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8 **UNITED STATES DISTRICT COURT**  
 9 **SOUTHERN DISTRICT OF CALIFORNIA**

11 PACIFIC LAW CENTER, a Professional Law  
 Corporation; and SOLOMON WARD  
 12 SEIDENWURM & SMITH, LLP,

13 Plaintiffs,

14 v.

15 SHAHROKH SAADAT-NEJAD, an  
 individual,

16 Defendant.  
 17

CASE NO. 07-CV-00460 JLS (POR)

**PACIFIC LAW CENTER AND  
 SOLOMON WARD'S MEMORANDUM  
 IN SUPPORT OF THEIR MOTION FOR  
 PERMANENT INJUNCTION**

Date: March 28, 2008  
 Time: 10:30 a.m.  
 Ctrm: 6, Third Floor

Hon. Janis L. Sammartino

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 25  
 26  
 27  
 28

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PAGE(S)**

I PREAMBLE..... 1

The Beginning. .... 1

The Attacks. .... 1

This Action..... 1

II THIS COURT’S EARLIER FINDINGS ..... 2

The Temporary Restraining Order. .... 2

    The Order. .... 2

    The Findings..... 2

The Preliminary Injunction. .... 4

    Pacific Law Center. .... 4

    Solomon Ward..... 5

Saadat-Nejad Retains and then Fires Pacific Law Center..... 5

Saadat-Nejad Misappropriates Pacific Law Center’s Domain Name. .... 6

Saadat-Nejad Misappropriates Solomon Ward’s Domain Names. .... 7

The Evidence of Saadat-Nejad’s Misappropriation. .... 8

III THE 1999 ANTI-CYBERSQUATTING AND CONSUMER PROTECTION ACT GIVES THIS COURT THE POWER PERMANENTLY TO ENJOIN SAADAT-NEJAD’S MISAPPROPRIATION OF PACIFIC LAW CENTER AND SOLOMON WARD’S SERVICE MARKS, TRADE NAMES AND DOMAIN NAMES ..... 8

Cybersquatting Factors..... 8

Ninth Circuit Standard. .... 9

No Commercial Use Requirement. .... 10

This Court’s Prior Findings..... 11

IV PACIFIC LAW CENTER AND SOLOMON WARD ARE ENTITLED TO A PERMANENT INJUNCTION..... 11

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

The Anti-Cybersquatting and Consumer Protection Act Provides For Permanent Injunctive Relief..... 11

V SAADAT-NEJAD’S CONDUCT VIOLATES OTHER PROVISION OF THE LANHAM ACT AS WELL ..... 12

Trade Name Infringement. .... 12

Trade Name Infringement/Dilution..... 13

Trademark Infringement. .... 13

False Designation of Origin. .... 14

VI SAADAT-NEJAD’S CONDUCT ALSO VIOLATES CALIFORNIA LAW ..... 15

California Unfair Trade Practice Act. .... 15

Unauthorized Use of Name. .... 15

VII CONCLUSION ..... 15

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PAGE(S)**

**CASES**

*Bellagio v. Denhammer, et al.*,  
2001 U.S. LEXIS 24764 (D. Nev. 2001) ..... 12

*Bosley Medical Institute, Inc. v. Kremer*,  
403 F.3d 672 (9<sup>th</sup> Cir. 2005)..... 10, 11

*Daimler Chrysler v. The Net Inc.*,  
388 F.3d 201 (6<sup>th</sup> Cir. 2004)..... 10

*E.&J. Gallo Winery v. Spider Webs, Ltd., et al.*,  
286 F.3d 270 (5<sup>th</sup> Cir. 2002)..... 12

*Earth Island Institute v. United States Forrest Service*,  
351 F.3d 1291 (9<sup>th</sup> Cir. 2003)..... 10

*Earth Island v. United States Forest Service*,  
442 F.3d 1147 (9<sup>th</sup> Cir. 2006)..... 10

*Flow Control Industries, Inc. v. Amhi, Inc.*,  
278 F.Supp.2d 1193 (W.D. Wash. 2003) ..... 12

*Ford Motor Company v. Catalanatte*,  
342 F.3d 543 (6<sup>th</sup> Cir. 2003)..... 10

*Mattel, Inc. v. Internet Dimensions, Inc.*,  
55 USPQ2d 1620 (S.D. NY 2000) ..... 8

*Phillip Morris USA, Inc. v. Marlborough Express, Tobacco Traders and Trust, et al.*,  
2005 U.S. Dist. LEXIS 4359 (E.D. NY 2005) ..... 12

*Qwest Communications International v. Sonny Corporation*,  
2006 U.S. Dist. LEXIS 87007 (W.D. Wash. 2006) ..... 12

*Seattle Laptop Incorporated v. A-1 Best Computer, Inc.*,  
2006 U.S. Dist. LEXIS 13013 (W.D. Wash. 2006) ..... 12

*Sporty’s Farm, LLC v. Sportman’s Market, Inc.*,  
202 F.3d 489 (2d Cir. 2000)..... 8

*The Christensen Firm v. Chameleon Data Corp.*,  
2006 US. Dist. LEXIS 79710 (W.D. Wash. 2006) ..... 10

**STATUTES**

15 U.S.C. §1125(a)..... 14

15 U.S.C. §1125(d) ..... 3, 8, 9, 11

1 Business & Professions Code § 17200..... 15  
2 Civil Code § 3344 ..... 15  
3 Federal Rule of Evidence 201 ..... 1, 10

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
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17  
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**I  
PREAMBLE**

This case only underscores the maxim “no good deed goes unpunished.”

