowering People Through Feedback.”
59. Chapter 12 of Skill With People is titled “How to Skillfully Thank People.”
60. Chapter 14 of the Infringing Book is titled “Learning to Thank People is Crucial.”
61. Chapter 13 of Skill With People is titled “How to Skillfully Make A Good Impression.”
62. Chapter 15 of the Infringing Book is titled “Good Posture Makes a Good Impression.”
63. Chapter 14 of Skill With People is titled “How to Skillfully Make A Talk.”
64. Chapter 16 of the Infringing Book is titled “Making a Presentation – Skillfully.”
65. Chapter 15 of Skill With People is titled “Some Final Thoughts For You.”
66. Chapter 17 of the Infringing Book is titled “How to Use This Information.”

COUNT I

FEDERAL COPYRIGHT INFRINGEMENT

67. Mr. Giblin and Giblin Books incorporate by reference the allegations contained in Paragraphs 1 through 66 above, as if fully set forth herein.

68. This Count arises under the Copyright Act of 1976, Title 17 United States Code § 101 et seq.

69. Skill With People is a wholly original work by Mr. Giblin, and constitutes copyrightable subject matter under the Copyright Act, 17 U.S.C. § 101 et seq.

70. Mr. Giblin has complied in all respects with the laws covering copyright and has secured the exclusive rights and privileges in and to the copyright to Skill With People.

71. Defendants have infringed and threaten to further infringe Mr. Giblin's copyright in Skill With People by reproducing, distributing and selling the Infringing Book in this District and throughout the United States.

72. Defendants willfully infringed Mr. Giblin's copyright in Skill With People.

73. Defendants knew that the Infringing Book constituted infringement of Skill With People and/or showed reckless disregard for Mr. Giblin's rights in creating and publishing the Infringing Book.

74. Mr. Giblin and Giblin Books have no adequate remedy at law and are suffering irreparable harm and damage as a result of the aforesaid acts of Defendants in an amount not yet determined or ascertainable.

75. Upon information and belief, Defendants have obtained gains, profits and advantages as a result of their wrongful acts in an amount not yet determined.

76. Mr. Giblin and Giblin Books are therefore entitled to:

- (a) A preliminary and permanent injunction preventing the further reproduction and distribution of the Infringing Book;
- (b) The recall of all copies of the Infringing Book;
- (c) The impoundment of all copies of the Infringing Book in their possession, custody or control; and
- (d) All profits received by Defendants from the sale of the Infringing Book;
- (e) All consequential damages suffered by Mr. Giblin, Giblin Books and their licensees; or
- (f) Statutory damages for willful infringement in the amount of \$150,000; and
- (g) Their expenses of litigation, including reasonable attorneys' fees.

COUNT II

FEDERAL COPYRIGHT INFRINGEMENT

77. Mr. Giblin and Giblin Books incorporate by reference the allegations contained in Paragraphs 1 through 76 above, as if fully set forth herein.

78. This Count arises under the Copyright Act of 1976, Title 17 United States Code § 101 et seq.

79. Skill With People is a wholly original work by Mr. Giblin, and constitutes copyrightable subject matter under the Copyright Act, 17 U.S.C. § 101 et seq.

80. Mr. Giblin has complied in all respects with the laws covering copyright and has secured the exclusive rights and privileges in and to the copyright to Skill With People.

81. Defendants have infringed and threaten to further infringe Mr. Giblin's copyright in Skill With People by reproducing, distributing and selling foreign language versions, including a Spanish language version and a French Canadian version, of the Infringing Book in this District and throughout the United States.

82. Defendants willfully infringed Mr. Giblin's copyright in Skill With People.

83. Defendants knew that foreign language versions, including the Spanish language version and the French Canadian version, of the Infringing Book constituted infringement of Skill With People and/or showed reckless disregard for Mr. Giblin's rights in creating and publishing foreign language versions, including the Spanish language version and the French Canadian version, of the Infringing Book.

84. Mr. Giblin and Giblin Books have no adequate remedy at law and are suffering irreparable harm and damage as a result of the aforesaid acts of Defendants in an amount not yet determined or ascertainable.

85. Upon information and belief, Defendants have obtained gains, profits and advantages as a result of their wrongful acts in an amount not yet determined.

86. Mr. Giblin and Giblin Books are therefore entitled to the following:

(a) A preliminary and permanent injunction preventing the further reproduction and distribution of any and all foreign language versions, including the Spanish language version, of the Infringing Book;

(b) The recall of all copies of any and all foreign language versions, including the Spanish language version and the French Canadian version, of the Infringing Book;

(c) The impoundment of all copies of any and all foreign language versions, including the Spanish language version and the French Canadian version, of the Infringing Book in their possession, custody or control; and

(d) All profits received by Defendants from the sale of any and all foreign language versions, including the Spanish language version and the French Canadian version, of the Infringing Book;

(e) All consequential damages suffered by Mr. Giblin, Giblin Books and their licensees; or

(f) A separate award of statutory damages of \$150,000 for each willful infringement, including a separate award for every language in which the Infringing Book has been published; and

(g) Their expenses of litigation, including reasonable attorneys' fees.

