

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

BIDZIRK, LLC, DANIEL G. SCHMIDT,)
III, and JILL PATTERSON,)

Plaintiffs,)

v.)

PHILIP RUSS SMITH,)

Defendant.)

Civil Action No. 6:06-CV-00109-HMH

MOTION FOR EXPEDITED ARGUMENT
AND RESPONSE BY DEFENDANT

COMES NOW BidZirk, LLC (“BidZirk”), Daniel G. Schmidt, III (“Schmidt”) and Jill Patterson (“Patterson”), Plaintiffs in the above-captioned action, and hereby file this their motion for expedited oral argument on their motion for preliminary injunction, and show the Court as follows:

BidZirk, Schmidt and Patterson filed their motion for preliminary injunction and supporting papers on February 13, 2006. The motion seeks injunctive relief related to Defendant’s infringement and dilution of BidZirk’s trademarks on his internet web site, www.jackwhispers.blogspot.com. BidZirk requests that the Court, pursuant to Local Civil Rule 7.08 DSC, order oral argument as soon as practicable. Further, BidZirk requests that the Court, pursuant to Local Civil Rule 7.06, shorten Defendant’s allowed time to file a response to Plaintiff’s motion to five days, or within 48 hours of any schedule hearing, whichever is shorter.

The Court has the inherent power “to achieve the orderly and expeditious disposition of cases.” In re Jove Engineering Inc. v. Internal Revenue Service, 92 F.3d 1539 (11th Cir. 1996)

quoting Chambers v. Nasco, Inc., 501 U.S. 32, 43, 111 S. Ct. 2123, 2132, 115 L. Ed. 2d 27 (1991). “Matters of docket control and conduct of discovery are committed to the sound discretion of the District Court.” In re Air Crash Disaster, 86 F.3d 498 (6th Cir. 1996). These inherent powers should be used to ensure that the judicial goals of orderly, efficient, and economic disposition of disputes are met. See generally Ebrahimi v. City of Huntsville Bd. of Educ., 114 F.3d 162 (11th Cir. 1997).

In this case, the Court should exercise its discretion to control its docket to permit the hearing on Plaintiff’s motion for preliminary injunction to proceed expeditiously. BidZirk is suffering immediate and irreparable harm, and shortening Defendant’s response time and setting the matter for hearing is within the Court’s authority under Local Civil Rule 7.06 DSC.

WHEREFORE, Plaintiffs pray that the Court grant their motion, shorten Defendant’s time to respond to Plaintiff’s motion for preliminary injunction, and schedule a hearing on Plaintiff’s motion for preliminary injunction with all possible speed.

This 13th day of February, 2006.

/s/ Kevin M. Elwell

KEVIN M. ELWELL
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CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing MOTION FOR EXPEDITED ARGUMENT AND RESPONSE BY DEFENDANT by depositing same in the United States Mail in a properly-addressed envelope with adequate postage affixed to:

Mr. Phillip Russ Smith
601 Cleveland Street, Apartment 5-C
Greenville, South Carolina 29601

This 13th day of February, 2006.

/s/ Kevin M. Elwell

KEVIN M. ELWELL
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