**The Beginning.**

Saadat-Nejad hired Pacific Law Center, at the very last minute, to represent him in a criminal matter. Pacific Law Center immediately jumped in. He then fired Pacific Law Center—as was his right. Pacific Law Center refunded all the money Saadat-Nejad’s family had advanced, even though it had obviously earned some, if not all of, that retainer.<sup>1</sup>

**The Attacks.**

Saadat-Nejad then stole Pacific Law Center’s domain name and used it viciously to attack his former lawyers. So, Pacific Law Center hired Solomon Ward to represent it in a superior court action Pacific Law Center had filed against Saadat-Nejad. After Solomon Ward obtained a restraining order against him, he then stole Solomon Ward’s domain name as well and launched a vicious, anti-Semitic attack on Solomon Ward.<sup>2</sup>

**This Action.**

So, Pacific Law Center and Solomon Ward sued Saadat-Nejad in this Court based on, *inter alia*, the Anti-Cybersquatting provisions of the Lanham Act.<sup>3</sup>

This Court granted Pacific Law Center and Solomon Ward’s motion for a temporary restraining order and, thereafter, a preliminary injunction. At each hearing, the Court conducted a patient and extended colloquy with Saadat-Nejad informing him what he could and could not do.

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<sup>1</sup> Declaration of Edward J. McIntyre, ¶ 7.

<sup>2</sup> Pacific Law Center and Solomon Ward have already put examples pulled from websites Saadat-Nejad controls before this Court at earlier proceedings. They respectfully refer the Court to the declarations and exhibits previously filed and, pursuant to Federal Rule of Evidence 201, take judicial notice of the Court’s files. For example, McIntyre Declaration, with Exhibits (Docket No. 3); Slattery Declaration, with Exhibits (Docket No. 3); Phillips Declaration, with Exhibits (Docket No. 18); Supplemental Memorandum, with Exhibits (Docket No. 18); McIntyre Declaration (Docket No. 36); McIntyre Declaration (Docket No. 39); Exhibits in Notice of Lodgment, and specifically Exhibits 5 through 11 (Docket No. 39); McIntyre Declaration (Docket No. 48). The transcripts of the March 29, 2007 and April 26, 2007 hearings are at Docket No. 39, Exhibits 2 and 4.

<sup>3</sup> Before imposing on this Court, however, Pacific Law Center and Solomon Ward attempted to see if resolution was possible. They met with Saadat-Nejad for four hours on Friday, March 15; he showed up at Solomon Ward’s offices with a baseball bat and tape recorder.

1 As a result, Saadat-Nejad attacked Judge Burns personally, accusing him, among other lies, of  
2 being in Solomon Ward’s pocket.<sup>4</sup>

3 The temporary restraining order, however, did not stop Saadat-Nejad; neither did the  
4 preliminary injunction. Nor did this Court’s colloquies that warned Saadat-Nejad not to “get chalk  
5 on his shoes,” or he would go to jail.<sup>5</sup> Accordingly, the Court found Saadat-Nejad in contempt  
6 and incarcerated him for almost two weeks.<sup>6</sup>

7 Pacific Law Center and Solomon Ward now seek to have the Court’s preliminary  
8 injunction made permanent.

9 **II**  
10 **THIS COURT’S EARLIER FINDINGS**

11 **The Temporary Restraining Order.**

12 **The Order.**

13 On March 29, 2007, this Court entered a temporary restraining order that states:

14 Shahrokh Saadat-Nejad, and anyone acting in concert with him, is hereby enjoined  
15 and restrained from:

16 1. Registering, and trafficking in, any internet website or domain name that  
17 contains the words Pacific, Law and Center, with or without other words or  
18 symbols, in any respect whatsoever;

19 2. Registering, and trafficking in, any internet website or domain name that  
20 contains the words Solomon and Ward, with or without other words or symbols, in  
21 any respect whatsoever;

22 3. Registering and trafficking in, the service mark or trade name Pacific Law  
23 Center in any respect whatsoever.

24 4. Registering and trafficking in the service mark or trade name Solomon  
25 Ward or Solomon Ward Seidenwurm & Smith in any respect whatsoever.

26 **The Findings.**

27 In entering that order, the Court made the following findings of fact and law:  
28

<sup>4</sup> See, for example, Transcript of April 26, 2007 hearing, Exhibit 4, and specifically p. 4:35 (Docket No. 39); see also Exhibits 5.2 and 9.6 (Docket No. 39). By way of further example, he claimed in his response to the preliminary injunction motion (Docket No. 24) that Solomon Ward has “judges in their back pockets,” the same accusation that he leveled against Judge Burns.

<sup>5</sup> Transcript of April 26 hearing, 4:22-23 (Docket No. 39).

<sup>6</sup> Contempt order, entered July 14, 2006 (Docket No. 43); July 12, 2007 minute order (Docket No. 12).

1 The standard for issuing a temporary restraining order is identical to the standard  
2 for issuing a preliminary injunction. A party seeking injunctive relief under Rule  
3 55 must show ... [a strong likelihood] of probable success on the merits and the  
4 possibility of irreparable harm or alternatively if serious questions are raised and  
5 the balance of hardships tips sharply in the moving party's favor. These  
6 formulations represent two points on a sliding scale, which the required degree of  
7 irreparable harm increases as the probability of success decreases. Even if the court  
8 is uncertain of the moving party's likelihood of success on the merits, a TRO may  
9 still issue if the moving party convinces the court that the balance of hardships tips  
10 in its favor.

