

FILED
U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

2009 JAN 26 A 10:45

ROGER B. ZUNDEL dba CENTURY 21 AT
THE ROCKIES,

Plaintiff,

vs.

CONNIE SUZANNE TAUNTON dba ALL
STAR REALTORS AT THE ROCKIES,

Defendant.

DISTRICT OF UTAH

BY: DEPUTY CLERK

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:07-CV-00023

Judge Dee Benson

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Paul M. Warner on December 17, 2008, recommending that Plaintiff's motion for judgment on the pleadings be granted.

The parties were notified by mail of their right to file objections to the Report and Recommendation within ten (10) days after receiving it. Neither party has filed such an objection.

Having reviewed all relevant materials, including the reasoning set forth in the Magistrate Judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation and GRANTS Plaintiff's motion for judgment on the pleadings as follows:


1. Plaintiff is awarded judgment on his causes of action for trade name and mark infringement under the Lanham Act and unfair competition under both Utah statutory law and Utah common law.
2. A permanent injunction is entered against Defendant providing that Defendant,

her agents, officers, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of such order by personal service or otherwise, are permanently enjoined and restrained from (1) using the "At the Rockies" trade name and mark in connection with Defendant's real estate business, "All Star Realtors At the Rockies," (2) acting in any manner that causes Defendant's business activity to be in any way confused with Plaintiff's business, "Century 21 At the Rockies," and/or (3) otherwise competing unfairly in any manner including, but not limited to, causing confusion as to, or misrepresenting the source, sponsorship, or origin of Defendant's services and/or commercial activities.

3. Plaintiff is awarded a monetary judgment against Defendant in an amount equal to Plaintiff's attorney fees and costs. *See* Utah Code § 13-5a-103. In order to obtain that award, Plaintiff shall submit evidence of his attorney fees and costs to the court.

IT IS SO ORDERED

DATED this 24th day of January, 2009.



Dee Benson
United States District Judge