

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

CASE NO. 5:07-CV-347-D

LULU ENTERPRISES, INC.,	)	
	)	
Plaintiff,	)	<b>PLAINTIFF’S MOTION FOR</b>
	)	<b>PRELIMINARY INJUNCTION</b>
v.	)	<b>FED. R. CIV. P. 65</b>
	)	
N-F NEWSITE, LLC,	)	
	)	
and	)	
	)	
HULU TECH, INC.,	)	
	)	
Defendants.	)	

NOW COMES Plaintiff Lulu Enterprises, Inc. (“Lulu”) pursuant to Rule 65 of the Federal Rules of Civil Procedure and moves the Court for a preliminary injunction against Defendants N-F NewSite, LLC (“NF”) and Hulu Tech, Inc. (“Hulu Tech”). In support thereof, Lulu states as follows:

1. As alleged in the Complaint, Lulu will suffer irreparable harm if a preliminary injunction does not issue as a result of Defendant’s conduct in using and promoting its HULU name and mark.
2. Defendants will suffer little or no harm from the proposed injunction.
3. Lulu can establish a strong likelihood that it will prevail on the merits of its claims.
4. The public interest will be served by the issuance of Lulu’s proposed injunction.

5. Lulu requests that the Court set the required bond at a nominal amount in light of the fact that Defendants will not likely incur any substantial costs or damages as a result of the issuance of the proposed injunctive relief.

WHEREFORE, for the foregoing reasons, and for those set forth in Plaintiff's supporting memorandum of law and the supporting Affidavit of Robert Young, being filed contemporaneously herewith (both of which are incorporated by reference herein) Plaintiff respectfully moves that the Court enter a preliminary injunction against Defendants:

- (a) prohibiting them from using HULU, HULU.COM, or any trademark, service mark, corporate name, trade name, fictitious name, dba name, logo, domain name, or other indicia of origin that incorporates, or that is confusingly similar to, Lulu's LULU marks;
- (b) requiring them to expressly abandon the pending application to register HULU with the USPTO, and prohibiting them from attempting to register, with the USPTO or any other office or body, HULU, HULU.COM, or any trademark, service mark, name, logo, or other indicia of origin that incorporates, or that is confusingly similar to, Lulu's LULU marks;
- (c) requiring them to withdraw or modify any incorporations, registrations, or other filings so that they are not identified under the names HULU, HULU.COM, or any other names that incorporate, or that are confusingly similar to, Lulu's LULU marks;
- (d) prohibiting them from using the HULU.COM domain name or any other domain names that incorporate, or that are confusingly similar to, the LULU marks;<sup>1</sup>
- (e) prohibiting them from otherwise competing unfairly with Lulu or deceiving consumers or others by (i) trading upon Lulu's goodwill and business reputation, (ii) misappropriating Lulu's rights in the LULU marks, or (iii) stating or suggesting that they or their operations or services are related to or connected with Lulu or Lulu's operations and services.

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<sup>1</sup> Lulu's Complaint also asks, as part of its request for injunctive relief, that Defendants be ordered to transfer to Lulu the domain name and domain name registration for HULU.COM, as provided by 15 U.S.C. § 1125(d)(1)(C). Lulu intends to seek such relief as part of any final judgment in this action, but recognizes that it need not be part of the preliminary relief Lulu seeks—which is intended only to prevent the continuing harm inflicted by Defendants' use of the HULU.COM domain name.

Respectfully submitted this the 10th day of September, 2007.

ELLIS & WINTERS LLP

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