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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

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Flava Works, Inc.,)
)
Plaintiff,)
)
)
v.)
)
Rod Hughes (alias Xavier Smith, alias Rod Hedges,)
alias Rod Heghes, alias Xavier Heghes, alias Keith)
Heghes, alias IStackPorn, alias Porn Stacker, alias)
IStackPorn.net, alias StacksWorld.info, alias)
twitter.com/IStackPorn, alias facebook.com/IStack)
Porn, alias Soufbound),)
Honey Wood,)
Terra Cotta Hughes)
Defendants.)
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Case No. 1:10-CV-00747

**AMENDED
COMPLAINT**

JUGDE CASTILLO

JURY TRIAL DEMANDED

Plaintiff, Flava Works, Inc. (hereinafter “Plaintiff” or “Flava Works”), by and through its attorney and for its complaint against Defendants alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action to stop Defendants from infringing, and promoting, encouraging, enabling and facilitating the infringement of, Plaintiff’s copyrights, trademarks and trade dress (collectively “Flava Works’ Intellectual Property”) on the Internet. Defendants

created and/or operate, or facilitated the creation of and/or the operation of, the weblog, or “blog”, www.stacksworld.info, which is the successor to its predecessor website www.istackporn.net (which was the basis for the original complaint), a website that is largely dedicated to the repeated and exploitative unauthorized viewing, downloading, streaming, etc. of Flava Works’ Intellectual Property. Defendants, through this blog, directly post Flava Works’ Intellectual Property, provide links to third party sites where Flava Works’ Intellectual Property can be accessed and encourage blog visitors/members to post links to third party sites themselves and/or to notify Defendants of third party sites containing Flava Works’ Intellectual Property so that Defendants may post these links themselves. Defendants provide the visitors/members with a multi-faceted network where infringing digital files consisting of Flava Works’ Intellectual Property are either directly made available on the blog or through which third party websites containing digital files of Flava Works’ Intellectual Property are made easily accessible. Defendants use social networking sites to increase traffic to the blog. Defendants are blatantly and aggressively facilitating the massive repeat infringement of Flava Works’ Intellectual Property and this conduct has caused and continues to cause Plaintiff grave and irreparable harm.

THE PARTIES

2. Plaintiff is a corporation incorporated under the laws of the State of Florida with its principal place of business at 2610 N. Miami Ave., Miami, Florida 33127, and an office in Chicago, Illinois at 933 W. Irving Park Rd., Ste. C, Chicago, Illinois 60613.

3. On information and belief, Rod Hughes (hereinafter “Hughes” or “Defendant”), is an individual residing in the State of Florida. Hughes’ residence is either 2236 W. 15th St., Jacksonville, FL 32209 or 6455 Argyle Forest Blvd. Apt. 1422, Jacksonville, FL 32244. Alternatively, Hughes’ residence is unknown; on information and belief, Hughes has hidden his

true and correct address, in violation of ICANN (Internet Corporation for Assigned Names and Numbers) regulations, by knowingly providing materially false registration information to GoDaddy.com, the public domain name registrar that hosts his website(s). Alternatively, “Rod Hughes” is not Defendant’s real name and was only provided as registrant information in order to hide his true identity; thus, his true identity may be one of the numerous aliases listed in the caption to this Amended Complaint.

4. On information and belief, Terra Cotta Hughes is an individual residing in the State of Florida at either 2236 W. 15th St., Jacksonville, FL 32209 or 3218 Rayford St., Jacksonville, FL 32205. Terra Cotta Hughes is joined as a Defendant in this action due to her using a credit card in her name to pay for GoDaddy.com’s web hosting services, which Rod Hughes uses to infringe Flava Works’ Intellectual Property.