11 Here I find that the plaintiffs have shown **both** a combination of probable success  
12 on the merits and the possibility of irreparable harm and that serious questions are  
13 raised and the balance of hardships tips sharply in the moving party's favor. The  
14 TRO in this case is supported by declarations of Mr. McIntyre and Thomas Slate  
15 (phonetic), a supervising lawyer at pacific law center. Their declarations  
16 substantiate that Mr. **Saadat-Nejad intentionally obtained and used confusing**  
17 **websites to discredit and disparage the two law firms** and to make what they  
18 allege are false and inflammatory accusations about the law firms and their  
19 lawyers. As a result, there has been harm to their reputation and businesses.

20 The declarations also substantiate that each law firm has established a secondary  
21 meaning to their service marks and trademark names associated with their  
22 professional practices. Mr. Saadat-Nejad, in the court's opinion, having viewed  
23 both his evidence and that submitted by the plaintiffs, does not appear to have any  
24 legitimate trademark or common law or registered right to use any name even  
25 remotely similar to Pacific Law Center or Solomon Ward and specifically no right  
26 to use pacificlawcenters.com and pacific/law/centers.com or  
27 solomonwardlawfirm.com or solomonwardsandiego.com.

28 I find in agreement with the plaintiffs that there's a great likelihood of harm if this  
conduct persists to their reputation. As I said, I've found that they've established,  
both law firms, a secondary meaning to these marks and the names associated with  
their professional practices.

The court has examined the underlying law in this case, the 1999 Anti-  
Cybersquatting and Consumer Protection Act, codified at Title 15 of the United  
States Code, Section 1125(d). The purpose of that section is to protect consumers  
and American businesses and to promote growth of online commerce, provide  
clarity for trademark owners by prohibiting bad faith and abusive registration of  
distinctive marks as internet domain names with the intent to profit from the  
goodwill associated with those marks.

In addition, the 9<sup>th</sup> Circuit has held that the not [Anti-Cybersquatting Act] contain a  
commercial use [requirement] they probably can in this case.

Show actual commercial interference with their law practices from Mr. Saadat-  
Nejad's Anti-Cybersquatting Act does not contain a commercial use requirement so  
that although they probably can in this case, the plaintiffs don't need to show actual  
commercial interference with their law practices from Mr. Saadat-Nejad's domain  
name misappropriation in order to prevail.<sup>7</sup>

<sup>7</sup> Transcript of March 29, 2007 hearing, pp. 2:15-2:18 (Docket No. 39). [Emphasis added.]



1 **The Preliminary Injunction.**

2 On April 26, 2007, this Court entered a preliminary injunction that repeated verbatim the  
3 Court's prior temporary restraining order.

4 In entering that preliminary injunction, the Court found:

5 The Court incorporates the transcript of proceedings at the temporary restraining  
6 order. I understand that it has not yet been prepared, but I incorporate that into my  
7 finding and analysis today. The legal standards discussed at that hearing and in the  
8 order that followed it apply here as well.

9 The Court confirms its findings from the earlier hearing. I find that a preliminary  
10 injunction should issue. I find both a combination of probable success on the  
11 merits on the part of the plaintiffs and the possibility of irreparable harm of the kind  
12 that would issue has not ceased subject to a court order. The balance of hardships  
13 tips sharply in favor of the moving party.<sup>8</sup>

14 **BACKGROUND FACTS**

15 Pacific Law Center and Solomon Ward have already presented substantial evidence—  
16 sufficient to support this Court's temporary restraining order, preliminary injunction and finding  
17 of contempt.<sup>9</sup> For the Court's convenience, however, they will reiterate some of the material,  
18 background facts.

19 **The Players.**

20 **Pacific Law Center.**

21 Pacific Law Center is a San Diego professional law corporation, with a practice  
22 emphasizing criminal, bankruptcy and personal injury cases. Pacific Law Center owns the trade  
23 name and service mark "Pacific Law Center" and the domain names "pacificlawcenter.com,"  
24 "pacificlawcenter.net," "pacificlawcenter.org" and "pacificlawcenter.ws."<sup>10</sup>

25 Pacific Law Center has used the exclusive trade name and service mark "Pacific Law  
26 Center" in its professional business and in an extensive advertising and marketing campaign,  
27  
28

<sup>8</sup> Transcript of April 26, 2007 hearing, 4:12-13 (Docket No. 39).

<sup>9</sup> See, for example McIntyre Declaration, with Exhibits (Docket No. 3); Slattery Declaration, with Exhibits (Docket No. 3); Phillips Declaration, with Exhibits (Docket No. 18); Supplemental Memorandum, with Exhibits (Docket No. 18); McIntyre Declaration (Docket No. 36); McIntyre Declaration (Docket No. 39); Exhibits in Notice of Lodgment, and specifically Exhibits 5 through 11 (Docket No. 39); McIntyre Declaration (Docket No. 48).

<sup>10</sup> Declaration of Edward McIntyre, ¶ 3.

