

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

ARCpoint Financial Group, LLC,)
)
Plaintiff,)
vs.)
)
)
)
Blue Eyed Bull Investment Corporation,)
Timothy Rebori, and Marilyn Rebori,)
)
Defendants.)
)
_____)

Civil Action No.: 6:18-cv-00235-AMQ

OPINION AND ORDER

This matter comes before the Court on the Renewed Motion for Temporary Injunction and/or Preliminary Injunctive Relief by Plaintiff ARCpoint Franchise Group LLC (“Plaintiff”). (ECF No. 40.) The matter has been fully briefed, and the Court heard argument from counsel on May 10, 2018. For the reasons set forth below, Plaintiff’s Motion is denied.

BACKGROUND

Plaintiff initiated this action on January 29, 2018, by filing its complaint in the United States District Court for the District of South Carolina. (ECF No. 1.) Thereafter, on February 6, 2018, Plaintiff filed its Motion for Temporary Restraining Order seeking a court order prohibiting various actions on the part of Defendants and mandating Defendants take certain affirmative actions to protect Plaintiff’s service marks and trade secrets. (ECF No. 6.) Defendants filed their response in opposition to Plaintiff’s motion on February 20, 2018. (ECF No. 20.) The Court heard argument on Plaintiff’s motion on February 22, 2018, and denied Plaintiff’s motion the same day. (ECF No. 28.)

Plaintiff filed a Renewed Motion for Temporary Injunction and/or Preliminary Injunctive Relief on March 29, 2018. (ECF No. 40.) In the motion, Plaintiff alleges Defendants made a series of misrepresentations to the Court in the hearing held on February 22, 2018. *Id.* at 1. Specifically, Plaintiff claims that Defendants failed to cease use of ARCpoint marks and materials on their Facebook page and website. *Id.* Plaintiff also claims that Defendants misrepresented the fact that they had ceased use of the ARCpoint name in its search engine optimization practices. *Id.* at 2. Finally, Plaintiff alleges that Defendants failed to assign phone numbers to Plaintiff as promised in the hearing on Plaintiff's original motion. *Id.* Plaintiff filed its renewed motion based on these alleged misrepresentations. (ECF No. 40-1.) In response, Defendants assert that they have attempted to cease all use of Plaintiff's service marks and return all of Plaintiff's property. (ECF No. 52.) Defendants further claim that they have taken every action they can to comply with Plaintiff's demands in an expeditious manner. (ECF No. 52.)

ANALYSIS

The Court initially clarifies, as it stated at the May 10, 2018 hearing, that it is not reconsidering the Court's February 22, 2018 denial of Plaintiff's motion. Instead, the Court is only addressing alleged misrepresentations by the Defendants at the February hearing. Considering the filings of both parties, the argument of counsel and the record before the Court, the Court finds Plaintiff has failed to establish that Defendants made material misrepresentations. Plaintiff may ultimately prevail on the issues raised in its motion. However, based on the record before the Court at this time, Plaintiff is not entitled to the extraordinary remedy of preliminary injunctive relief.

CONCLUSION

For the foregoing reasons, Plaintiff's Renewed Motion for Temporary Injunction and/or Preliminary Injunctive Relief is hereby DENIED.

IT IS SO ORDERED.

/s/ A. Marvin Quattlebaum, Jr.
The Honorable A. Marvin Quattlebaum, Jr.
United States District Judge

June 13, 2018
Greenville, South Carolina