5. On information and belief, Honey Wood is an individual residing in the State of Florida at either 2236 W. 15th St., Jacksonville, FL 32209 or 6455 Argyle Forest Blvd. Apt. 1422, Jacksonville, FL 32244. Honey Wood is joined as a Defendant in this action due to her using a credit card in her name to pay for GoDaddy.com’s web hosting services, which Rod Hughes uses to infringe Flava Works’ Intellectual Property.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, § 1338 and § 1367 as the present case arises under the Lanham Act, 15 U.S.C. § 1051 et seq., as amended, the Copyright Act, 17 U.S.C. § 101 et seq., copyright infringement, false designation of origin, trade dress infringement, and unfair competition, as well as trademark infringement and unfair competition arising under the common law of the State of Illinois as is hereinafter more fully described.

7. This Court has jurisdiction over Defendants because Defendants are subject to personal jurisdiction in the State of Illinois under the Illinois Long Arm Statute.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred within this district.

FACTUAL BACKGROUND

9. Plaintiff is a corporation that produces adult entertainment in the form of DVDs, magazines, websites, pictures, streaming video and various other media.

10. Plaintiff distributes its adult entertainment through various distributors and licensees, as well as through its websites: www.CocoStore.com, www.PapiCock.com, and www.ThugBoy.com, among others.

11. Plaintiff has applied for and registered various copyrights for Flava Works' Intellectual Property. See attached Exhibit A for a list of registered copyrights; See attached Exhibit B for a full list of titles for which some copyrights may be pending or issued during the current lawsuit.

12. Plaintiff has several registered trademarks, and has applications pending for several others, for its various word and design marks as they are used in connection with DVDs, magazines, websites, streaming video and other forms of media featuring adult entertainment. See attached Exhibit C for a complete list of trademarks owned by Plaintiff or for which applications are pending.

13. Plaintiff has common law trademarks in the various word and design marks mentioned above that are contained in attached Exhibit C as used in connection with DVDs, magazines, websites, streaming video and other forms of media featuring adult entertainment.

14. Plaintiff is recognized nationally and internationally as a leader in the field of production and distribution of adult entertainment due, in large part, to the goodwill and name recognition associated with its trademarks, as well as the high quality content that is associated with its copyrighted material.

15. On August 28, 2009, a Flava Works customer alerted Plaintiff of Defendant's infringing website: www.istackporn.net. See attached Exhibit D for a selection of screenshots of the website in which the infringing material is or has been displayed.

16. On or about December 14, 2009, Defendant began utilizing the social networking sites Facebook (www.facebook.com/istackporn) and Twitter (www.twitter.com/istackporn) to promote his infringement and to direct his users/members, Facebook friends/fans, and Twitter followers to his I Stack Porn website. As of January 22, 2010, Defendant's Twitter followers numbered approximately 466 and his Facebook friends/fans numbered approximately 330 (with approximately 15 purposefully "friended" Chicago residents); Smith also promotes his website on various other forums. See attached Exhibit E for a copy of screenshots of this.

17. On December 20, 2009, Plaintiff sent both Defendant and Defendant's webhosting company, GoDaddy.com, Inc. (hereinafter "Go Daddy"), takedown notices pursuant to 17 U.S.C. § 512 *et seq.*, the Digital Millennium Copyright Act ("DMCA takedown notices"), in which notice of the infringing material was given to the respective entities along with a demand that said material be removed expediently. See attached Exhibit F for a copy of the DMCA takedown notice.

18. On December 21, 2009, Go Daddy suspended hosting services for I Stack Porn until the infringing material was taken down. See attached Exhibit G for a copy of Go Daddy's correspondence to Plaintiff concerning the same.

19. On December 23, 2009, in response to the DMCA takedown notice, Hughes sent Flava Works' President, Phillip Bleicher, a taunting email, consisting of a subject line that read "U just wont [sic] learn How" and a body message consisting of an emoticon sticking out its tongue in defiance. See attached Exhibit H for email from istackporn@yahoo.com.

20. On or about December 26, 2009, the infringing material was taken down and I Stack Porn was again up and running. Also on this date, Hughes "tweeted" a message about Flava Works reading, "Flavaworks [sic] come on get smarter than that #please [sic]." See attached Exhibit I.

