

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

OBAMA FOR AMERICA

Plaintiff,

v.

DEMSTORE.COM and WASHINGTON
PROMOTIONS & PRINTING, INC.,

Defendants.

Civil Action No.

Jury Trial Demanded

COMPLAINT

Plaintiff OBAMA FOR AMERICA (“OFA”) states the following for its complaint against Defendants Demstore.com (“Demstore”) and Washington Promotions & Printing, Inc. (“Washington Promotions”) (collectively “Defendants”):

SUBSTANCE OF THE ACTION

1. OFA was the principal campaign committee of Barack Obama in 2008 and is currently the principal campaign committee of President Barack Obama as he seeks re-election in 2012 (separately, the "Campaign," and collectively the “Campaigns”). As part of its campaign efforts, OFA has designed logos, including the distinctive and famous Rising Sun and 2012 Rising Sun logos, which are and have been used to symbolize the Campaign on campaign signs, posters, merchandise, and a variety of other promotional items. These logos, depicted below, are recognized around the world and are closely associated with the Obama Campaigns.



2. OFA is the owner of federal trademark Registration No. 3,541,038 for the Rising Sun logo, and federal trademark application No. 85/302,710 for the 2012 logo incorporating the Rising Sun design (collectively the “Rising Sun Trademarks”).

3. In an effort to trade on the enormous popularity of the Rising Sun logos and Trademarks, Defendants operate a website, Demstore.com, at which merchandise bearing the Rising Sun logos and Trademarks is sold or offered for sale in an unauthorized manner. In so doing, Defendants are willfully violating OFA’s intellectual property rights in a deliberate effort to trade on OFA’s hard-earned reputation and goodwill. Defendants’ actions are thus creating consumer confusion, competing unfairly with OFA, and infringing OFA’s trademark rights.

4. OFA therefore brings this action for trademark infringement under Section 32(1) of the Federal Trademark (Lanham) Act, 15 U.S.C. § 1114(1); unfair competition and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2; unfair and deceptive trade practices under 815 ILCS 510/1 to 510/7; common law trademark infringement; and common law unfair competition. OFA seeks permanent injunctive relief; an accounting and award of Defendants’ profits; compensatory, treble, and/or statutory damages; an award of costs and attorneys’ fees; and such other and further relief as the Court deems just and proper.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338(a), and under 28 U.S.C. § 1332, as there is diversity between the parties and the matter in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars. This Court also has supplemental jurisdiction over OFA’s claims arising under the laws of Illinois pursuant to 28 U.S.C. § 1367(a) because these claims are so related to OFA’s claims

under federal law that they form part of the same case or controversy and derive from a common nucleus of operative fact.

6. This Court has personal jurisdiction over Defendants because, upon information and belief, through their interactive website, Defendants have imported, distributed, offered for sale, sold, or shipped merchandise to persons within this State, and Defendants regularly transact and conduct business within this State; and Defendants otherwise have made or established contacts within this State sufficient to permit the exercise of personal jurisdiction.

7. Venue is proper pursuant to 28 U.S.C. § 1391(a), (b), and (c), because a substantial part of the acts or omissions giving rise to OFA's claims occurred in this District, and Defendants have sufficient connection with the Northern District of Illinois to make venue proper in this District.

PARTIES

8. Plaintiff Obama For America is an Illinois non-profit corporation with a principal place of business at One Prudential Plaza, 130 East Randolph St., Chicago, Illinois 60601.

9. Upon information and belief, Defendant Demstore.com is a Washington, D.C. company with a principal place of business at 3402 Connecticut Avenue NW, #2, Washington, D.C., 20008. Defendant Demstore operates a website located at www.demstore.com.

10. Upon information and belief, Defendant Washington Promotions & Printing, Inc. is a Maryland corporation with a principal place of business at 3402 Connecticut Avenue NW, #2, Washington, D.C., 20008.

11. Upon information and belief, Defendant Washington Promotions & Printing is the parent company of Demstore.com.

FACTS SUPPORTING OFA'S REQUESTED RELIEF

12. As part of its Campaign operations and management, OFA has designed, marketed, and sold, and designs, markets, and sells, a broad range of products using the Rising Sun Trademarks. Among the products OFA currently offers using the Rising Sun Trademarks are clothing, signs, posters, buttons, and other merchandise related to the Obama reelection Campaign. Controlling the message associated with the Rising Sun Trademarks is of vital importance to OFA.

