

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FORD MOTOR COMPANY, a Delaware corporation,

Plaintiff,

Civil No. 01 60084 DT

v.

Hon. Robert L. Cleland

2600 ENTERPRISES, a New York not-for-profit corporation, and EMMANUEL GOLDSTEIN, a/k/a ERIC CORLEY, an individual,

Defendants.

_____ /

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_____ /

VERIFIED COMPLAINT

Plaintiff Ford Motor Company (“Plaintiff” or “Ford”), for its claim against defendants 2600 Enterprises and Emmanuel Goldstein, a/k/a Eric Corley (“Defendants”), alleges as follows:

NATURE AND SUBSTANCE OF THE ACTION

1. Ford files this action against Defendants for trademark dilution, trademark infringement, and false designation under the Lanham Act (15 U.S.C. §1051 et seq.).

2. This lawsuit involves Defendants’ registration and use of the domain name FUCKGENERALMOTORS.COM which Defendants directly points to Ford’s official website at

FORD.COM. In other words, when an Internet user types FUCKGENERALMOTORS.COM into the user's computer, the user is catapulted directly to the official Ford website at FORD.COM. By pointing the domain name FUCKGENERALMOTORS.COM directly to Ford's official website at FORD.COM, Defendants are confusing the public into believing that somehow Ford has approved or is somehow involved in using the domain name FUCKGENERALMOTORS.COM to divert Internet users to Ford's official website at FORD.COM. In addition, the use of such obscene language in pointing directly to Ford's official website at FORD.COM tarnishes and dilutes the world-famous trademark FORD®. An Internet user searching for strident, vulgar criticism of General Motors might type in or stumble upon the obscene domain name FUCKGENERALMOTORS.COM. On doing so, however, the Internet user will be transferred immediately and directly to Plaintiff Ford's official web site at FORD.COM. As a result, Ford is inevitably linked not only to the vulgar, strident criticism of a competitor, but also associated with the offensive, obscene word that is used in the domain name.

3. On September 26, 1999, Defendants registered the Internet domain name FUCKGENERALMOTORS.COM, which Defendants recently pointed directly to Ford's official website at FORD.COM. A copy of the Network Solutions, Inc. "whois" printout demonstrating that FUCKGENERALMOTORS.COM is registered to defendant 2600 Enterprises, and that defendant Emmanuel Goldstein is the Administrative and Technical contact for the domain name is attached hereto as Exhibit A. A copy of the official Ford Home Page to which FUCKGENERALMOTORS.COM points is attached hereto as Exhibit B.

4. In bringing this lawsuit, Ford seeks a temporary restraining order, a preliminary and permanent injunction, damages, treble damages, and attorneys' fees and costs.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over the federal trademark and trademark dilution claims under 28 U.S.C. §§1331 and 1338(a).

6. This action arises out of wrongful acts committed by Defendants in this judicial district and which subject Defendants to personal jurisdiction here. Because a substantial part of the events giving rise to these claims occurred in this judicial district, venue is proper under 28 U.S.C. §1391(b)(2). Moreover, Defendants knowingly and intentionally directed, targeted, and inflicted injurious consequences upon Ford and other residents and citizens of the State of Michigan.

THE PARTIES

7. Ford is a Delaware corporation with its principal place of business in Dearborn, Michigan.

8. 2600 Enterprises is a Not-For-Profit Corporation in Suffolk County, New York, and, according to the whois record, operating with an address of P.O. Box 99, Middle Island, NY, 11953. Defendant Emmanuel Goldstein is an individual residing at an unknown address in Stony Brook, NY. Defendant Emmanuel Goldstein is also known as Eric Corley.

FACTS COMMON TO ALL CLAIMS

Ford's Registered Trademark and Goodwill and Reputation

9. Ford has obtained several United States Trademark Registrations for the trademark FORD®. The United States Trademark Registrations for the trademark FORD® are valid, unrevoked, subsisting, and incontestable, and constitute prima facie evidence of Plaintiff's exclusive ownership of the trademark FORD®.

10. Ford has continuously used the trademark FORD® in connection with the promotion, advertising, and sale of automobiles and other products and services since well before the acts of Defendants complained of herein.

11. Ford has spent billions of dollars and has expended significant effort in advertising, promoting, and developing the trademark FORD® throughout the world. As a result of such advertising and expenditures, Ford has established considerable goodwill in the trademark FORD®. The trademark FORD® has become widely known and recognized throughout the world as a symbol of high quality automotive and other goods and services. The Trademark FORD® is world-famous and distinctive, and has become associated by the consuming public exclusively with Ford. The Trademark FORD® is an invaluable asset of substantial and inestimable worth to Plaintiff.

12. Ford uses its official website, FORD.COM in connection with the promotion, advertising, and sale of automobiles and other products and services since well before the acts of Defendants complained of herein.

The Internet and Domain Name Registration

13. The Internet is a worldwide network of computers that enables individuals and organizations to access and share information by means of “web pages” and “web sites,” so-called because the pages are reached by “links” from one to another, creating the “worldwide web” or “web.”