21. On December 27, 2009, Hughes posted a message on his blog in which he promised "to upload every Thugboy episode," which are copyrighted works in the ThugBoy DVD series. See attached Exhibit J.

22. On information and belief, on December 27, 2009, Hughes posted a comprehensive list of the infringing material available on his website at the time called "The Official IStackPorn List" (see attached Exhibit K), which he posted on the forum of www.DGSource.com (another major contributor to infringement) under one of his online alter egos "soufbound." On information and belief, Hughes has used this alter ego to post an enormous amount of infringing material on the website www.dgsource.com/forum, among others, as well.

23. On December 29, 2009, Flava Works notified Go Daddy that Hughes' domain registrant information was not current, due to the non deliverable mail that had been sent to: Keith Heghes, 6455 Argyle Forest, Jackville [sic], FL 32209, the name and address posted as of that date. See Exhibit L for email to Go Daddy.

24. On January 15, 2010, the domain registrant information was updated to read: Xavier Smith, 6455 Argyle Forest, Blvd., Jacksonville, FL 32244. See attached Exhibit M.

25. On information and belief, on or about January 28, 2010, Hughes, under his username “soufbound,” posted on www.DGSoucre.com a message that indicated that he would not stop infringing Flava Works’ Intellectual Property, which read, in pertinent part, “I WONT [sic] STOP BOOTLEGGING [,] TAKE THAT.” See attached Exhibit N for screenshot.

26. On February 4, 2010, Plaintiff filed a lawsuit in the Northern District of Illinois in which Xavier Smith was named as a defendant.

27. On or around February 17, 2010, the process server that had been enlisted by Plaintiff to serve Defendant informed Plaintiff that the individual “Xavier Smith” was unable to be served due to the fact that he is currently incarcerated, and has been at all relevant times in this complaint, serving a term of 2 years and 6 months. This led Plaintiff to believe that “Xavier Smith” was simply another false name provided by Defendant to further conceal his identity.

28. Upon learning this new information, on February 19, 2010 Plaintiff served a subpoena upon GoDaddy.com ordering it to disclose the Defendant’s true identity, among other things. See attached Exhibit O.

29. On or around March 2, 2010, Defendant deleted his Facebook account, and caused his website www.istackporn.net to be re-directed to Twitter.com/istackporn, which is now only viewable to his followers. See Exhibit P for a screenshot of Defendant’s Locked Twitter account. Additionally, Defendant informed his community that his future infringing activity would take place online via www.stacksworld.info. See Exhibit Q for declaration posted by Defendant’s alter ego “soufbound.”; see also Exhibit R for a screen shot of the homepage of www.stacksworld.info. This website is also hosted by GoDaddy.com,Inc. and the Who Is

registrant information contains the same materially false information about Xavier Smith that was listed for www.istackporn.net. See Exhibit S for Stacks World's Who Is information.

30. On March 9, 2010, Go Daddy complied with the subpoena it was sent by Plaintiff. In the materials received by Plaintiff, the following facts were revealed: 1.) the name of the original registrant was listed as "Rod Hughes"; 2.) the purported "Hughes" has changed the registrant names numerous times, which include the aliases: Rod Hedges, Rod Heghes, Keith Heghes, Xavier Heghes, and, the most current alias, Xavier Smith; 3.) the credit cards used to pay for GoDaddy's web hosting services were issued to Terra Cotta Hughes, Rod Hedges, and Honey Wood. (Note: GoDaddy has requested confidential treatment of the documents from which this information was obtained, it is available for *in camera* inspection upon request of the Court.)

31. On information and belief, the individuals Terra Cotta Hughes and Honey Wood, in permitting their credit cards to be used to pay for Defendant's web hosting, have acted in concert with Defendant, had/have actual and/or constructive notice of Defendant's infringing activities, and have facilitated such infringement either negligently, willfully or with willful blindness.