13. OFA has been using the Rising Sun logo since 2007, and the 2012 Rising Sun logo since 2011.

14. OFA sells its campaign merchandise on its website, www.barackobama.com.

15. OFA's campaign merchandise and other campaign materials prominently feature the Rising Sun Trademarks.

16. OFA has spent significant sums of dollars promoting its merchandise bearing the Rising Sun logos, and the popularity of the Rising Sun logos has contributed greatly to OFA's branding and fundraising efforts.

17. OFA relies entirely on contributions from supporters to run its operations. These contributions are subject to strict legal restrictions on both the source of income and the amount that each donor can give. For example, OFA cannot receive any contributions from incorporated entities, and its contributions from individuals are limited to \$2,500 per election from a single individual. The entire purchase price of any item of OFA merchandise is treated as a contribution subject to these limits. Thus, the sale of merchandise featuring the Rising Sun logos makes up a significant portion of OFA's revenue.

18. OFA's campaign strategy relies largely on promoting a certain message, and consequently, OFA emphasizes the authenticity of merchandise bearing the Rising Sun Trademarks and exercises strict control over the consumers' experience on its website and at other marketplaces where supporters can purchase authorized OFA merchandise.

THE RISING SUN TRADEMARKS

19. Due to OFA's long and continuous use of the Rising Sun Trademarks in connection with its merchandise, the Rising Sun Trademarks are widely recognized by the public as indicators of the source of OFA's merchandise.

20. As a result of OFA's extensive use of its Rising Sun Trademarks, OFA has built and now owns enormously valuable goodwill symbolized by the Rising Sun Trademarks.

21. OFA has developed common law rights in the Rising Sun Trademarks through its extensive use thereof. OFA has also secured a federal trademark registration and filed a pending trademark application to protect the Rising Sun Trademarks.

22. OFA owns federal trademark Registration No. 3,541,038 issued by the U.S. Patent and Trademark Office on December 2, 2008, for the Rising Sun logo. OFA is the owner of federal trademark application No. 85/302,710 for the 2012 logo incorporating the Rising Sun logo, filed in the U.S. Patent and Trademark Office on April 22, 2011. True and correct copies of the registration and application are attached as Exhibit A. These trademarks are referred to collectively as The Rising Sun Trademarks.

23. All of the foregoing registrations and pending applications are valid, subsisting, and in full force and effect.

DEFENDANTS' UNLAWFUL ACTIVITIES

24. Upon information and belief, since 2004, Defendants have operated their website located at www.demstore.com, at which they now sell election and campaign merchandise bearing the Rising Sun Trademarks.

25. In or about June 2007, OFA became aware that Defendants were operating the Demstore website at which they sell merchandise bearing the Rising Sun logo.

26. In or about April 2011, OFA became aware that Defendants were selling merchandise bearing the 2012 logo incorporating the Rising Sun Trademarks. Defendants are not authorized, and never have been authorized, by OFA to use any of the Rising Sun Trademarks.

27. Defendants' use of the Rising Sun Trademarks on campaign merchandise is likely to create confusion as to the source of merchandise bearing the Rising Sun Trademarks. Consumers are likely to believe that Defendants' Demstore.com website and products are associated with OFA, when in fact they are not. Such confusion is likely to damage OFA's ability to gain revenue through the sale of merchandise bearing the Rising Sun Trademarks, and, consequently, greatly reduce OFA's ability to perform its fundraising functions.

28. On or around April 22, 2011, counsel for OFA sent a demand letter to Defendants, requesting *inter alia* that they "immediately cease and desist from any further commercial use of the OFA logos in connection with advertising, promotion, offer or sale of any goods or services."

29. After communicating by telephone and email with representatives and counsel for Demstore, OFA sent a follow up demand letter to Defendants, renewing OFA's cease and desist request, on or around July 29, 2011. True and correct copies of these letters are attached as Exhibit B.

30. To date, Defendants have not complied with or indicated a willingness to comply with OFA's demand letters. Defendants continue to promote, distribute, offer for sale, and sell merchandise bearing the Rising Sun Trademarks even after they were put on actual notice, and consequently, continue to engage in trademark infringement and unfair competition.

