



Curt Manufacturing, Inc.)
6208 Industrial Drive)
Eau Claire, Wisconsin 54701)
)
(Complainant))
)
v.)
)
GEORGE SABIN)
P.O. Box 42097)
Los Angeles, California 90042)
)
(Respondent))
_____)

Domain Name In Dispute:

curt-mfg.com

**COMPLAINT IN ACCORDANCE WITH
THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY**

1. This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy, adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999 and approved by ICANN on October 24, 1999 (ICANN Policy), and the Rules for Uniform Domain Name Dispute Resolution Policy (ICANN Rules), adopted by ICANN on August 26, 1999 and approved by ICANN on October 24, 1999, and the National Arbitration Forum (NAF) Supplemental Rules (Supp. Rules). ICANN Rule 3(b)(i).

2. COMPLAINANT INFORMATION

- a. Name: Curt Manufacturing, Inc.
- b. Address: Attention: Lee Adelman
Vice President, eCommerce, Retail & International Sales
6208 Industrial Drive
Eau Claire, Wisconsin 54701
- c. Telephone: (715) 831-8713 Ext. 131
- d. Fax: (866) 808-7622
- e. E-Mail: ladelman@curtmfg.com

Complainant's Authorized Representative in the Administrative Proceeding

- a. Name: Jeffrey D. Shewchuk
- b. Address: SHEWCHUK IP SERVICES, LLC
3356 Sherman Court, Suite 102

Eagan, MN 55121

- c. Telephone: 651-331-9558
- d. Fax: 651-688-3348
- e. E-Mail: jdshewchuk@comcast.net

ICANN Rule 3(b)(ii).

The Complainant CURT MANUFACTURING's preferred method for communications directed to the Complainant in the administrative proceeding: ICANN Rule 3(b)(iii).

Electronic-Only Material

- a. Method: E-Mail
- b. Address: jdshewchuk@comcast.net
- c. Contact: Jeffrey D. Shewchuk

Material Including Hard Copy

- a. Method: Facsimile
- b. Address/Fax: (651) 688-3348
- c. Contact: Jeffrey D. Shewchuk

The Complainant CURT MANUFACTURING chooses to have this dispute heard before a single-member administrative panel. ICANN Rule 3(b)(iv).

3. RESPONDENT INFORMATION

As listed in WHOIS:

- a. Name: George Sabin
- b. Address: P.O. Box 42097
Los Angeles, California 90042
- c. Telephone: (602) 897-3172
- d. Fax:
- e. E-Mail: geosabin@hotmail.com

Calls to the WHOIS listed telephone number do not go through. An e-mail to the WHOIS listed e-mail address (geosabin@hotmail.com) resulted in no response. An e-mail to the e-mail address listed on the offending website (ok@oklaw.us) was returned, identifying its author as "CURT-MFG.com". (see Exhibit A). It is possible that the Respondent is an alias for one Ted Stimpfel, phone number 626-393-2000. Mr. Stimpfel has answered his phone and admitted knowledge of the offending website.

4. DISPUTED DOMAIN NAME(S)

- a. The following domain name(s) is/are the subject of this Complaint: ICANN Rule 3(b)(vi).

curt-mfg.com

b. Registrar Information: ICANN Rule 3(b)(vii).

- i. Registrar's Name: GODADDY.COM, INC.
- ii. Registrar Address: 14455 N. Hayden Rd.
Suite 219
Scottsdale, AZ 85260
- iii. Telephone Number: (480) 505-8899
- iv. E-Mail Address: abuse@godaddy.com

c. Trademark/Service Mark Information: ICANN Rule 3(b)(viii). The following Registered Trademarks are owned by Complainant CURT MANUFACTURING and are in use by Complainant CURT MANUFACTURING in connection with its on-going business activities. The "curt-mfg.com" domain name as well as the text and logo used at the "www.curt-mfg.com" website are confusingly similar, tarnish and dilute the following mark:

<u>Trademark</u>	<u>Registration No.</u>	<u>Goods</u>
CURT	3,153,311	Vehicle towing apparatus and structural parts therefor, namely, ball mounts, hitch balls, trailer hitch receivers, hitch bars, goose neck hitches, fifth wheel hitches, hitch plates, folding hitches, towable bike racks, hitch locks, coupler locks, tow hooks, tow hook mounts, tow straps, tow strap mounts, clevis pin mounts, pintle hooks, torsion hitch kits comprised essentially of receiver tubing, couplers, hitch plugs, and tow bars.

