

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

KEITH LIONEL URBAN,)	
)	
Plaintiff/Counter-Defendant,)	
)	
v.)	No.: 3:07-cv-00152
)	JUDGE TRAUGER
KEITH D. URBAN,)	
)	
Defendant/Counter-Plaintiff.)	JURY DEMAND

INITIAL CASE MANAGEMENT ORDER

A. JURISDICTION: The court has jurisdiction pursuant to 28 U.S.C. § 1121 and 28 U.S.C. § 1331. This court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

B. BRIEF THEORIES OF THE PARTIES:

1) PLAINTIFF:

A) The Plaintiff/Counter-Defendant Keith Lionel Urban's ("the Musician") damages have been caused by the Defendant/Counter-Plaintiff Keith D. Urban's ("the Painter") operation of a website with the intent and effect of causing confusion in Tennessee as to the sponsorship and the source of certain goods advertised therein. The Musician is a well known top-selling performing artist of country music, with numerous albums to his credit. At all relevant times, the Musician's name is registered and protected pursuant to registered trademark laws. Moreover, at all relevant times, the Musician with the assistance of his agents or representatives has marketed and sold various products under the protected Keith Urban name. The Painter is relatively unknown to the public at large. In violation of the Musician's rights, the

Painter has structured a related website under his registered domain name with the intent and effect of producing confusion as to the sponsorship of the website and the source of the goods advertised for sale thereon. Specifically, the Painter is using a domain name and internet site of keithurban.com for commercial purposes and in a manner likely to deceive the public into believing that the website has a connection to the Musician, that does not exist. The Musician's damages are the result of the Painter's violation of the federal trademark infringement laws, the dilution of federally registered trademark, violation of the federal unfair competition laws, violation of the Anti-Cybersquatting Consumer Protection Act, violation of the Tennessee Consumer Protection Act, and violation of the Tennessee Personal Rights Protection Act.

2) DEFENDANT: The Musician is misusing the judicial process to improperly intimidate the Painter. The Complaint is baseless. The Painter's given birth name is Keith Urban, which name he has used in business and personal dealings since his birth in 1970. The Painter registered the domain name keithurban.com in good faith on May 10, 1999, which is prior to the date the Musician registered the domain name keithurban.net, and his use of the mark KEITH URBAN is a fair use.

The Painter won the race to the door of the domain name registrar, and the Musician is upset that he was assigned the ".net" rather than the preferred ".com". Through this lawsuit, the Musician is using his celebrity to threaten the Painter to give up intellectual property in which he has legitimate interests

The Musician is not "famous" as the term is defined by the law, and he has suffered no dilution of his mark by the Painter's use of his own name. The Painter asserts that there is no confusion here - the Painter and the Musician offer different goods and services on their web

pages. If there is any confusion, it is due to the Musician's recently-gained celebrity, which he gained long after the birth of the Painter.

The fact that the Musician may have achieved celebrity after the Painter's registration of the domain name keithurban.com (and the Painter's use of the related website) does not create a cause of action for the Musician against the Painter, and does not give the Musician grounds to claim trademark infringement or any of the other claims asserted in the Complaint.

For all of these reasons, the Painter seeks a declaration of the rights of the parties; requests that an expedited hearing be set on the Court's calendar, pursuant to Fed. R. Civ. P. 57; and requests a permanent injunction enjoining the Musician from attempting to cancel the registration of the Painter's domain name, interfering with the Painter's business relationship with the domain name registrar, and from using, operating or in any way interfering with the Painter's domain name and related website, so long as the Painter maintains his registration.

C. ISSUES RESOLVED: Jurisdiction and venue.

D. ISSUES STILL IN DISPUTE: Liability and damages.

E. INITIAL DISCLOSURES: The parties shall exchange initial disclosures pursuant to FED. R. CIV. P. 26 (a)(1) on or before April 23, 2007. An initial Case Management Conference is scheduled for April 9, 2007.

F. DISCOVERY: The parties shall complete all written discovery and dispose all fact witnesses on or before September 28, 2007. Discovery is not stayed during dispositive motions, unless ordered by the court. Local Rule 9(a)(2) is expanded to allow 40 interrogatories, including subparts. No motions concerning discovery are to be filed until after the parties have conferred in good faith and, unable to resolve their differences, have scheduled and participated in a conference telephone call with Judge Trauger.

G. MOTION TO AMEND: The parties shall file all Motions to Amend on or before July 31, 2007.

H. DISCLOSURE OF EXPERTS: The plaintiff shall identify and disclose all expert witnesses and expert reports on or before November 30, 2007. The defendant shall identify and disclose all expert witnesses and reports on or before December 31, 2007.

I. JOINT MEDIATION REPORT: The parties shall submit a joint mediation report on or before January 31, 2008.

K. DISPOSITIVE MOTIONS: The parties shall file all dispositive motions on or before February 29, 2008. Responses to dispositive motions shall be filed within 20 days after service. Optional replies shall be filed within 10 days after service of the response.

Briefs shall not exceed 20 pages. No motion for partial summary judgment shall be filed except upon leave of court. Any party wishing to file such a motion shall first file a separate motion that gives the justification for filing a partial summary judgment motion in terms of overall economy of time and expense for the parties, counsel and the court.

L. ESTIMATED TRIAL TIME: The parties expect the trial to last approximately 2 days.

It is so **ORDERED**.

Respectfully submitted,

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