31. Upon information and belief, Defendants are using the Rising Sun Trademarks on merchandise in a deliberate and willful attempt to draw on the goodwill and commercial magnetism of the Rising Sun Trademarks and the Obama Campaigns.

32. Defendants' aforesaid conduct is causing immediate and irreparable injury to OFA and to its goodwill, reputation, and ability to perform fundraising functions, and will continue both to damage OFA and deceive the public unless enjoined by this Court. OFA has no adequate remedy at law.

COUNT I

FEDERAL TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)

33. OFA repeats and re-alleges each and every allegation contained in the preceding paragraphs in this Complaint, and incorporates them herein by reference.

34. Defendants' distribution, marketing, promotion, offering for sale, and sale of goods that bear the Rising Sun Trademarks is likely to cause confusion, mistake, or deception as to the source, affiliation, sponsorship, or authenticity of Defendants' goods. As a result of Defendants' unauthorized use of logos that are identical to and confusingly similar to OFA's federally registered mark, the public is likely to believe that Defendants' goods have been manufactured, approved by, or are affiliated with OFA. Consequently, OFA's ability to gain revenue through the sale of merchandise bearing the Rising Sun Trademarks is greatly limited.

35. Defendants' unauthorized use of the Rising Sun Trademarks falsely represents Defendants' website and products as emanating from or being authorized by OFA and places beyond OFA's control the quality of products bearing the Rising Sun Trademarks, and the overall message associated with the logo and products bearing the Rising Sun Trademarks.

36. Defendants' infringement of OFA's trademarks is willful, intended to reap the benefit of the goodwill of OFA, and violates Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

37. As a result of Defendants' wrongful conduct, OFA has suffered, and will continue to suffer, substantial damages. Under 15 U.S.C. § 1117(a) OFA is entitled to recover damages, which include any and all profits Defendants have made as a result of their wrongful conduct.

38. In addition because, Defendants' infringement of OFA's trademarks was willful within the meaning of the Lanham Act, the award of actual damages and profits should be trebled pursuant to 15 U.S.C. § 1117(b). In the alternative, OFA is entitled to statutory damages for each counterfeit mark, under 15 U.S.C. § 1117(c).

39. OFA is also entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a). OFA has no adequate remedy at law for Defendants' wrongful conduct because, among other things, (a) OFA's trademarks are unique and valuable property which have no readily determinable market value, (b) Defendants' infringement constitutes harm to OFA such that OFA could not be made whole by any monetary award, (c) if Defendants' wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source, origin, or authenticity of the infringing materials, and (d) Defendants' wrongful conduct, and the resulting damage to OFA, is continuing.

40. OFA is also entitled to an order compelling the impounding of all infringing materials being used, offered, marketed, or distributed by Defendants, and to trebled damages, because Defendants' violations consist of the use of counterfeit trademarks pursuant to 15 U.S.C. § 1116(d).

41. OFA is also entitled to recover its attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1117.

COUNT II

FEDERAL UNFAIR COMPETITION (15 U.S.C. 1125(a))

42. OFA repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

43. Defendants' distribution, marketing, promotion, offering for sale, and sale of goods bearing the Rising Sun Trademarks constitute false designations of origin and false descriptions or representations that Defendants' website and retail products originate from or are authorized by OFA, when in fact they are not. Such conduct greatly limits OFA's ability to gain revenue through the sale of merchandise bearing the Rising Sun Trademarks.

44. As a result of Defendants' unauthorized use of the Rising Sun Trademarks and/or marks that are confusingly similar to the Rising Sun Trademarks, the public is likely to be misled and confused as to the source, sponsorship, or affiliation of Defendants' website and retail products.

45. Defendants' conduct is willful, intended to reap the benefit of OFA's goodwill, and violates Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

46. Defendants' wrongful conduct is likely to continue unless restrained and enjoined.

47. As a result of Defendants' wrongful conduct, OFA has suffered and will continue to suffer damages. OFA is entitled to injunctive relief and to an order compelling the impounding of all imitation trademarks being used, offered, advertised, marketed, installed, or distributed by Defendants. OFA has no adequate remedy at law for Defendants' wrongful conduct because, among other things, (a) OFA's trademarks are unique and valuable property which have no readily determinable market value, (b) Defendants' infringement constitutes harm to OFA such that OFA could not be made whole by any monetary award, (c) if Defendants' wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source, origin, or authenticity of the infringing materials, and (d) Defendants' wrongful conduct, and the resulting damage to OFA, is continuing.