14. A web page is a computer data file that is published or “served” to the Internet by one computer and presents itself as a graphical “page” viewable by other computers on the Internet. It can include names, pictures, text, sound, and links to other web pages. A collection of related web pages published by the same owner is typically referred to as a web site, which is identified on the Internet by a unique address, similar to a street address, and commonly referred to as a “domain name.”

15. The Internet is divided into several “top level” domains, such as “.com,” “.net,” and “.org.” Domain names with the “.com,” “.net,” and “.org.” designations can be registered with Network Solutions, Inc. (“NSI”), CORE, or other domain name registrars for a de minimis fee. The registrars register domain names on a first-come, first-serve basis. The registrars do not make a threshold determination regarding a registrant’s right to use a domain name, other than to insure that no two domain names are identical.

16. As an express condition of registering a domain name, an applicant must represent and warrant that: (1) the applicant’s statements are true; (2) the applicant has the right to use the requested domain name; (3) the use or registration of the domain name does not interfere with the rights of any third party in any jurisdiction with respect to trademark, service mark, trade name, company name, or any other intellectual property rights; and (4) the applicant is not seeking to use the domain name for any unlawful purpose, including unfair competition.

17. Pointing an obscene and profane domain name such as FUCKGENERALMOTORS.COM to Ford’s official web site constitutes unfair competition, causes public confusion, as well as tarnishes Ford’s goodwill and reputation. The public recognizes, and often relies on the expectation, that links to a company’s official web site address are sponsored by, affiliated with, or somehow approved by that company.

Defendants’ Infringement

18. On September 26, 1999, Defendants registered the Internet domain name FUCKGENERALMOTORS.COM, which Defendants recently pointed directly to Ford’s official website at FORD.COM. A copy of the Network Solutions, Inc. “whois” printout demonstrating that FUCKGENERALMOTORS.COM is registered to defendant 2600 Enterprises, and that defendant Emmanuel Goldstein is the Administrative and Technical contact for the domain name is attached to the Verified Complaint as Exhibit A. A copy of the official Ford Home Page to

which FUCKGENERALMOTORS.COM points or is linked is attached to the Verified Complaint as Exhibit B.

19. Defendants are not in any way affiliated or associated with Ford and have absolutely no right to point their domain name FUCKGENERALMOTORS.COM to Ford's official website.

20. In registering the domain name FUCKGENERALMOTORS, Defendants falsely represented and warranted that Defendants had the right to not only register the domain name, but that Defendants' registration and/or use of the domain name did not interfere with the right of any third party, and that the domain name would not be used for any unlawful purpose.

21. Defendants' use of the domain name FUCKGENERALMOTORS.COM causes public confusion and tarnishes the goodwill and reputation of Ford. In addition, pointing an obscene and profane domain name that uses the trademark of another company directly to the official Ford website at FORD.COM constitutes unfair competition.

FIRST CLAIM FOR RELIEF
(Trademark Dilution)

22. The allegations set forth above are incorporated herein by this reference.

23. The trademark FORD® is a famous trademark. The trademark FORD® is inherently distinctive and has acquired distinctiveness.

24. Ford has extensively and exclusively used the trademark FORD® in commerce throughout the world in connection with automobiles and other products and services.

25. Defendants' unauthorized registration and use of FUCKGENERALMOTORS.COM to link to Ford's official website at FORD.COM dilutes the distinctive quality of, and tarnishes, the famous trademark FORD® in violation of 15 U.S.C. §1125(c)(1).

26. Ford is being irreparably harmed by Defendants' unlawful actions, and Ford is entitled to an injunction prohibiting Defendants from using the FUCKGENERALMOTORS.COM to point to any website involving Ford, and transferring the domain name to the Court pending a final resolution on the merits. Ford has no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' acts are allowed to continue.

27. As a direct and proximate result of Defendants' conduct, Ford has suffered damages in an amount to be proved at trial. In addition, Ford is entitled to its costs and attorneys' fees.

SECOND CLAIM FOR RELIEF
(Trademark Infringement)

28. The allegations set forth above are incorporated herein by this reference.

29. The trademark FORD® is inherently distinctive and has acquired secondary meaning. The public associates the trademark FORD® exclusively with Ford's products and services. This is a result of the trademark FORD®'s inherent distinctiveness and of distinctiveness acquired through extensive advertising, sales, and use in commerce throughout the world in connection with Ford's automobiles and other products and services bearing or using the trademark FORD®.

30. By Defendants' unauthorized and unlawful actions, Defendants have, without Ford's consent, used and/or is using in commerce a reproduction, counterfeit, copy, or colorable imitation of the trademark FORD®. Defendants' actions are likely to cause confusion, or to cause mistake, or to deceive in violation of 15 U.S.C. § 1114(1).

31. By committing the acts alleged herein, Defendants has intentionally, knowingly, and willfully infringed Ford's Marks.

