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**F I L E D**

Clerk of the Superior Court

MAY 31 2007

By: L. McALISTER, Deputy

5 Attorneys for Pacific Law Center

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**SUPERIOR COURT OF CALIFORNIA**

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**COUNTY OF SAN DIEGO**

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PACIFIC LAW CENTER, a Professional Law Corporation,

CASE NO. GIC 878352

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Plaintiff,

**PLAINTIFF PACIFIC LAW CENTER'S  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF REQUEST  
FOR ENTRY OF DEFAULT JUDGMENT BY  
COURT**

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v.

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14 SHAHROKH SAADAT-NEJAD, individually  
and doing business as  
15 PACIFICLAWCENTERS.COM and DOES 1  
through 50, inclusive,

Complaint Filed: January 12, 2007

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Defendants.

I/C Judge: Hon. Richard E.L. Strauss  
Dept. 75

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**PACIFIC LAW CENTER IS ENTITLED TO A PERMANENT  
INJUNCTION JUDGMENT IN ITS FAVOR**

**Summary**

Pacific Law Center filed its claim for damages and injunctive relief because of Saadat-Nejad's trademark and trade name infringement and unfair competition, his cybersquatting, (Lanham Act) and defamation.

On January 12, 2007, Pacific Law Center filed its complaint and its amended complaint on February 6, 2007. On February 27, 2007, this Court granted Pacific Law Center's ex parte application for a temporary restraining order against Saadat-Nejad. On April 20, 2007, the Court granted Pacific Law Center's motion for preliminary injunction.

On April 16, 2007, the Court entered a default against Saadat-Nejad.

Pacific Law Center now asks this Court to enter Judgment again Saadat-Nejad, including a permanent injunction, money damages and attorneys' fees and costs.

**Factual and Legal Background**

On August 31, 2006, Saadat-Nejad retained Pacific Law Center to defend him against pending criminal charges for which he was then in custody.

Then Saadat-Nejad fired Pacific Law Center and began attacking Pacific Law Center on the Internet—all calculated to interfere with and damage its professional business.

On September 20, 2006, Saadat-Nejad registered and obtained ownership of the internet domain name "pacificlawcenters.com," which is one letter off, and confusingly similar to, the domain names registered to Pacific Law Center. Intentionally misspelled domain names can be "confusingly similar" for purposes of 15 U.S.C.S. § 1125(d).<sup>1</sup> He also registered pacific-law-center.com.

Here we have Saadat-Nejad, one of whose domain names is almost identical—but for one letter—and the other is identical—the hyphens do not matter—and purposefully confusingly similar to Plaintiff Pacific Law Center's registered domain names. Saadat-Nejad

<sup>1</sup> *Electronics Boutique Holdings Corp. v. Zuccarini*, 56 U.S.P.Q.2d 1705 (E.D. Pa. 2000).

1 admits that he has registered and has used both domain names—pacificlawcenters.com and  
2 pacific-law-center.com. Pacific Law Center had the right to pursue Saadat-Nejad.<sup>2</sup>

3 Pacific Law Center has been doing business as a law firm in San Diego, with a  
4 practice emphasizing in criminal, bankruptcy and personal injury cases. Pacific Law Center  
5 has registered, owns and currently maintains four websites: "pacificlawcenter.com,"  
6 "pacificlawcenter.net," "pacificlawcenter.org" and "pacificlawcenter.ws."<sup>3</sup> Pacific Law  
7 Center has used the exclusive trademark "Pacific Law Center" in its professional business  
8 and in an extensive advertising and marketing campaign, including television, telephone  
9 business directories, print and various other media.<sup>4</sup>

10 Saadat-Nejad has no legitimate trademark, common law or registered, in any name  
11 similar to Pacific Law Center and specifically pacificlawcenters.com or pacific-law-  
12 centers.com. The Anti-Cybersquatting Act, 15 U.S.C.S. § 1125(a), (the Act) provides a  
13 remedy to persons whose trade dress and unregistered marks are infringed or confusingly  
14 imitated by businesses, to promote growth of online commerce, and to provide clarity in law  
15 for trademark owners by prohibiting bad faith and abusive registration of distinctive marks as  
16 Internet domain names with intent to profit from goodwill associated with such marks.<sup>5</sup>