See Exhibit B.

5. FACTUAL AND LEGAL GROUNDS

This Complaint is based on the following factual and legal grounds: ICANN Rule 3(b)(ix).

- a) *The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.* Complainant CURT MANUFACTURING is in the business of designing, manufacturing and marketing vehicle towing equipment, with its primary business location in Eau Claire, Wisconsin. Complainant CURT MANUFACTURING has used the CURT mark on its products since at least 1993. As its primary website used in its business beginning in at least 1997, Complainant CURT MANUFACTURING operates www.curtmfg.com.
- b) *The Respondent (domain-name holder) should be considered as having no rights or legitimate interests in respect of the domain name that is the subject of the complaint.* Respondent has recently begun operating a website at the offending domain, which resolves to the homepage attached as Exhibit C. The homepage of the offending website starts by confusingly identifying itself as "Curt Manufacturing Inc., Eau Claire WI". Metatags on the webpage confusingly list "Curt". The main content of the offending website disparages Complainant CURT MANUFACTURING's products. No where on

the offending website does it correctly identify the source of the commentary. At the bottom of homepage of the offending website, Respondent uses a confusing similar and disparaging logo to the logo used by Complainant CURT MANUFACTURING.

Due to similarity between www.curt-mfg.com and www.curtmfg.com, the offending domain name is likely to cause confusion, to cause mistake, and to deceive as to the affiliation, connection, or association of Respondent with Complainant CURT MANUFACTURING. The content of the website of the offending domain name is likely to cause confusion, to cause mistake, and to deceive as to the origin, sponsorship, or approval of Respondent's comments or commercial activities by Complainant CURT MANUFACTURING. Respondent's intent is clearly to misleadingly divert consumers or to tarnish Complainant CURT MANUFACTURING's mark and reputation, possibly making commercial gain through class action or other litigation. Respondent is not using the offending domain name in connection with any bona fide offering of goods or services, and has no legitimate noncommercial or fair use for the www.curt-mfg.com domain name. Respondent's only use is to confuse customers and prospective customers of Complainant CURT MANUFACTURING who mistype www.curtmfg.com or who otherwise show initial interest confusion in mistakenly going to Respondent's website.

- c. *The domain name should be considered as having been registered and being used in bad faith.* By using the domain name, Respondent has intentionally attempted to attract, possibly for commercial gain, Internet users to Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or comments. ICANN Rule 3(b)(ix)(3); ICANN Policy ¶ 4(a)(iii). The "Curt Manufacturing Inc." name and "Eau Claire, WI" location at the top of the homepage, the "Curt" metatags used, the text of the homepage, and the logo at the bottom of the webpage demonstrate that Respondent is attempting to confuse Internet users, all without correctly identifying the source of the commentary on the webpage.

6. **REMEDY SOUGHT**

The Complainant CURT MANUFACTURING requests that the Panel issue a decision that the domain-name registration be transferred to CURT MANUFACTURING. ICANN Rule 3(b)(x); ICANN Policy ¶ 4(i).

7. **OTHER LEGAL PROCEEDINGS**

No other legal proceedings have been commenced or terminated in connection with or relating to the domain name that is the subject of the complaint. ICANN Rule 3(b)(xi).

8. **COMPLAINT TRANSMISSION**

The Complainant asserts that a copy of this Complaint, together with the cover sheet as prescribed by NAF's Supplemental Rules, has been sent or transmitted to the Respondent (domain-name holder), in accordance with ICANN Rule 2(b) and to the Registrar(s) of the domain name(s), in accordance with NAF Supp. Rule 4(e). ICANN Rule 3(b)(xii); NAF Supp. Rule 4(c).

9. MUTUAL JURISDICTION

The Complainant CURT MANUFACTURING will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to the location of the principal office of the concerned registrar. ICANN Rule 3(b)(xiii).