COUNT III

UNFAIR COMPETITION UNDER § 43 OF THE LANHAM ACT

87. Mr. Giblin and Giblin Books incorporate by reference the allegations contained in Paragraphs 1 through 86 above, as if fully set forth herein.

88. This is an action for false designation of origin under § 43 of The Lanham Act (15 U.S.C. § 1125(a)).

89. The Infringing Book is a copy of Skill With People with minimal changes intended to disguise the copying.

90. The Defendants misattributed the authorship of the Infringing Book to Dexter and Doyle Yager.

91. The Defendants have reproduced Skill With People as the Infringing Book with a false representation as to the creator of the Infringing Book by failing to credit Mr. Giblin as the original creator.

92. The Defendants affixed a false designation of origin to the Infringing Book and any and all foreign language versions of the Infringing Book.

93. The Defendants used the false designation of origin in commerce.

94. The Defendants' false designation of origin is likely to cause consumer confusion.

95. Mr. Giblin and Giblin Books have been and are being damaged by the Defendants' false designation of origin.

96. The Defendants' false designation of origin constitutes a violation of the Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), entitling Mr. Giblin and Giblin Books to the following:

(a) An assessment of three times the Defendants' profits from the Infringing Book and any and all foreign language versions of the Infringing Book;

(b) An assessment of three times the damages sustained by Mr. Giblin and Giblin Books;

(c) The costs of this action;

(d) An award of Mr. Giblin and Giblin Books' reasonable attorneys' fees; and

(e) The destruction of the Infringing Book, and any and all translations of the Infringing Book.

WHEREFORE Plaintiffs Leslie T. Giblin and Les Giblin Books, Inc. respectfully pray for the following relief:

A. An Order preliminarily and permanently enjoining and restraining Defendants and those in active concert or participation with them from further infringing Plaintiff's copyright or manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, displaying or otherwise disposing of the Infringing Book;

B. Directing that Defendants recall all copies of the Infringing Book distributed throughout the United States and the World pursuant to 17 U.S.C. § 503.

C. Directing that all copies of the Infringing Book and all plates, matrices, masters, tapes, film negatives or other articles by means of which the Infringing Book may be reproduced be impounded pursuant to 17 U.S.C. § 504(b) and 15 U.S.C. § 1118.

D. Directing that an accounting and judgment be rendered against Defendants for:

1. All profits received by Defendants from the sale of the Infringing Book, including all foreign language versions of the Infringing Book, as provided for by 17 U.S.C. § 504(b);
2. All damages suffered by Plaintiffs or their licensees as a result of Defendants' copyright infringement, as provided for by 17 U.S.C. § 504(b); or
3. A separate award of statutory damages against Defendants of \$150,000 for each willful infringement of Skill With People, as provided for in 17 U.S.C. § 504(c)(2), if such amounts are greater than the amounts of items (1) and (2) above; and
4. All of Defendants' profits derived from the publication and sale of the Infringing Book, including all foreign language versions of the Infringing Book, pursuant to 15 U.S.C. 1117(a);

5. All damages suffered by Giblin and Giblin Books as a result of Defendants' publication and sale of the Infringing Book, including all foreign language versions of the Infringing Book, pursuant to 15 U.S.C. 1117(a); and
6. The trebling of Defendants' profits and Giblin and Giblin Books' damages pursuant to 15 U.S.C. 1117(a).

E. Ordering that Plaintiffs recover the costs of this action together with reasonable attorneys' fees and investigators' fees and prejudgment interest in accordance with 17 U.S.C. § 505 and 15 U.S.C. §1117(a).

F. The destruction of the Infringing Book and all foreign language versions of the Infringing Book pursuant to 15 U.S.C. § 1118.

G. Directing that the Court retain jurisdiction of this action for the purpose of enabling Plaintiffs to apply to the Court any time for such further orders and directions as may be necessary or appropriate for the interpretation or execution of any order entered in this action, for the modification of any such order, for the enforcement or compliance therewith and for the punishment of any violations thereof.


H. Awarding to Plaintiffs such other and further relief as the Court may deem just and proper, together with the costs and disbursements that Plaintiffs have incurred with this action.

TRIAL BY JURY

Plaintiffs request a trial by jury on all issues so triable.

Respectfully submitted,

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