COUNT III

VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT (815 ILCS 505/2, et seq.)

48. OFA repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

49. By reason of the acts set forth above, Defendants have been and are engaged in deceptive acts or practices in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2. Defendants' use of identical copies of, or deceptively and confusingly similar imitations of the Rising Sun Trademarks as described above constitutes unfair methods of competition and unfair and deceptive acts and practices, including but not limited to the use and employment of deception, fraud, false pretense, false promise, misrepresentation and concealment, suppression and omission of material facts, with the intent

that others rely upon the concealment, suppression and omission of such material facts in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2.

50. Defendants' use of confusingly and deceptively similar imitations of the Rising Sun Trademarks is willful and intentional, with the intention of deceiving the public as to the source of Defendants' goods.

51. Defendants' use of confusingly and deceptively similar imitations of the Rising Sun Trademarks has caused, and will continue to cause, great, immediate, and irreparable harm to OFA's business reputation, injury to its goodwill, loss of competitive advantage, and pecuniary damages, and OFA has no adequate remedy at law for this injury.

52. As a result of Defendants' acts, Defendants have been unjustly enriched and OFA has been damaged in an amount not as yet determined or ascertainable. At a minimum, however, OFA is entitled to injunctive relief and an accounting of Defendants' profits, damages, and costs.

COUNT IV

VIOLATION OF THE ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES ACT (815 ILCS 510/1, et. seq.)

53. OFA repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

54. The acts, practices and conduct of Defendants as set forth above, are likely to cause confusion or misunderstanding as to the source, sponsorship, approval or certification of items Defendants distribute, and thus constitute unfair and deceptive acts or practices in the conduct of a business, trade or commerce in violation of Illinois statute 815 ILCS 510/1 to 510/7.

55. The public is likely to be damaged as a result of Defendants' deceptive trade practices or acts.

56. Defendants' acts, practices, and conduct as alleged above have been willful and caused, and are likely to continue to cause, injury and damage to OFA.

COUNT V

COMMON LAW TRADEMARK INFRINGEMENT

57. OFA repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

58. OFA has common law rights in the Rising Sun Trademarks based on its continuous use of the Rising Sun Trademarks in Illinois in connection with the Obama Campaigns and merchandise it sells and distributes in support of the Campaign.

59. Defendants' unauthorized use of OFA's Rising Sun Trademarks to promote, advertise, market, and/or sell their goods is likely to cause confusion, mistake, and deception of the public as to the identity and origin of Defendants' goods, or as to a connection or affiliation with OFA, or permission from OFA, that does not exist, causing irreparable harm to OFA for which there is no adequate remedy at law. Defendants' conduct thus constitutes common law trademark infringement.

60. Despite their actual and constructive knowledge of OFA's ownership and prior use of the Rising Sun Trademarks, Defendants have continued to use the Rising Sun Trademarks without OFA's authorization or consent. Defendants' actions are deliberate and willful and have been done with the intention of trading upon the valuable goodwill built up by OFA in their Rising Sun Trademarks.

61. OFA has sustained injury, damage, and loss based on Defendants' actions.

COUNT VI

COMMON LAW UNFAIR COMPETITION

62. OFA repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

63. Defendants' distribution, marketing, promotion, offering for sale, and sale of goods bearing the Rising Sun Trademarks constitute false designations of origin and false descriptions or representations that Defendants' products originate from, or are offered, sponsored, authorized, licensed by, or otherwise somehow connected with OFA, when in fact they are not. As a result of Defendants' conduct, the public is likely to believe that Defendants' goods or services have originated from and/or have been approved by OFA.

64. Defendants' unauthorized use of the Rising Sun Trademarks falsely represents that Defendants' goods emanate from or are authorized by OFA and places beyond OFA's control the quality of such products, and the message that is associated with such products.

65. Defendants' conduct is willful, intended to reap the benefit of the goodwill associated with the Rising Sun Trademarks, has caused, and continues to cause damage and injury to OFA, and constitutes common law unfair competition.