1 including television, telephone business directories, print and various other media.<sup>11</sup>

2 Pacific Law Center has built up valuable goodwill in its “Pacific Law Center” service mark  
3 and trade name, and the public generally has come to associate its mark exclusively with Pacific  
4 Law Center’s professional business in California.<sup>12</sup> Pacific Law Center has also used and  
5 advertised the internet domain names, and operated internet sites at the addresses,  
6 "pacificlawcenter.com," "pacificlawcenter.net," "pacificlawcenter.org" and "pacificlawcenter.ws"  
7 to advertise and promote its activities as a law firm.<sup>13</sup>

8 **Solomon Ward.**

9 Solomon Ward Seidenwurm & Smith, LLP is a professional law corporation in San Diego,  
10 that is, and has been for 30 years, known and practicing throughout California and across the  
11 country.<sup>14</sup>

12 Solomon Ward has used the exclusive service marks and trade names “Solomon Ward  
13 Seidenwurm & Smith” and “Solomon Ward” in its professional business. Solomon Ward has  
14 registered the internet domain names “swsslaw.com” and “solomonward.com” and has operated  
15 internet sites at swsslaw.com to make the public aware of its professional practice.<sup>15</sup>

16 Solomon Ward has over the years built up valuable goodwill in its service marks and trade  
17 names and the general public has come to associate those names exclusively with Solomon  
18 Ward’s professional practice in San Diego, throughout California and across the nation.<sup>16</sup>

19 **Saadat-Nejad Retains and then Fires Pacific Law Center.**

20 On August 31, 2006, Saadat-Nejad retained Pacific Law Center to defend him against  
21 criminal charges pending in San Diego and for which he was then incarcerated. Shortly thereafter,  
22 Saadat-Nejad became dissatisfied with Pacific Law Center’s representation, terminated its  
23 representation of him and began a course of conduct, including posting disparaging comments

24

25 <sup>11</sup> *Id.* at ¶ 4.

26 <sup>12</sup> *Id.* at ¶ 5.

27 <sup>13</sup> *Id.* at ¶ 6.

28 <sup>14</sup> *Id.* at ¶ 14.

<sup>15</sup> *Id.* at ¶ 15.

<sup>16</sup> *Id.* at ¶ 16.

1 about Pacific Law Center on the internet calculated to interfere with and damage it and its business  
2 operations.<sup>17</sup>

3 **Saadat-Nejad Misappropriates Pacific Law Center's Domain Name.**

4 On September 20, 2006, Saadat-Nejad registered and obtained ownership of the internet  
5 domain name "pacificlawcenters.com," which is confusingly similar to the internet domain names  
6 registered to Pacific Law Center and sites it uses.<sup>18</sup>

7 He maintained registration of the internet domain name of, and operated the internet site at,  
8 "pacificlawcenters.com" with the intent of (1) intercepting actual and potential clients of Pacific  
9 Law Center and the general public who use internet search engines "key word" search features  
10 which would otherwise lead them to Pacific Law Center's internet site(s), (2) intercepting  
11 consumers who have added the letter "s" to Pacific Law Center's true internet site name(s) in  
12 attempting to find plaintiffs internet site; and (3) once consumers enter Saadat-Nejad's internet  
13 site, exposing them to its content, which is intended and designed to disparage and harm the  
14 goodwill of Pacific Law Center, attempt to dissuade actual and potential clients from doing  
15 business with Pacific Law Center and to entice them to communicate by email with Saadat-Nejad  
16 and to visit another internet site which is owned and operated by Saadat-Nejad under the internet  
17 domain name "ushostage.com."<sup>19</sup>

18 Saadat-Nejad has made clear that he will not stop using the Pacific Law Center mark and  
19 tradename. He further made clear that he intended to continue his vendetta against Pacific Law  
20 Center arising out of its representation of him in state court.<sup>20</sup>

21 Saadat-Nejad, through a lawyer purporting to represent him, told Pacific Law Center that  
22 unless it pays him \$500,000 he will continue to use its domain name. Saadat-Nejad reiterated that  
23 threat at a meeting at Solomon Ward's office.<sup>21</sup>

24 Pacific Law Center knows that it has lost clients as a result of Saadat-Nejad's  
25

26 <sup>17</sup> *Id.* at ¶ 8.

27 <sup>18</sup> *Id.* at ¶ 9.

28 <sup>19</sup> *Id.* at ¶ 10.

<sup>20</sup> *Id.* at ¶ 11.

<sup>21</sup> *Id.* at ¶ 12.

1 misappropriation of its trade name and its domain name.

2 On January 12, 2007, Pacific Law Center filed an action in superior court against Saadat-  
3 Nejad, Case No. GIC 878352. On February 23, 2007, Pacific Law Center retained Solomon Ward  
4 to represent it in that lawsuit. On February 27, 2007, Solomon Ward successfully obtained a  
5 restraining order against Saadat-Nejad.

6 **Saadat-Nejad Misappropriates Solomon Ward's Domain Names.**

7 On March 10 or 11, 2007, Saadat-Nejad obtained a confusingly similar domain name  
8 "solomonwardlawfirm.com." Saadat-Nejad maintained registration of that internet domain name  
9 and operated the internet site at solomonwardlawfirm.com with the intent of (1) intercepting actual  
10 and potential clients of Solomon Ward and the general public who use internet search engines'  
11 "keyword" search features which would otherwise lead them to Solomon Ward's internet sites; (2)  
12 intercepting clients who have added "law firm" to Solomon Ward's true internet site name in an  
13 attempt to find Solomon Ward; and (3) once clients enter Saadat-Nejad internet site, exposing  
14 them to its conduct which is intended and designed to disparage and harm the goodwill of  
15 Solomon Ward, attempting to dissuade actual and potential clients from doing business with  
16 Solomon Ward and to entice them to communicate by email with Saadat-Nejad and to visit  
17 another internet site which is owned and operated by Saadat-Nejad under the internet domain  
18 name "ushostage.com."<sup>22</sup> He has also registered and used solomonwardsandiego.com.<sup>23</sup>