32. As of the date this Amended Complaint was filed, Defendant continues to upload infringing material directly to his site and other sites, direct users to his site through social networking sites and/or provide links to third party sites where the infringing material is easily accessible.

33. On information and belief, Defendant makes the postings to his website(s) willfully and with full knowledge and awareness of Plaintiff's ownership of Flava Works'

Intellectual Property, and with the purpose of freely distributing Flava Works' Intellectual Property to the public at large via Defendant's website(s).

34. Through Defendant's conduct, Plaintiff has suffered and continues to suffer damage to its reputation and good will through the unauthorized use, reproduction and distribution of Flava Works' Intellectual Property.

35. Plaintiff will continue to suffer loss of profits and damage to its good will and reputation unless Defendant is restrained by this Court.

36. Through Defendant's conduct, Plaintiff has suffered and continues to suffer the loss of the profits it has the right to realize through use, reproduction and distribution of Flava Works' Intellectual Property.

37. Plaintiff cannot be made whole unless this Court awards Plaintiff damages for Defendant's unauthorized use, reproduction and distribution of Flava Works' Intellectual Property.

FIRST CLAIM FOR RELIEF

(Copyright Infringement)

38. Plaintiff re-alleges, adopts and incorporates by reference all preceding rhetorical paragraphs.

39. Defendant's conduct interferes with Plaintiff's exclusive right to reproduce, distribute and display the copyrighted works.

40. Defendant's conduct constitutes copyright infringement that this Court may remedy under Sections 106 and 501 of the Copyright Act.

41. As a result of the injury suffered by Plaintiff's business from Defendant's actions of copyright infringement, Plaintiff is entitled to recover actual and/or statutory damages, which

shall be determined at trial, and costs of this action, including reasonable attorney's fees, as well as injunctive relief to prevent future infringement.

SECOND CLAIM FOR RELIEF

(False Designation of Origin)

42. Plaintiff re-alleges, adopts and incorporates by reference all preceding rhetorical paragraphs.

43. By engaging in the activities above, Defendant has caused, is causing or is likely to cause, confusion, mistake or deception among the relevant trade and public as to the existence of an affiliation, connection or association between Plaintiff and Defendant as to the origin, sponsorship or approval of Plaintiff over Defendant's website(s).

44. Defendant has made and is making false, deceptive and misleading representations and false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

45. Defendant's acts described above have caused irreparable injury to Plaintiff's good will and reputation and, unless enjoined by this court, will cause further irreparable injury, for which Plaintiff has no adequate remedy at law or, in the alternative, as a result of the injury suffered by Plaintiff's business from Defendant's actions, Plaintiff is entitled to recover statutory damages in an amount equal to threefold the actual damages, which shall be determined at trial, and costs of this action, including reasonable attorney's fees.

THIRD CLAIM FOR RELIEF

(Trademark and Trade Dress Infringement)

46. Plaintiff re-alleges, adopts and incorporates by reference all preceding rhetorical paragraphs.

47. Defendant's conduct is likely to cause confusion, to cause mistake, or to deceive the relevant trade and public as to the source of Flava Works' Intellectual Property.

48. Defendant's conduct constitutes trademark and trade dress infringement and is in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1114.

49. Defendant's acts described above have caused irreparable injury to Plaintiff's good will and reputation and, unless enjoined by this court, will cause further irreparable injury, for which Plaintiff has no adequate remedy at law or, in the alternative, as a result of the injury suffered by Plaintiff's business from Defendant's actions, Plaintiff is entitled to recover statutory damages in an amount equal to threefold the actual damages, which shall be determined at trial, and costs of this action, including reasonable attorney's fees.

FOURTH CLAIM FOR RELIEF

(Common Law Trademark Infringement and Unfair Competition)

50. Plaintiff re-alleges, adopts and incorporates by reference all preceding rhetorical paragraphs.

51. Defendant's conduct is likely to cause confusion, to cause mistake, and/or to deceive the relevant trade and public as to the existence of an affiliation, connection or association between Plaintiff and Defendant as to the origin, sponsorship or approval of Plaintiff over Defendant's website(s).