WHEREFORE, OFA respectfully requests judgment against Defendants as follows:

1. That an injunction be issued enjoining Defendants, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns, and entities owned or controlled by Defendants, and all those in active concert or participation with Defendants, and each of them who receives notice directly or otherwise of such injunction from:

a) using the Rising Sun and 2012 Rising Sun Trademark, or any other trademarks that are confusingly similar to the Rising Sun Trademarks, for retail products, or making any other unlawful use of the Rising Sun Trademarks or any other trademarks owned by OFA;

b) using any false designation of origin or false description, or performing any act which is likely to lead members of the trade or public to believe that any product manufactured, imported, distributed, offered for sale, or sold by Defendants is in any manner associated or connected with OFA, or is licensed, sponsored, approved, or authorized by OFA;

c) engaging in any other activity constituting unfair competition with OFA, or constituting infringement of the Rising Sun Trademarks;

d) taking any action, including the unauthorized use of the Rising Sun Trademarks, that dilutes the unique association between the Rising Sun Trademarks and OFA, or that tarnishes the reputation or image of OFA;

e) disposing of, destroying, altering, moving, removing, concealing, tampering with, or in any manner secreting any business records (including computer records) of any kind, including invoices, correspondence, books of account, receipts or other documentation relating or referring in any manner to any retail services offered in connection with the Rising Sun Trademarks, or any mark or designation that is confusingly similar to any of the Rising Sun Trademarks;

f) instructing, assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (e) above.

2. That the Court enter an order pursuant to 15 U.S.C. § 1116(a)(d)(1)(A) impounding all counterfeit and infringing merchandise and materials bearing any of OFA's trademarks, including the Rising Sun Trademarks.

3. Awarding Plaintiff its actual damages, trebled pursuant to 15 U.S.C. § 1117(a) & (b), arising out of Defendants' acts of willful trademark infringement.

4. Awarding Plaintiff its actual damages, trebled pursuant to 15 U.S.C. § 1116(d), arising out of Defendants' use of counterfeit trademarks.

5. Awarding Plaintiff its actual damages, trebled pursuant to 15 U.S.C. § 1117(a), arising out of Defendants' acts of willful unfair competition.

6. Awarding Plaintiff its actual damages and Defendants' profits pursuant to Illinois common law, 815 ILCS 505/1, et seq., and 815 ILCS 510/1, et seq.

7. Awarding to Plaintiff interest, including pre-judgment interest, on the foregoing sums.

8. Awarding Plaintiff its costs in this civil action, including reasonable attorneys' fees and expenses, pursuant to 15 U.S.C. § 1117(a) and (b).

9. Awarding Plaintiff exemplary and punitive damages to deter any future willful infringement as the Court finds appropriate.

10. Directing such other action as the Court may deem appropriate to prevent the trade and public from deriving the erroneous impression that any goods offered, advertised, or promoted by or on behalf of Defendants are authorized by OFA or related in any way to OFA's products or services.

11. Directing that Defendants file with the Court and serve upon Plaintiff's counsel within thirty (30) days after entry of judgment a report in writing under oath

setting forth in detail the manner and form in which Defendants have complied with the above.

12. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

DATED: October 26, 2011

By: /s/ Jeremy L. Buxbaum

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Attorneys for Plaintiff Obama for America

Exhibit

A

Int. Cls.: 9, 14, 16, 21, 25, 26, 35, and 36

Prior U.S. Cls.: 2, 5, 13, 21, 22, 23, 26, 27, 28, 29, 30,
33, 36, 37, 38, 39, 40, 42, 50, 100, 101, and 102

Reg. No. 3,541,038

Registered Dec. 2, 2008

United States Patent and Trademark Office

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



OBAMA FOR AMERICA (ILLINOIS NON-PROFIT CORPORATION)
233 NORTH MICHIGAN AVENUE, 11TH FLOOR
CHICAGO, IL 60601

FOR: DIGITAL VIDEO DISKS FEATURING INFORMATION REGARDING POLITICAL ISSUES AND THE 2008 PRESIDENTIAL ELECTION, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 5-16-2007; IN COMMERCE 5-16-2007.

FOR: JEWELRY, INCLUDING LAPEL PINS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 5-16-2007; IN COMMERCE 5-16-2007.

FOR: BUMPER STICKERS; RALLY STICKERS; LAPEL STICKERS; PRINTED PAPER YARD SIGNS; PLACARDS OF PAPER OR CARDBOARD; PAPER BANNERS; PRINTED PUBLICATIONS, NAMELY, PAMPHLETS PROVIDING INFORMATION REGARDING BARACK OBAMA AS A POLITICAL CANDIDATE; POSTERS; PENS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 10-11-2007; IN COMMERCE 10-11-2007.

