

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ASOCIACIÓN DE INDUSTRIALES DE
PUERTO RICO

Plaintiff,

v.

MARKETNEXT, INC., *et al.*

Defendants

Civil No. 09-1122 (JAF)

PRELIMINARY INJUNCTION ORDER

This cause was heard on Plaintiff's motion for a preliminary injunction based upon trademark infringement. The Court read the Motion, the declarations and exhibits submitted in support thereof, and Defendants' opposition to said motion and the declarations submitted in opposition thereto, and heard oral argument on the motion. The Motion for Preliminary Injunction is GRANTED. Therefore, it is hereby:

ORDERED, that Defendants, their officers, agents, servants, employees, attorneys, parent companies, successors, affiliates, assigns, and all those persons in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, be, and hereby are, enjoined from:

1. Using in commerce any trademark or trade name incorporating, in whole or in part, the term **Industriales**, any imitation or legal equivalent thereof, or any other mark which is confusingly similar to the **Industriales** mark, including but not limited to the publication, sale,

production, printing, distribution, promotion, advertisement, sale of, and/or sale of advertising space within, magazines using the mark **Industriales**;

2. Using the domain name **industrialesmag.com** and the internet address **www.industrialesmag.com**, or any other designation, trade name, domain name or internet address likely to cause confusion with Plaintiff's trademarks;

3. Committing any acts calculated to cause the public to believe that Defendants and/or any of Defendants' services are associated, affiliated, sponsored by, or authorized by Plaintiff or its Licensees, in whole or in part; and from otherwise competing unfairly with Plaintiff or its Licensees in any manner, including without limitation, using a false designation of origin, false description or false representations which misrepresent the nature, characteristics or qualities, source or origin of Defendants' services or commercial activities; and attempting, causing, or assisting in any of the above described acts;

4. Competing unfairly with Plaintiff or its Licensees in any manner, including without limitation, using a false designation of origin, false description or false representation which misrepresent the nature, characteristic or qualities, source or origin of Defendant's services or commercial activities;

5. Attempting, causing, or assisting any of the above described acts; and it is further ORDERED, that Defendants communicate this Order to its agents, employees, officers, parent companies, successors, affiliates, assigns, all those persons in active concert or participation in the publication of Defendant's magazine, and each and every person using the mark INDUSTRIALES, selling advertisement in the defendant's magazine, advertising in the Defendant's magazine, any person who participated in the design, development, publication, sale and circulation of the Defendant's magazine, and to any other person that may have a legal or

economic interest in Defendant's magazine; the domain industrialesmag.com and/or the internet address www.industrialesmag.com; and it is further

ORDERED, that Defendants will have TEN (10) DAYS from the date of this Order to comply with it and to certify by sworn affidavit: 1) their compliance detailing the steps they have taken to ensure compliance and, 2) the employees, officers, agents, servants, employees, attorneys, parent companies, successors, affiliates, assigns, and other persons to whom they have communicated this Order; and it is further

ORDERED, that this Order is effective immediately and will remain in effect until the final judgment in this action, or until further order of the Court, whichever occurs first, and it is further

ORDERED, that as a condition of this Order remaining in effect, plaintiff Asociación de Industriales de Puerto Rico must post a duly-qualified surety bond in the amount of \$20,000.00 within seventy-two (72) hours following the date of this Order. This bond is for the payment of any costs and damages that may be suffered by Defendants if they are found to have been wrongfully enjoined. The failure to post a bond as required within the time allowed will result in the automatic termination of this Order.

A Memorandum Opinion will follow.

Dated: March 11, 2009.

S/JOSE ANTONIO FUSTE
JOSE ANTONIO FUSTE
CHIEF, U.S. DISTRICT JUDGE