

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI
Electronically Filed on March 19, 2014

NATIONAL AUTOMOTIVE	:	
PARTS ASSOCIATION	:	
	:	
PLAINTIFF	:	Case No. 1:14-cv-203
	:	
v.	:	
	:	
COX ENTERPRISES LLC DOING	:	
BUSINESS AS NAPA AUTOCARE; AND	:	
HARVEY B. COX	:	ORDER TO CONVERT
	:	TEMPORARY RESTRAINING
DEFENDANTS	:	ORDER INTO A PRELIMINARY
	:	INJUNCTION
	:	

This matter is before the Court on the Plaintiff's Motion to Convert the Temporary Restraining Order into a Preliminary Injunction pursuant to 15 U.S.C. § 1116(a) and Federal Rule of Civil Procedure 65(a), (the "Motion"). The Court having conducted a preliminary injunction hearing on March 24, 2014, and having fully considered the Motion and the arguments and evidence presented, hereby ORDERS, ADJUDGES, AND DECREES as follows:

1. The Court finds that, based upon the evidence presented, Plaintiff has a strong likelihood of success on the merits of its trademark infringement claim against Defendants. The Court further finds that Plaintiff has presented sufficient evidence establishing that: (1) Plaintiff is the exclusive owner of several federally registered trademarks, including the NAPA[®] and NAPA AutoCare Center[®] marks and marks related thereto, (the "NAPA Marks"); (2) Defendants do not have a current license or permission from NAPA to use the NAPA Marks; and (3) Defendants have used and will continue to use the NAPA Marks in commerce without

authorization and that such use is likely to deceive, cause confusion or result in mistake. The Court further finds that Plaintiff is likely to be irreparably harmed by the Defendants' use of the NAPA Marks, and that any harm inflicted upon the Defendants from the entry of a preliminary injunction is outweighed by the irreparable harm to the Plaintiff and the benefit to the public from the issuance of a preliminary injunction. *See Maker's Mark*, 703 F. Supp. 2d 671, 704 (W.D. Ky. 2010) ("Injunctive relief is generally granted in a trademark infringement case upon a strong showing of a likelihood of confusion"); *Luxottica Retail N. Am., Inc. v. CAS-MAN, Inc.*, Case No. 1:10-cv-374, 2011 U.S. Dist. LEXIS 15603 at *21-22 (S.D. Ohio January 14, 2011) ("Once there is a showing of infringement, a specific finding of likelihood of entry or irreparable harm is not required for injunctive relief in a trademark infringement case."). Accordingly, the Motion to Convert Temporary Restraining Order into a Preliminary Injunction is GRANTED.

2. Defendants are hereby ordered as follows:

- a) Defendants shall cease selling, offering for sale, distributing, marketing, telemarketing, advertising and/or placing advertising, and/or otherwise promoting automotive parts and/or automotive repair services of any kind whatsoever that use any designs or marks confusingly similar to Plaintiff's federally registered marks NAPA[®] and NAPA AUTOCARE CENTER[®];
- b) Defendants shall cease and desist from doing business as "NAPA AutoCare" and shall remove any NAPA Marks from any business registrations or business filings relating to Defendants, including any documents, registrations or filings with the Ohio Secretary of State;
- c) Defendants shall forfeit their interest in the domain name contained in their business website address www.napacarrepaircenter.com. Defendants

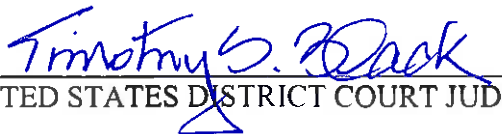
are further enjoined from registering for and/or using any website address having a domain name that includes any of the NAPA Marks; and

- d) Defendants are ordered to within 30 days from the date of this order file with the Court and serve on the Plaintiff a report in writing under oath setting forth in detail the manner and form in which they have complied with this Order.

3. No bond is required. *Molton Co. v. Eagle-Picher Indus., Inc.*, 55 F.3d 1171, 1176 (6th Cir. 1995).

4. This Order is binding on Defendants and any officers, agents, servants, employees and attorneys of Defendants and any other person in active concert or participation with any of the same.

SO ORDERED this 21TH day of March 2014.


UNITED STATES DISTRICT COURT JUDGE