FOR: PLASTIC WATER BOTTLES SOLD EMPTY; MUGS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 10-11-2007; IN COMMERCE 10-11-2007.

FOR: CLOTHING, NAMELY, HATS, SWEATSHIRTS AND T-SHIRTS; CLOTHING, NAMELY, TANK TOPS, JACKETS, HEADWEAR, LONG SLEEVE SHIRTS; BABY CLOTHING, NAMELY, ONESIES; CHILDREN'S CLOTHING, NAMELY, T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 10-11-2007; IN COMMERCE 10-11-2007.

FOR: CAMPAIGN BUTTONS, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 2-11-2007; IN COMMERCE 2-11-2007.

FOR: POLITICAL CAMPAIGN SERVICES, NAMELY, PROMOTING PUBLIC AWARENESS OF BARACK OBAMA AS A CANDIDATE FOR PUBLIC OFFICE; PROVIDING ONLINE INFORMATION REGARDING POLITICAL ISSUES AND THE 2008 PRESIDENTIAL ELECTION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-11-2007; IN COMMERCE 2-11-2007.

FOR: POLITICAL CAMPAIGN SERVICES, NAMELY, FUNDRAISING IN THE FIELD OF POLITICS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-11-2007; IN COMMERCE 2-11-2007.

SN 77-183,101, FILED 5-16-2007.

BENJAMIN ALLEN, EXAMINING ATTORNEY

PTO Form 1478 (Rev 9/2006)
 OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register

Serial Number: 85302710

Filing Date: 04/22/2011

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85302710
MARK INFORMATION	
*MARK	<u>\\TICRS\EXPORT11\IMAGEOUT 11\85302710\85302710.xml1\APP0002.JPG</u>
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	2012
COLOR MARK	NO
* DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a stylized representation of the number 2012.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	735 x 324
REGISTER	Principal
APPLICANT INFORMATION	
* OWNER OF MARK	Obama for America
* STREET	One Prudential Plaza, 130 East Randolph
* CITY	Chicago
* STATE (Required for U.S. applicants)	Illinois
* COUNTRY	United States
* ZIP/POSTAL CODE (Required for U.S. applicants only)	60601
LEGAL ENTITY INFORMATION	
TYPE	non-profit corporation

STATE/COUNTRY WHERE LEGALLY ORGANIZED	Illinois
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
*IDENTIFICATION	Digital video disks featuring information regarding political issues and the 2012 presidential election; mouse pads; MP3 player holders
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	014
*IDENTIFICATION	Jewelry, including lapel pins
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	016
*IDENTIFICATION	Bumper stickers; rally stickers; lapel stickers; yard signs; placards; banners; printed publications, namely, pamphlets providing information regarding Barack Obama as a political candidate; posters; pens
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	020
*IDENTIFICATION	Plastic water bottles; mugs; beverage coolers; drinking glasses
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	025
*IDENTIFICATION	Clothing, including hats and t-Shirts; baby clothing and bibs
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	026
*IDENTIFICATION	Campaign buttons
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	028
*IDENTIFICATION	Cylindrical toss toys; golf balls
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	035

*IDENTIFICATION	Political campaign services, namely promoting public awareness of Barack Obama as a candidate for public office
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	036
*IDENTIFICATION	Political campaign services, namely, fundraising in the field of politics
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	041
*IDENTIFICATION	Providing online information regarding political issues and the 2012 presidential election
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	James L. vana
ATTORNEY DOCKET NUMBER	63920.4000.0003.US001
FIRM NAME	Perkins Coie LLP
STREET	1201 Third Avenue, Suite 4800
CITY	Seattle
STATE	Washington
COUNTRY	United States
ZIP/POSTAL CODE	98101-3099
PHONE	206-359-8000
FAX	206-359-9000
EMAIL ADDRESS	pctrademarks@perkinscoie.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Lynne E. Graybeal, Heidi L. Sachs, Grace Han Stanton, Kathleen J. Buckley, Angela M. Gasperini, Julianne A. Henley, Jason S. Howell, Elizabeth A. Kristoferson, Makalika D. Naholowaa, Lisa T. Oratz, Andrea M. Sander, Sarah J. Taylor, and Robert G. Woolston
CORRESPONDENCE INFORMATION	