32. Because of Defendants' infringement, Ford has been irreparably harmed in its business. Moreover, Ford will continue to suffer irreparable harm unless Defendants is restrained and enjoined from infringing Ford's Marks. Ford is entitled to an injunction prohibiting Defendants from using the FUCKGENERALMOTORS.COM to point to any website involving Ford, and transferring the domain name to the Court pending a final resolution on the merits. Ford has no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' acts are allowed to continue.

33. As a direct and proximate result of Defendants' conduct, Ford has suffered damages in an amount to be proved at trial. In addition, Ford is entitled to treble damages, punitive and its costs and attorneys' fees. Defendants' actions are willful, wanton, and accordingly, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

THIRD CLAIM FOR RELIEF
(False Designation of Origin)

34. The allegations set forth above are incorporated herein by this reference.

35. By Defendants' unauthorized registration and use of FUCKGENERALMOTORS.COM, Defendants have used a false designation of origin that is likely to cause confusion, mistake, or deception as to the connection of the FUCKGENERALMOTORS.COM with Ford in violation of 15 U.S.C. § 1125(a).

36. Because of Defendants' conduct, Ford has been irreparably harmed in its business. Moreover, Ford will continue to suffer irreparable harm unless Defendants is restrained and enjoined from making false designations of origin, false descriptions, or misrepresentations regarding the FUCKGENERALMOTORS.COM, and Ford is entitled to an injunction prohibiting Defendants from using the FUCKGENERALMOTORS.COM to point to any website involving Ford, and transferring the domain name to the Court pending a final

resolution on the merits. Ford has no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' acts are allowed to continue.

37. As a direct and proximate result of Defendants' conduct, Ford has suffered damages in an amount to be proved at trial. In addition, Ford is entitled to treble damages, punitive and its costs and attorneys' fees. Defendants' actions are willful, wanton, and accordingly, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

WHEREFORE, Ford prays for judgment against Defendants as follows:

A. That Defendants, and all of Defendants' agents, servants, employees, and attorneys, and all other persons in active concert or participation with him who receive actual notice of the injunction, be temporarily, preliminarily, and permanently enjoined from, without permission from Ford:

- (1) using Ford's Marks, any colorable imitations thereof, or any marks confusingly similar thereto;
- (2) transferring to anyone other than to the Court the domain name FUCKGENERALMOTORS.COM or any other domain names that point to, link to, or use names, words, designations, or other symbols confusingly similar to Ford's trademarks;
- (3) registering, maintaining registrations for, using, offering for sale, claiming ownership of, or in any other way using the domain name name FUCKGENERALMOTORS.COM or any other domain names that point to, link to, or use names, words, designations, or other symbols confusingly similar to Ford's trademarks; and
- (4) otherwise deceptively or unfairly competing with Ford.

B. That Defendants be ordered to disclose to the Court and to Ford all other domain name registrations owned or registered by Defendants through any domain name registrar in order to permit the Court and Ford to consider whether any such other registration should be subject to other relief in this matter.

C. That Defendants be ordered to transfer to the Court the registration for the domain name FUCKGENERALMOTORS.COM or any other domain names that point to, link to, or use names, words, designations, or other symbols confusingly similar to Ford's trademarks.

D. That Ford be awarded damages in an amount to be determined at trial based on Defendants':

- (1) dilution of Ford's Marks;
- (2) infringement of Ford's Marks; and
- (3) false designations of origin, descriptions, and representations.

E. That Ford be awarded damages and restitution, in an amount to be determined at trial, under 15 U.S.C. §1117(a) for the total profits received by Defendants from, and any damages sustained by Ford, as a result of, Defendants' actions.

F. That Ford be awarded under 15 U.S.C. §1117(a) enhanced damages, up to three times the amount found as actual damages for Defendants' trademark infringement and false designations of origin, descriptions and representations, in an amount to be determined at trial.

G. That Ford be awarded punitive damages for Defendants' oppressive, fraudulent, and malicious acts of unfair competition.

H. That Defendants be ordered to deliver to Ford for destruction all labels, signs, prints, packages, wrappers, receptacles, advertising materials, or products that bear marks confusingly similar to Ford's Marks, or that result in any unfair competition by Defendants against Ford.

I. That Defendants be ordered to make a written report within a reasonable period, to be filed with the Court, detailing the manner of Defendants' compliance with the requested injunctive and mandatory relief above.

J. That Ford be awarded its reasonable attorneys' fees and costs of suit under 15 U.S.C. §1117(a) and 35 U.S.C. §285; and that Ford be awarded such other relief as the Court may deem just and proper.

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By: _____

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DATED: April _____, 2001.

VERIFICATION

Susan N. McFee, under penalty of perjury of the laws of the United States, states: That she is Trademark Counsel at Ford Global Technologies, Inc., a wholly-owned subsidiary of the Ford Motor Company; that she has read, is familiar with, and has personal knowledge of the contents of the foregoing Verified Complaint; and that to the best of her knowledge, information, and belief the allegations thereof are true and correct.

Executed this ____ day of April, 2001, in Dearborn, Michigan.

Susan N. McFee

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