17 In addition to the nine factors listed in 15 U.S.C.S. § 1125(d)(1)(B), a court may rely  
18 on other indicia of bad faith and intent to profit.<sup>6</sup> Saadat-Nejad's demand for a half million  
19 dollars made through a lawyer purporting to represent him is *prima facie* evidence of bad  
20 faith intent to profit.<sup>7</sup>

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25 <sup>2</sup> *Shri Ram Chandra Mission v Sahajmarg*, 139 F. Supp. 2d 721, 758 (E.D. Va. 2001)

<sup>3</sup> April 6, 2007 Phillips Decl., p. 1, ¶ 6, 7. (See NOL dated May 30, 2007, Exhibit "A")

<sup>4</sup> *Id.*

<sup>5</sup> *Mattel, Inc. v. Internet Dimensions, Inc.*, 55 U.S.P.Q.2d 1620 (S.D.N.Y. 2000).

<sup>6</sup> *Harrods Ltd. v. Sixty Internet Domain Names*, 157 F. Supp. 2d 658 (E.D. Va. 2001), *aff'd*, 302 F.3d 214  
27 (4th Cir. 2002).

<sup>7</sup> February 1, 2007 Ltr from Mary Frances Prevost (See NOL dated May 30, 2007, Exhibit "B")

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1 **Damages**

2 In *Silpada Designs, Inc.*<sup>8</sup> defendants infringed a registered mark, used false  
3 designation of origin, and made false statements about their products and plaintiff's  
4 products. After receiving a cease-and-desist letter, defendants used plaintiff's trademark in  
5 their domain name, in metatages, and in the text of the website after the suit was filed.  
6 Under the circumstances, the Court awarded \$10,000 for violation of the Act. In that case  
7 because defendant's conduct was willful and deliberate, plaintiff was also entitled to  
8 attorney's fees under both 15 U.S.C.S. § 1117 and the Act.

9 **Statutory Basis for Damages**

10 The Act authorizes a variety of remedies, including actual or remedial damages,  
11 attorney fees, injunctive relief and transfer of the domain name at issue. Statutory damages, if  
12 elected by the plaintiff before final judgment, range from not less than \$1,000 and not more  
13 than \$100,000 for each domain name, as the court considers just.<sup>9</sup>

14 "The statutory damage provisions of the ACPA 'are akin to the statutory damages  
15 provisions of the copyright laws.'"<sup>10</sup> "The imposition of 'statutory damages in cybersquatting  
16 cases [serves] both to deter wrongful conduct and to provide adequate remedies of  
17 trademark owners who seek to enforce their rights in court.'"<sup>11</sup> The court need not consider  
18 the duration of the conduct when calculating a statutory damage award.<sup>12</sup>

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23 <sup>8</sup> *Silpada Designs, Inc., v. O'Malley d/b/a Mrshirleys*, No. 04-2302-CM, 2006 U.S. Dist. LEXIS 76301, at \*8 (D.  
24 Kan. Oct. 19, 2006).

25 <sup>9</sup> 15 U.S.C.S. § 1117(d).; see *Silpada Designs, Inc., v. O'Malley d/b/a Mrshirleys*, No. 04-2302-CM, 2006 U.S.  
26 Dist. LEXIS 76301, at \*8 (D. Kan. Oct. 19, 2006).

27 <sup>10</sup> *Silpada Designs, Inc., v. O'Malley d/b/a Mrshirleys*, No. 04-2302-CM, 2006 U.S. Dist. LEXIS 76301, at \*6  
28 (D. Kan. Oct. 19, 2006). (quoting *E. & J. Gallo Winery v. Spider Webs Ltd.*, 286 F.3d 270, 278 (5th Cir.  
2002).).

<sup>11</sup> *Pinehurst, Inc. v. Wick*, 256 F. Supp. 2d 424, 432 (M.D.N.C. 2003) (quoting S. Rep. No. 106-140, at 8  
(1999)); see also *E. & J. Gallo Winery, supra*.

<sup>12</sup> *Shields v. Zuccarini*, 254 F.3d 476, 487 (3d Cir. 2001).