NAME	James L. vana
FIRM NAME	Perkins Coie LLP
STREET	1201 Third Avenue, Suite 4800
CITY	Seattle
STATE	Washington
COUNTRY	United States
ZIP/POSTAL CODE	98101-3099
PHONE	206-359-8000
FAX	206-359-9000
EMAIL ADDRESS	pctrademarks@perkinscoie.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	10
FEE PER CLASS	325
*TOTAL FEE DUE	3250
*TOTAL FEE PAID	3250
SIGNATURE INFORMATION	
SIGNATURE	/James L. Vana/
SIGNATORY'S NAME	James L. Vana
SIGNATORY'S POSITION	Attorney for Applicant, Washington State bar member
DATE SIGNED	04/22/2011

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register

Serial Number: 85302710

Filing Date: 04/22/2011

To the Commissioner for Trademarks:

MARK: 2012 (stylized and/or with design, see mark)

The literal element of the mark consists of 2012.

The applicant is not claiming color as a feature of the mark. The mark consists of a stylized representation of the number 2012.

The applicant, Obama for America, a non-profit corporation legally organized under the laws of Illinois, having an address of

One Prudential Plaza, 130 East Randolph
Chicago, Illinois 60601
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Digital video disks featuring information regarding political issues and the 2012 presidential election; mouse pads; MP3 player holders

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 014: Jewelry, including lapel pins

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 016: Bumper stickers; rally stickers; lapel stickers; yard signs; placards; banners; printed publications, namely, pamphlets providing information regarding Barack Obama as a political candidate; posters; pens

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 020: Plastic water bottles; mugs; beverage coolers; drinking glasses

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 025: Clothing, including hats and t-Shirts; baby clothing and bibs

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related

company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 026: Campaign buttons

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 028: Cylindrical toss toys; golf balls

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 035: Political campaign services, namely promoting public awareness of Barack Obama as a candidate for public office

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 036: Political campaign services, namely, fundraising in the field of politics

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 041: Providing online information regarding political issues and the 2012 presidential election

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

James L. vana and Lynne E. Graybeal, Heidi L. Sachs, Grace Han Stanton, Kathleen J. Buckley, Angela M. Gasperini, Julianne A. Henley, Jason S. Howell, Elizabeth A. Kristoferson, Makalika D. Naholowaa, Lisa T. Oratz, Andrea M. Sander, Sarah J. Taylor, and Robert G. Woolston of Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
United States

The attorney docket/reference number is 63920.4000.0003.US001.

The applicant's current Correspondence Information:

James L. vana
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
206-359-8000(phone)
206-359-9000(fax)
pctrademarks@perkinscoie.com (authorized)

A fee payment in the amount of \$3250 has been submitted with the application, representing payment for 10 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /James L. Vana/ Date Signed: 04/22/2011

Signatory's Name: James L. Vana

Signatory's Position: Attorney for Applicant, Washington State bar member

RAM Sale Number: 3912

RAM Accounting Date: 04/25/2011

Serial Number: 85302710

Internet Transmission Date: Fri Apr 22 18:50:55 EDT 2011

TEAS Stamp: USPTO/BAS-198.22.100.4-20110422185055658

823-85302710-4809a8560cf7988854a30fce571

a3f367-DA-3912-20110422155753765224

2012

Exhibit

B



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FAX 206.359.9000
www.perkinscoie.com

James L. Vana
PHONE (206) 359-3036
FAX (206) 359-4036
EMAIL JVanav@perkinscoie.com

April 22, 2011

VIA EMAIL ONLY

Demstore.com
Suite 14
5125 MacArthur Blvd. NW
Washington, DC 20016

Re: Obama for America – Trademark Infringement Matter

Dear Demstore.com:

Our firm represents Obama for America (OFA).

As you are no doubt aware, OFA is the owner of the distinctive and well-known rising sun logo, and the new 2012 logo incorporating the rising sun, both shown below. OFA is the owner of federal registration No. 3541038 for the rising sun logo, and application No. 85/302.710 for the 2012 logo, both covering a wide variety of goods and services, including apparel, buttons and posters.