19 Saadat-Nejad has made clear that he will not stop using the Solomon Ward mark and trade  
20 name. He further made clear that he intended to continue his vendetta against Solomon Ward  
21 because it represented Pacific Law Center in both the state and this action.<sup>24</sup>

22 Solomon Ward has already had inquiries about the pirate site that Saadat-Nejad has used.<sup>25</sup>

23 At this point it is clear that Pacific Law Center and Solomon Ward have already suffered  
24 irreparable harm as a result of Saadat-Nejad's conduct and they will continue to suffer irreparable  
25

26 <sup>22</sup> *Id.* at ¶ 10.

27 <sup>23</sup> *Id.* at ¶ 18.

<sup>24</sup> *Id.* at ¶ 11.

28 <sup>25</sup> *Id.* at ¶ 21.

1 harm unless this Court stops him.<sup>26</sup> There is no way accurately to determine the whole of the  
2 harm that Saadat-Nejad has done to Pacific Law Center and Solomon Ward and their reputation  
3 and the reputation of their attorneys. As a result, money damages are inadequate to repair that  
4 harm. In that respect, Pacific Law Center and Solomon Ward have already suffered and continues  
5 to suffer irreparable harm and will do so until this Court stops Saadat-Nejad.<sup>27</sup>

6 **The Evidence of Saadat-Nejad’s Misappropriation.**

7 This Court’s record is already filled with evidence of Saadat-Nejad’s misappropriation of  
8 their service marks, trade names and domain names. Accordingly, Pacific Law Center and  
9 Solomon Ward will not further burden the Court with additional volumes of paper. Instead,  
10 Pacific Law Center and Solomon Ward respectfully request this Court to take judicial notice of its  
11 own files and direct the Court specifically to the exhibits already in the record.<sup>28</sup>

12 **III**  
13 **THE 1999 ANTI-CYBERSQUATTING AND CONSUMER PROTECTION ACT GIVES**  
14 **THIS COURT THE POWER PERMANENTLY TO ENJOIN SAADAT-NEJAD’S**  
15 **MISAPPROPRIATION OF PACIFIC LAW CENTER AND SOLOMON WARD’S**  
16 **SERVICE MARKS, TRADE NAMES AND DOMAIN NAMES**

17 Congress passed the 1999 Anti-Cybersquatting and Consumer Protection Act—15 U.S.C.  
18 § 1125(d)—to protect consumers and American business, to promote growth of online commerce,  
19 and to provide clarity for trademark owners by prohibiting bad faith and abuse of registration of  
20 distinctive marks as Internet domain names with the intent to profit from goodwill associated with  
21 those marks.<sup>29</sup>

22 **Cybersquatting Factors.**

23 Saadat-Nejad has no trademark or other intellectual property rights in Pacific Law Center

24 <sup>26</sup> *Id.* at ¶ 22.

25 <sup>27</sup> *Id.* at ¶ 22.

26 <sup>28</sup> Those Exhibits and authenticating declarations are at McIntyre Declaration, with Exhibits (Docket No. 3);  
27 Slattery Declaration, with Exhibits (Docket No. 3); Phillips Declaration, with Exhibits (Docket No. 18);  
28 Supplemental Memorandum, with Exhibits (Docket No. 18); McIntyre Declaration (Docket No. 36); McIntyre  
Declaration (Docket No. 39); Exhibits in Notice of Lodgment, and specifically Exhibits 5 through 11 (Docket No.  
39); McIntyre Declaration (Docket No. 48).

<sup>29</sup> *Mattel, Inc. v. Internet Dimensions, Inc.*, 55 USPQ2d 1620 (S.D. NY 2000). *Sporty’s Farm, LLC v. Sportman’s  
Market, Inc.*, 202 F.3d 489, 493 (2d Cir. 2000) (cybersquatting defined as “prevent[ing] use of the domain name  
by the mark owners, who might infrequently have been willing to pay ‘ransom’ in order to get ‘their names’  
back.”).

1 or Solomon Ward’s domain names; indeed, the Solomon Ward domain name also consists of the  
2 legal names of two Solomon Ward founding partners, Herbert J. Solomon and William O. Ward.

3 Saadat-Nejad has no prior use of either domain name in connection with any *bona fide*  
4 offering of goods or services. Nor does Saadat-Nejad have a *bona fide* non-commercial or fair use  
5 of any mark in a site accessible under the domain name. Saadat-Nejad has made clear his intent to  
6 divert clients from Pacific Law Center and Solomon Ward’s on-line locations to sites accessible  
7 under the domain names that he has registered with the intent to tarnish or disparage Pacific Law  
8 Center and Solomon Ward.

9 He has created a likelihood of confusion about the source, sponsorship, affiliation or  
10 endorsement of his sites. Saadat-Nejad has demanded half a million dollars—through a lawyer  
11 purportedly representing him—to stop using the pacificlawcenters.com domain name and other  
12 Pacific Law Center domain names.