10. CERTIFICATION

Complainant CURT MANUFACTURING agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain-name holder and waives all such claims and remedies against (a) the National Arbitration Forum and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

Complainant CURT MANUFACTURING certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully Submitted,

 /JDS/
Jeffrey D. Shewchuk
jdshechuk@comcast.net
SHEWCHUK IP SERVICES, LLC
3356 Sherman Ct., Ste. 102
Eagan, MN 55121
(direct) 651-331-9558
(fax) 651-688-3348

 August 12, 2008
[Date]

EXHIBIT A

Re: CURT-MFG.com

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Jeff Shewchuk

From: Lee Adelman [ladelman@curtmfg.com]
Sent: Monday, August 11, 2008 2:14 PM
To: jdshewchuk@comcast.net
Subject: FW: CURT-MFG.com
Importance: Low

From: OK [mailto:ok@oklaw.us]
Sent: Saturday, August 09, 2008 6:30 PM
To: Lee Adelman
Cc: abuse@godaddy.com
Subject: Re: CURT-MFG.com
Importance: Low

Lee Adelman, Vice President
Curt Manufacturing
Eau Claire, WI

Dear Mr. Adelman,

In response to your e-mail (italicized below) in which you also cc'd to abuse@godaddy.com:

*Please refer to the e-mail below that was sent to GoDaddy.com. We **demand***

You are in no position to 'demand.' Your communication with GoDaddy.com was without legal merit and constitutes a libelous and malicious wrong that has resulted in substantial damages to the good image and reputation of the registrant(s).

*that the contents of your site <http://www.curt-mfg.com> and the site itself is removed by Monday morning, August 11, 2008. If the site is not removed, we will have no alternative but to begin legal proceedings against you for **defamation**,*

Please **substantiate** where there are any indisputable inaccuracies in the website and those inaccuracies (if any) will be timely removed.

Please **detail** your alleged specific loss(es) in dollars of your claim with thorough documentation substantiating each loss.

slander,

There is no slander involved in the website.
You do not seem to understand what slander is.

and for illegal use of our trademarks, logotypes, company name, et al.

8/12/2008

The website clearly falls under Free Speech. The website is a public service and it does not sell any products or services. Nor does it create any income. The photographs are accurate and the cartoon hitch drawing is a parody. Such parodies have already been ruled legal by the U.S. Supreme Court.

*In fact, even your domain name is an inappropriate and **confusing facsimile** of our official company website.*

So what!?

The domain name parody is similar but it is not the same. Your company failed to acquire it and left it available for others. As the domain name is being used in public service and not in a competing trade, and as it is not even being used in the same trademark category that Curt Mfg. has its trademarked, it does not represent any violation of trademark law. Please have your own trademark attorney explain it to you. You do have trademark rights but they are obviously not what you believe they are.

*We further **demand** that you relinquish the domain name www.curt-mfg.com back to CURT Manufacturing, Inc., whose official company website is www.curtmfg.com.*

There is that impolite word again!

*The purpose of your website is to clearly **harm our company** and it must **stop as a matter of law** and common decency.*

In viewing the website, it is obvious that the website is a public service which sole purpose is to warn consumers. If you feel the truth and fact that your company's product nearly cost people their lives may be a negative reflection upon your company... than that is solely your conclusion. Such a public failure involving real risk to public life is public news.

There has been no evidence that your company has taken any action to warn other consumers about this hitch model and its demonstrated failure(s). That is where your *common decency* stance should be. Peoples' lives are at stake and yes, perhaps this needs to go before a jury.

As a 'matter of law', the website is not unlawful and any legal action that your company may bring will certainly be aggressively countered with claims.

*We refute the false conclusions on your website. The product **design style and the specific design** of the application is common in the trailer hitch industry.*

Oh Really!!! A hitch expert has already disputed the safety of the design and has a reason for its replacement.

Your broad implied safety statement can and may be challenged on multiple levels. For a hitch to break as the one in question did, then there is a very serious problem in the design and/or materials in which Curt Manufacturing is apparently attempting to conceal.

8/12/2008

Please note: Your demands are legally groundless, and your communication with GoDaddy.com is libelous. Your email is a clear attempt to stymie and violate Free Speech and the First Amendment of the U.S. Constitution. You are hereby ordered to CEASE and DESIST your further attempts to violate these rights. Currently, there is litigation being considered against your firm within the statute of limitations of the State of California. The plaintiffs may now well consider additional Causes of Action for the damages of your new malicious threats, intimidation and the interferences with GoDaddy.com to intentionally violate the constitutional Free Speech and Free Press of the victims in which your company's faulty product has already previously damaged.