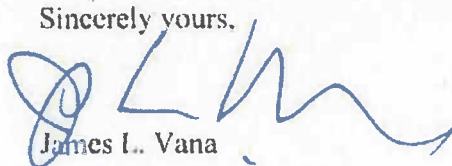
OFA has learned that you are selling merchandise bearing the two OFA logos shown above via your internet website (<http://cl.publicaster.com>). This unauthorized use of the OFA logos is highly likely to cause confusion among consumers as to the source of those goods, or regarding affiliation with or sponsorship by OFA. As a result, your use of the OFA logos constitutes trademark infringement under state and federal law.

April 22, 2011
Demstore.com
Page 2

We therefore demand that you immediately cease and desist from any further commercial use of the OFA logos in connection with the advertising, promotion, offer or sale of any goods or services. Given the importance and urgency of this matter to OFA, we require your response within ten (10) days of today's date.

This letter is sent without waiver of any rights or remedies available to OFA.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "James L. Vana". The signature is stylized with a large initial "J" and a long, sweeping underline.

James L. Vana

cc: Obama for America



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FAX (206) 359-4036
EMAIL JVan@perkinscoie.com

July 29, 2011

VIA COURIER AND EMAIL

Mr. Jeffrey R. Cohen
Millen, White, Zelano & Branigan
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201
cohen@mwzb.com

**Re: Continued Trademark Infringement Matter
Client-Matter No. 63920-7000.0000.CX003**

Dear Mr. Cohen:

As you know, our firm represents Obama for America ("OFA"), and we write regarding Demstore.com's ("Demstore") continued trademark infringement of OFA's distinctive and well-known Rising Sun Logo, and the new 2012 logo incorporating the rising sun (together, the "Rising Sun Logos"), both shown below.



Despite OFA's recent requests that Demstore cease its infringing use of these logos, Demstore's infringement persists. See <http://www.demstore.com/>. This infringement must stop.

The owner of the Rising Sun Logos is the entity formed to support our Democratic President, and is used to support other Democratic candidates as well. Given this, Demstore's interference

Mr. Jeffrey R. Cohen
July 29, 2011
Page 2

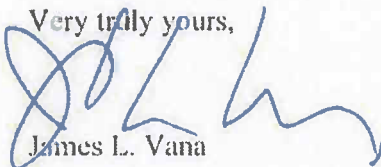
with OFA's efforts to control its marks is at odds with its claim to be an "ardent democratic supporter," and suggests instead a pure profit motive for the infringement. We also question why you asked David Rothschild, who is not employed by or associated with Demstore, to contact OFA's counsel to discuss an unspecified arrangement between the parties. When we asked Demstore for an explanation, the only response was your May 23, 2011 communication challenging the validity of the Rising Sun Logos.

We disagree with your statement that the Rising Sun Logos are invalid based on a laches argument. First, a laches defense is not available in connection with intentional infringement, which is clearly the case here. Further, use of the Rising Sun Logos is tied to federal election cycles, and we do not believe that any delay in addressing this issue has been unreasonable. Finally, even assuming, arguendo, that Demstore had a viable laches claim (which we unequivocally deny), Demstore's use of the identical marks to sell identical goods makes confusion inevitable. In any event, OFA's 2012 Logo did not exist until 2010, making any laches claim inapplicable with respect to that logo.

OFA again demands that Demstore cease and desist from any further commercial use of the Rising Sun Logos in connection with the advertising, promotion, offer or sale of any goods or services. If your client does not comply with this final demand, OFA will proceed with a lawsuit against Demstore for trademark infringement and unfair competition.

Given the importance and urgency of this matter to OFA, we require your response within ten (10) days of today's date. This correspondence is made without waiver of any of our client's rights or remedies.

Very truly yours,



James L. Vana

cc: Obama for America

CIVIL COVER SHEET

The JS 44 civil cover sheet is to be filed with the information on which the complaint is based. It is to be filed with the complaint and the summons. It is to be filed with the complaint and the summons. It is to be filed with the complaint and the summons.

Case: 1:11-cv-07646 Document # 1-3 Filed 10/26/11 Page 1 of 1 PageID #: 32

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant
NOTE: In land condemnation cases, use the location of the tract of land involved.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district
6 Multidistrict Litigation

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

IX. This case (check one box) is not a refiling of a previously dismissed action is a refiling of case number previously dismissed by Judge

Date Signature of Attorney of Record