13 The Pacific Law Center and Solomon Ward marks are distinctive and famous in that they  
14 are widely recognized by the general consuming public in San Diego, in California and across the  
15 United States as a designation of the services respectively of Pacific Law Center and Solomon  
16 Ward. Saadat-Nejad’s registration of multiple domain names which he knows are identical or  
17 confusingly similar to the marks of Pacific Law Center and Solomon Ward—marks that are  
18 distinctive and famous.

19 In short, Pacific Law Center and Solomon Ward have established **eight** of the nine factors  
20 that 15 U.S.C. § 1125(d)(1)(B) and 15 U.S.C. § 1125(c)(1) suggests a court might consider in  
21 determining whether there is actionable cybersquatting. Indeed, the only factor that Pacific Law  
22 Center and Solomon Ward have not addressed is whether Saadat-Nejad provided material and  
23 misleading false contact information when he applied for the registration of the domain names.  
24 He has, however, a pattern of prior conduct, first in his attack on Pacific Law Center and,  
25 subsequently, his attack on Solomon Ward.

26 **Ninth Circuit Standard.**

27 Under the Ninth Circuit standard, this Court may grant the injunctive relief sought because  
28 Pacific Law Center and Solomon Ward have demonstrated: (1) success on the merits of their

1 cybersquatting claims and the Lanham Act and, (2) actual irreparable injury; (3) a balance of  
2 hardships favoring them; and (4) advancement of the public interest ....<sup>30</sup>

3 In addition, Pacific Law Center and Solomon Ward have demonstrated a combination of  
4 success on the merits and actual irreparable harm and that serious questions are raised and the  
5 balance of hardships tips sharply in their favor.<sup>31</sup>

6 Saadat-Nejad has no right to misappropriate domain names already registered to Pacific  
7 Law Center or Solomon Ward or to misappropriate domain names so confusingly similar to the  
8 names they use. He is attempting to hold Pacific Law Center hostage for at least a half a million  
9 dollars.

#### 10 **No Commercial Use Requirement.**

11 Neither Pacific Law Center nor Solomon Ward has to show any commercial interference  
12 with their law practices to prevail under the Anti-Cybersquatting Act. In a case almost directly in  
13 point,<sup>32</sup> the Ninth Circuit has held that the Anti-Cybersquatting Act does not contain a commercial  
14 use requirement.<sup>33</sup>

15 The Christensen law firm sued Chameleon because, Chameleon had shifted the registration  
16 of the Christenson law firm's domain names to itself to gain leverage in a payment dispute. The  
17 district court held:

18 An individual may be held liable under the ACPA for cybersquatting if the person  
19 (1) registers, traffics in, or uses a domain name identical or confusingly similar to a  
20 distinctive mark, and (2) has a bad faith intent to profit from use of the mark as a  
domain name.<sup>34</sup>

21 The court noted that many of the decisions under ACPA refer to "an extortionate offer to  
22 sell" as the hallmark of a bad faith intent to profit and found that Chameleon's "extortionate offer"

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24 <sup>30</sup> *Earth Island v. United States Forest Service*, 442 F.3d 1147, 1158-59 (9<sup>th</sup> Cir. 2006), quoting *Earth Island*  
*Institute v. United States Forrest Service*, 351 F.3d 1291, 1297-98 (9<sup>th</sup> Cir. 2003).

25 <sup>31</sup> *Id.* at 1159.

26 <sup>32</sup> *Bosley Medical Institute, Inc. v. Kremer*, 403 F.3d 672, 608-81 (9<sup>th</sup> Cir. 2005); *The Christensen Firm v.*  
*Chameleon Data Corp.*, 2006 U.S. Dist. LEXIS 79710 (W.D. Wash. 2006). See also *Daimler Chrysler v. The Net*  
*Inc.*, 388 F.3d 201 (6<sup>th</sup> Cir. 2004); *Ford Motor Company v. Catalanatte*, 342 F.3d 543 (6<sup>th</sup> Cir. 2003).

27 <sup>33</sup> *Id.* at 680-681.

28 <sup>34</sup> *The Christensen Firm, supra*, 2006 U.S. Dist. LEXIS \*8.

1 to transfer the domain names back to resolve the fee dispute created a fact issue concerning its bad  
2 faith intent to profit. That intent may be shown by an offer to transfer a domain name to obtain a  
3 benefit in commercial dispute negotiation.

4 The district court also found, as a matter of law, that the transfer of the domain names  
5 constituted “registration” of those domain names under the ACPA.

6 Bosley Medical provided surgical hair transplants and owns, among others, the registered  
7 trademark Bosley Medical. Kramer, a dissatisfied former patient, purchased the domain name  
8 bosleymedical.com. Then, five days later, Kramer delivered a two page letter that read:

9 Let me know if you want to discuss this. Once it is spread over the internet it will  
10 have a snowball effect and be too late to stop. M. Kramer [phone number]. P.S. I  
always follow through on my promises.

11 Reversing the district court’s grant of summary judgment in Kramer’s favor the Ninth  
12 Circuit held that 15 U.S.C. § 1125(d) does not require plaintiff to show that the defendant has  
13 engaged in **any** commercial use. Rather, all that the trademark owner asserting an anti-  
14 cybersquatting claim must establish is (1) a valid trademark entitled to protection; (2) that its mark  
15 is distinct and famous; (3) the defendant’s domain name is identical or confusingly similar to, or in  
16 the case of famous marks, dilutive of, the owner’s mark; and (4) the defendant used, registered or  
17 trafficked in the domain name; (5) with a bad faith intent to profit.<sup>35</sup>

18 **This Court’s Prior Findings.**

19 As this Court has twice found, Pacific Law Center and Solomon Ward have made a very  
20 strong showing of each of those elements. They have also demonstrated irreparable harm.  
21 Accordingly, they are entitled to permanent injunctive relief.

