

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE AMERICAN AUTOMOBILE )  
ASSOCIATION, INC., )

Plaintiff, )

v. )

CIVIL ACTION NO: 1:09-CV-00219-SJM

JAMES M. VAN JOHNS, a/k/a )

DAMIAN MACAFEE, and )

QTK INTERNET, INC., a/k/a )

QTK INTERNET LLC/NAME PROXY )

a/k/a DAMIAN MACAFEE, )

FILED ELECTRONICALLY

Defendants. )

**CONSENT ORDER OF JUDGMENT**

WHEREAS, The American Automobile Association, Inc. (“AAA”) has brought an action in this Court against James M. Van Johns a/k/a Damian Macafee and QTK Internet, Inc. a/k/a QTK Internet LLC/Name Proxy a/k/a Damian Macafee alleging violations of the Federal Trademark Act (“Lanham Act”), 15 U.S.C. §§ 1114, 1125, and Pennsylvania state law;

WHEREAS, this Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338, and 1367;

WHEREAS, Defendants registered and are using the domain name AAA.NET;

WHEREAS, a National Arbitration Forum (“NAF”) panel issued a Uniform Domain Name Dispute Resolution Policy (“UDRP”) decision in *The American Automobile Association, Inc. v. QTK Internet c/o James M. van Johns*, No. FA0905001261364 on July 25, 2009, denying AAA’s requested relief for transfer of the AAA.NET domain name from Defendants to AAA;

WHEREAS, AAA filed this Complaint in the Western District of Pennsylvania on August 21, 2009;

WHEREAS, Defendants each accepted service of the Complaint and a summons on September 5, 2009;

WHEREAS, James M. Van Johns acknowledges that he has consulted with legal counsel, understands the terms of this Consent Order of Judgment, and is authorized to sign this Consent Order of Judgment on behalf of all Defendants;

NOW THEREFORE, the Court does hereby, upon the consent of the parties, declare that a permanent injunction issue herein as follows:

IT IS ORDERED, ADJUDGED, AND DECREED:

1. That Defendants have accepted service of the Complaint and consent to personal jurisdiction.

2. That Defendants acknowledge that:

(a) Defendant James M. Van Johns is an individual residing at 2915 Pittsburgh Avenue, Erie, Pennsylvania 16508;

(b) Defendant QTK Internet, Inc. is a business registered in the Commonwealth of Pennsylvania with its primary place of business at 900 Highland Avenue, Johnstown, Pennsylvania 15902, and that Defendant Van Johns is the president and sole officer;

(c) QTK Internet LLC does not exist; and

(d) Damian Macafee is a fictitious name that Defendants once listed as the registrant of the AAA.NET domain name and the contact address listed for Damian Macafee—namely, BCM Box 1768, London, London, WC1N 3XX, GB—is also false.

3. That the UDRP decision issued by the NAF panel in *The American Automobile Association, Inc. v. QTK Internet c/o James M. van Johns*, No. FA0905001261364 on July 25, 2009 is hereby negated and of no precedential value.

4. That Defendants shall transfer the AAA.NET domain name to Plaintiff by agreement of the parties within five business days from the date of this Order.

5. That Defendants and their officers, directors, agents, servants, employees, representatives, attorneys, successors-in-interest, parent companies, affiliated companies, subsidiary companies, and any and all persons in active concert or participation with them, including any aliases or fictitious names associated with Defendants, directly or indirectly, are PERMANENTLY ENJOINED from:

(a) Registering, using, or trafficking in any domain names that are identical or confusingly similar to a registered mark of AAA and/or any AAA subsidiary; and

(b) Assisting, aiding, or abetting, directly or indirectly, any other person or business entity in engaging in or performing any of the activities in paragraph 6(a).

6. That, if AAA should become aware that Defendants have breached any term of this Consent Order of Judgment, AAA shall notify Defendants (by letter to the addresses in paragraphs 2(a) and 2(b)) concerning such breach, and Defendants shall have ten business days to cure such breach before AAA shall seek relief; provided that AAA has no obligation to notify Defendants prior to seeking relief if the breach involves the marks AAA, TRIPLE A, TOURBOOK, TRIPTIK, SHOW YOUR CARD AND SAVE, and AMERICAN AUTOMOBILE ASSOCIATION, or any marks confusingly similar to them.

7. That each party shall bear its own costs, fees, and expenses incurred as of the date of this Order.

8. That Defendants waive all defenses or counterclaims which they might otherwise have raised in this proceeding.

9. That Plaintiff hereby dismisses with prejudice all claims alleged in its Complaint, except that Plaintiff reserves the right to seek damages, penalties, costs and/or attorneys' fees which might result from any violation by Defendants of the Lanham Act, Pennsylvania state law, or this Order.

10. That this Court shall retain jurisdiction to enforce this Consent Order of Judgment.

ENTERED this 19<sup>th</sup> day of October, 2009.

United States District Court  
Western District of Pennsylvania

BY CONSENT OF PLAINTIFF:

BY CONSENT OF DEFENDANTS:

s/ W. Patrick Delaney  
W. Patrick Delaney  
Catherine Moodey Doyle  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
Tel: (814) 870-7658  
Fax: (814) 454-4647  
Email: wdelaney@mijb.com  
cdoyle@mijb.com

  
James M. Van Johns

*Attorneys for Plaintiff*  
*The American Automobile Association, Inc.*

OF COUNSEL FOR PLAINTIFF:  
Neil K. Roman  
Hope Hamilton  
Peter Saharko  
Covington & Burling LLP  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004