...we replaced your hitch and paid our dealer for the labor to do so.

So that absolves your firm of its duty to public safety?
What about the emotional and physical damages to the victims?
Has your company ever contacted them regarding their damages
other than for just a hitch simple hitch replacement?

We took care of your needs and cannot understand why you would set up a slanderous and hurtful website designed to scare our customers and harm our company.

What was done by your company was a whitewash cover-up
of a very serious highway safety problem!
The intent of the website is **educational**. Let your company's
customers know of the experience of others and let them
decide for themselves.

...we must insist on immediate action to resolve this quickly.

Thank you for so forcefully reenergizing the matter of this incident.
You are obviously correct. Much more needs to be done.
Your company's hitch failure should have been brought
to the attention of the Federal Trade Commission.

Did your company report the matter within a 24-hour period as
required by Law? Perhaps a safety recall is long overdue.

Cordially,

CURT-MFG.com

cc: abuse@godaddy.com

8/12/2008

EXHIBIT B

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

Reg. No. 3,153,311

United States Patent and Trademark Office Registered Oct. 10, 2006

TRADEMARK PRINCIPAL REGISTER

CURT

CURT MANUFACTURING , INC. (WISCONSIN CORPORATION)
6208 HIGHWAY 12
EAU CLAIRE, WI 54701

FOR: VEHICLE TOWING APPARATUS AND STRUCTURAL PARTS THEREFOR, NAMELY, BALL MOUNTS, HITCH BALLS, TRAILER HITCH RECEIVERS, HITCH BARS, GOOSE NECK HITCHES, FIFTH WHEEL HITCHES, HITCH PLATES, FOLDING HITCHES, TOWABLE BIKE RACKS, HITCH LOCKS, COUPLER LOCKS, TOW HOOKS, TOW HOOK MOUNTS, TOW STRAPS, TOW STRAP MOUNTS, CLEVIS PIN MOUNTS, PINTLE HOOKS, TORSION HITCH KITS COMPRISED ESSENTIALLY OF RECEIVER TUBING, COUPLERS, HITCH

PLUGS, AND TOW BARS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 11-0-1993; IN COMMERCE 11-0-1993.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE NAME CURT IDENTIFIES A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD.

SER. NO. 78-638,952, FILED 5-27-2005.

JOANNA DUKOVIC, EXAMINING ATTORNEY

EXHIBIT C

Curt Manufacturing, RECALL Heavy Duty Towing Hitches

Page 1 of 2

Curt Manufacturing Inc.
Eau Claire, WI

CATASTROPHIC HITCH FAILURE !



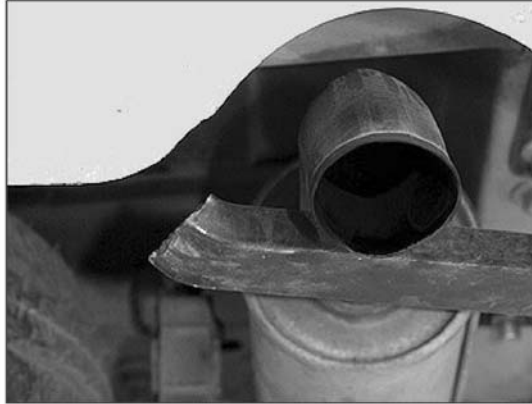
Curt Manufacturing knew of a severe design problem in the above designed hitch.
You know... the hitch is what your trailer and the safety chains are attached to.
Curt Manufacturing re-engineered their defective design.



However, Curt Manufacturing negligently failed to recall its older

designed hitches
or warn its earlier buyers.

Curt Manufacturing Inc.'s above hitch broke and almost killed me
and my son;
and my temporary out-of-control vehicle and wayward trailer
could have easily
killed others on a busy freeway.



How many other Curt products are flawed?

Do you want to chance your life on a company
which gambles life for profits?

If you have experienced a similar catastrophic failure
with a Curt manufactured product, please let us know.

ok@oklaw(dot)us



A public service notice.