22 **IV**  
23 **PACIFIC LAW CENTER AND SOLOMON WARD ARE ENTITLED TO A**  
**PERMANENT INJUNCTION**

24 **The Anti-Cybersquatting and Consumer Protection Act Provides For Permanent Injunctive**  
25 **Relief.**

26 Injunctive relief is the remedy of choice for cybersquatting as well as trademark and unfair  
27

28 <sup>35</sup> *Bosley Medical Institute, supra*, 403 F.3d at 681.



1 competition violation precisely because there is no adequate remedy at law for the injury caused  
2 by a defendant's continuing infringement.<sup>36</sup> Other district courts within the Ninth Circuit have  
3 entered similar permanent injunctions.<sup>37</sup>

4 At the July 12, 2007 contempt hearing, the Court found, *inter alia* that its preliminary  
5 injunction was clear on its face and that Pacific Law Center and Solomon Ward had produced  
6 **clear and convincing evidence** that Saadat-Nejad had persisted in registering/trafficking internet  
7 website names and terms since the entry of the preliminary injunction that violate that preliminary  
8 injunction. And so, the Court found Saadat-Nejad in contempt and had him jailed for civil  
9 contempt as a coercive measure to force him to abandon his continuing and future plan and  
10 violations of the preliminary injunction. The Court ordered Saadat-Nejad taken into custody until  
11 the July 25 hearing.

12 At the July 25 hearing, again after extended colloquy, Saadat-Nejad said that he would  
13 obey the Court's preliminary injunction order. Accordingly, the Court released him from custody  
14 and ordered him to obey that injunction. All Court's prior findings, including the need for  
15 incarceration for civil contempt, underscore the need for a permanent injunction in this case.  
16 Pacific Law Center and Solomon Ward have established its entitlement to such injunctive relief.

17 **V**  
18 **SAADAT-NEJAD'S CONDUCT VIOLATES OTHER PROVISION OF THE LANHAM**  
19 **ACT AS WELL**

20 **Trade Name Infringement.**

21 Saadat-Nejad's use of the internet domain names and sites "pacificlawcenters.com" and  
22 "solomonwardlawfirm.com" also constitutes an unlawful, willful, fraudulent and malicious  
23 interference with the service marks and trade names of Pacific Law Center and Solomon Ward.

24 Saadat-Nejad's wrongful use of the confusingly similar internet domain name and internet

25 <sup>36</sup> *Bellagio v. Denhammer, et al.*, 2001 U.S. LEXIS 24764, \*15 (D. Nev. 2001).

26 <sup>37</sup> *See, for example, E. & J. Gallo Winery v. Spider Webs, Ltd., et al.*, 286 F.3d 270 (5<sup>th</sup> Cir. 2002); *Flow Control*  
27 *Industries, Inc. v. Amhi, Inc.*, 278 F.Supp.2d 1193 (W.D. Wash. 2003); *Seattle Laptop Incorporated v. A-1 Best*  
28 *Computer, Inc.*, 2006 U.S. Dist. LEXIS 13013 (W.D. Wash. 2006); *Qwest Communications International v.*  
*Sonny Corporation*, 2006 U.S. Dist. LEXIS 87007 (W.D. Wash. 2006); see also *Daimler Chrysler v. The Net Inc.,*  
*et al.* 388 F.3d 2001 (6<sup>th</sup> Cir. 2004); *Phillip Morris USA, Inc. v. Marlborough Express, Tobacco Traders and*  
*Trust, et al.*, 2005 U.S. Dist. LEXIS 4359 (E.D. NY 2005).

1 sites "pacificlawcenters.com" and "solomonwardlawfirm.com" has already caused, and will  
2 continue to cause, irreparable injury to Pacific Law Center and Solomon Ward by misleading,  
3 confusing and misdirecting their clients, potential clients and the general public, intercepting  
4 potential "hits" on Pacific Law Center and Solomon Ward's internet sites and luring them to  
5 Saadat-Nejad's internet sites at "pacificlawcenters.com," "solomonwardlawfirm.com" and "us  
6 hostage.com."

7 **Trade Name Infringement/Dilution.**

8 Saadat-Nejad's registration of the internet domain name and operation of the internet site  
9 "pacificlawcenters.com" and "solomonwardlawfirm.com" for his own purposes also constitutes a  
10 statutory infringement and dilution of Pacific Law Center and Solomon Ward's service marks and  
11 trade names and acts of unfair competition.

12 Pacific Law Center and Solomon Ward's service marks are distinct and famous marks.  
13 The Pacific Law Center and Solomon Ward marks are inherently strong and distinctive, have long  
14 been used in connection with services with which they appear, have long been the subject of  
15 substantial advertising and promotion, have been used and advertised throughout the United  
16 States, are widely recognized by consumers and those in the legal profession. Saadat-Nejad  
17 committed these acts **after** Pacific Law Center and Solomon Ward's service marks have become  
18 famous.

19 Saadat-Nejad's acts have lessened the capacity of Pacific Law Center and Solomon Ward's  
20 famous marks to identify and distinguish Pacific Law Center and Solomon Ward's services.  
21 Saadat-Nejad's acts have blurred the unique association which had existed between Pacific Law  
22 Center and Solomon Ward's service marks and the services they offer, under those service marks.