52. Defendant's acts constitute common law trademark infringement and unfair competition under the laws of the State of Illinois.

53. Defendant's acts described above have caused irreparable injury to Plaintiff's good will and reputation and, unless enjoined by this court, will cause further irreparable injury, for which Plaintiff has no adequate remedy at law or, in the alternative, as a result of the injury

suffered by Plaintiff's business from Defendant's actions, Plaintiff is entitled to recover damages, which shall be determined at trial, and costs of this action, including reasonable attorney's fees.

WHEREFORE Plaintiff, Flava Works, Inc. respectfully requests that this Honorable Court enter a judgment in its favor and against Defendants Rod Hughes, Honey Wood and Terra Cotta Hughes:

1. For a temporary restraining order, preliminary injunction, and permanent injunction against Rod Hughes d/b/a www.stacksworld.info, his agents, aliases, servants, representatives, employees, attorneys, parents, subsidiaries, related companies, partners, successors, predecessors, assigns, and all persons acting for, with, by, through, or under him and each of them:
 - a. Restraining and enjoining him from posting on his website(s) material that infringes Flava Works' Intellectual Property, as well as from facilitating the posting on his website(s) by third parties infringing material and/or links which enable the easy access to Flava Works' Intellectual Property that is located on third party websites;
 - b. Restraining and enjoining him from otherwise distributing, reproducing, using, copying, streaming, making available for download, or otherwise exploiting Flava Works' Intellectual Property, including Plaintiff's copyrighted works, trademarks, trade dress, or any other product or symbol with the indicia of Plaintiff's ownership, through use of his website(s) or otherwise;

- c. Restraining and enjoining him from doing any other act, through his website(s) or otherwise, which shall confuse, deceive, cause mistake, etc. among the relevant trade and general public as to the association, sponsorship and/or approval between Plaintiff and Defendant's website(s);
2. Requiring Defendants to submit to the Court and to serve upon Plaintiff a report, written under oath, setting forth in detail the manner and form in which Defendants have complied with the terms of this injunction;
3. Requiring Defendants to cease operation of the website domains www.stacksworld.info, www.istackporn.net, www.twitter.com/istackporn, www.facebook.com/istackporn and any similarly named/operated websites, and to transfer ownership of them immediately to Plaintiff;
4. Requiring Defendants to forever cease operation of the social networking websites: www.facebook.com/istackporn and www.twitter.com/istackporn, and any other websites that Defendants currently operate or may operate in the future dedicated to the furtherance of infringing Flava Works' Intellectual Property;
5. Disgorging Defendants of any profits they may have made as a result of the infringement of Flava Works' Intellectual Property;
6. Awarding Plaintiff the actual damages sustained by Plaintiff as a result of Defendants' infringement of Flava Works' Intellectual Property, the amount of which to be determined at trial;
7. Awarding Plaintiff compensatory and punitive damages, as deemed just and proper by this Court, as a result of the willful misconduct on the part of Defendants;
8. Awarding Plaintiff the costs of this action, together with reasonable attorney's fees;

9. Awarding Plaintiff statutory damages pursuant to the Copyright Act and the Lanham Act;
10. Awarding Plaintiff enhanced statutory damages, pursuant to 15 U.S.C. § 504(c)(2) of the Copyright Act, for Defendants' willful infringement of Plaintiff's copyrighted works;
11. Awarding Plaintiff enhanced statutory damages, pursuant to 15 U.S.C. § 1117(c)(2) of the Lanham Act, for Defendants' willful use of counterfeit marks;
12. Containing any such other and further relief as this Court deems just, reasonable and equitable.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues properly triable by jury in this action, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

DATED: March 11, 2010

Respectfully Submitted,

By: _____
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