23 **Trademark Infringement.**

24 Saadat-Nejad's use of Pacific Law Center and Solomon Ward's names and marks is  
25 without their permission or authority and had caused confusion among members of the public.  
26 Saadat-Nejad committed these acts of service mark infringement with full knowledge and  
27 disregard for Pacific Law Center and Solomon Ward's rights and with the intent to cause  
28 confusion and to deceive.

1 **False Designation of Origin.**

2 Saadat-Nejad's acts also violate 15 U.S.C. §1125(a) in that he has used a false designation  
3 of origin, a false or misleading description and representation of fact which is likely to cause  
4 confusion, and to cause mistake, and to deceive with respect to the affiliation, connection or  
5 association of Saadat-Nejad with Pacific Law Center and Solomon Ward and with respect to the  
6 origin, sponsorship, association, and approval of Saadat-Nejad's conduct by Pacific Law Center  
7 and Solomon Ward.

8 Pacific Law Center and Solomon Ward's service marks are distinct and famous marks.  
9 The Pacific Law Center and Solomon Ward's marks are inherently strong and distinctive, have  
10 long been used in connection with services with which they appear, have long been the subject of  
11 substantial advertising and promotion, have been used and advertised throughout the United States  
12 and are widely recognized by consumers and those in the legal profession. Saadat-Nejad  
13 committed his misappropriation **after** Pacific Law Center and Solomon Ward's service marks  
14 have become famous.

15 Saadat-Nejad has made use of marks that Pacific Law Center and Solomon Ward own in  
16 connection with services in interstate commerce. Saadat-Nejad's conduct violates the Lanham Act  
17 §43(c) in that he has caused dilution of quality of Pacific Law Center and Solomon Ward's service  
18 marks, all to Pacific Law Center and Solomon Ward's irreparable injury and damage.

19 Saadat-Nejad's acts have lessened the capacity of Pacific Law Center and Solomon Ward's  
20 famous marks to identify and distinguish Pacific Law Center and Solomon Ward's services.  
21 Saadat-Nejad's acts have blurred the unique association which had existed between Pacific Law  
22 Center and Solomon Ward's service marks and the services they offer, market and distribute under  
23 those service marks.

24 Saadat-Nejad's acts also violate 15 U.S.C. §1125(a) in that Saadat-Nejad has used a false  
25 designation of origin, a false or misleading description and representation of fact which has caused  
26 confusion and is likely to cause confusion, mistake, and to deceive with respect to the affiliation,  
27 connection or association of Saadat-Nejad with Pacific Law Center and Solomon Ward and with  
28 respect to the origin, sponsorship, association, and approval of Saadat-Nejad's conduct by Pacific

1 Law Center and Solomon Ward.

2 The Lanham Act provides for injunctive relief to prevent future violation of Pacific Law  
3 Center and Solomon Ward’s service mark and trade name rights in addition to Saadat-Nejad’s  
4 violations of the Anti-Cybersquatting Act.

5 **VI**  
6 **SAADAT-NEJAD’S CONDUCT ALSO VIOLATES CALIFORNIA LAW**

7 **California Unfair Trade Practice Act.**

8 Saadat-Nejad’s use of the internet domain names and sites “pacificlawcenters.com” and  
9 “solomonwardlawfirm.com” constitutes an unfair trade practice, that also entitles Pacific Law  
10 Center and Solomon Ward to injunctive relief under the provisions of California Business &  
11 Professions Code §§ 17200, *et seq.*

12 **Unauthorized Use of Name.**

13 Saadat-Nejad’s conduct also constitutes the unauthorized use of Herbert Solomon and  
14 William Ward’s names under the laws of the State of California, Civil Code §3344.

15 Injunctive relief is not only the remedy of choice for violations of the Lanham Act but also  
16 for violations of California Unfair Trade Practices Act and Civil Code § 3344.

17 **VII**  
18 **CONCLUSION**

19 Pacific Law Center and Solomon Ward stand squarely among those whom Congress  
20 intended to protect by the Anti-Cybersquatting and Consumer Protection Act. Saadat-Nejad has  
21 no right to misappropriate their service marks, their trade names and their domain names, and then

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1 make extortionate demands for a half a million dollars or more just to leave them alone. Pacific  
2 Law Center and Solomon Ward are entitled to a permanent injunction in the same form as this  
3 Court's preliminary injunction.

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DATED: November 15, 2007

Respectfully submitted,

SOLOMON WARD SEIDENWURM & SMITH, LLP

By: /s/ Edward J. McIntyre  
EDWARD J. MCINTYRE  
Attorneys for Pacific Law Center and Solomon  
Ward

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**CERTIFICATE OF SERVICE**

I caused the **PACIFIC LAW CENTER AND SOLOMON WARD’S MEMORANDUM IN SUPPORT OF THEIR MOTION FOR PERMANENT INJUNCTION** to be served in the following manner:

**Electronic Mail Notice List**

The following are those who are currently on the list to receive e-mail notices for this case.

**Electronic Mail Notice List**

**NONE.**

The following party who is not on the list to receive e-mail notices for this case. He therefore requires manual noticing, via Federal Express:

Shahrokh Saadat-Nejad  
3713 Mt. Ashmun Place  
San Diego, CA 92111  
**VIA FEDERAL EXPRESS**

/s/ Edward J. McIntyre  
EDWARD J. MCINTYRE