

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

BLUMEDIA INC., a Colorado Corporation,
a/k/a Intense Cash
d/b/a BrokeStraightBoys.com and
d/b/a BrokeStraightGuys.com;

Plaintiff,

v.

SORDID ONES BV dba GAYGRAVY.com and
dba ADULTDEVELOPMENTS.com and
dba STUDPAY.com and
DOMAINSBYPROXY INC. and
JOHN DOES 1-20, JANE DOES 1-20, and
XYZ Companies 1-20

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff BluMedia Inc., (BluMedia), by its counsel, Chad Belville, for its Complaint against Defendants Sordid Ones BV d/b/a GayGravy.com and dba AdultDevelopments.com and dba StudPay.com and DomainsByProxy Inc. and John Does 1-20, Jane Does 1-20 and XYZ Companies 1-20 (hereinafter collectively referred to as Defendants), states and alleges:

PARTIES

1. BluMedia Inc. is a Colorado company having a principal place of business at 12665 Kalamath Court, Westminster, CO 80234
2. BluMedia is one of the largest marketers of adult entertainment and more specifically gay adult online entertainment. BluMedia, through its various websites, sells and promotes legal adult pornography throughout the free world via the World Wide Web, magazine advertising, direct marketing, and through various other marketing channels including an affiliate program which pays third party entities a percentage of receipts for sales.
3. BluMedia's primary sources of revenue are adult websites which require a membership payment where after the consumer is provided with a login and password to gain access to the adult content on the website.
4. BluMedia extensively promotes the membership websites through the use of "Affiliates". Affiliates are persons or entities that enter into a contractual agreement with BluMedia, a/k/a Intense Cash, to promote BluMedia membership websites on their own websites. Potential consumers, a/k/a "surfers" see the promotional material on the Affiliate website and are directed to a BluMedia website. If that surfer purchases a membership, BluMedia will pay a fee or percentage of the sale to the Affiliate, much like a commissioned salesperson.
5. Plaintiff markets the adult membership website www.BrokeStraightBoys.com primarily to adult gay men seeking gay adult entertainment and particularly sexual videos displaying young adult men who are heterosexual being enticed to perform sexually with other men on camera for money. Plaintiff redirects web traffic from www.BrokeStraightGuys.com to BrokeStraightBoys and markets both domains under the BrokeStraightBoys mark. Such redirection of similar domains is very common.
6. Plaintiff has established common law trademark rights to the marks "BrokeStraightBoys.com" and "BrokeStraightGuys.com" through domain arbitration at National Arbitration Forum www.adrforum.com
7. Plaintiff holds Colorado Trademark 20091215689 for BrokeStraightBoys.com and has applied for Federal Trademark protection Ser. # 85008987 & 85008989.
8. The production and distribution of adult content by BluMedia is subject to United States federal record keeping regulations, Visa and MasterCard merchant account regulation, and various state, federal and local laws. Federal record keeping laws require maintenance of a database of the ages and identities of all performers appearing in adult material and BluMedia maintains those records according to the law. Visa and

MasterCard require adult websites to submit to additional and continuous scrutiny in order to utilize credit and debit card billing services and BluMedia subjects itself to this higher level of scrutiny. BluMedia in all aspects complies with applicable laws and adheres to good adult business practices. The product promoted by BluMedia is a legal product and protected under commercial First Amendment rights, therefore affording BluMedia the full protection of law, access to the courts, and recourse for damages under state and federal laws.

9. Defendant Sordid Ones BV Dokweg 27 B Ijmuiden, Noord Holland 1976CA Netherlands dba GayGravy and, upon information and belief, also dba as AdultDevelopments.com and Studpay. Defendant operates a program that promotes adult membership websites in direct competition to Plaintiff. Defendant Sordid Ones BV is the principal owner of a United States entity for the purpose of availing itself of Visa US billing services and attracting United States consumers. Upon information and belief, Defendant has employees and operations located at 333 S Front Street, Burbank, California. Upon information and belief, Defendant utilizes banking and credit card transaction services through US companies in California and Arizona. The exact identity of the United States entity or entities and locations will be determined during discovery.
10. Defendant Domains By Proxy, Inc. is an Arizona corporation # 1020683-0 with its principal place of business at 14455 N Hayden Road # 219, Scottsdale Arizona 85260. Defendant Domains by Proxy Inc. is a proxy for Defendant Sordid Ones BV which accepts payment for registration of Defendant Sordid Ones BV domains thus profiting from Sordid Ones BV revenue.

JURISDICTION AND VENUE

11. This action arises under § 43(a) of the Trademark Act of July 5, 1946, as amended, commonly known as the Lanham Act, 15 U.S.C. § 1051 *et seq.*; the Anticybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. § 1125(d); the Federal False Designation of Origin statute 15 U.S.C. § 1125(a); the Colorado Consumer Protection Act C.R.S. § 6-1-101 *et seq.* (“C.C.P.A.”), the Colorado Trademark Act C.R.S. §7-70-101 *et seq.* and the common laws of the State of Colorado
12. This Court has subject matter jurisdiction over all asserted claims pursuant to 15 U.S.C. § 1121 (arising under the Lanham Act), 28 U.S.C. §§ 1331 (federal question), 1332 (as the amount in controversy exceeds \$75,000), 1338 and 1367 (the supplemental jurisdiction statute codifying the pendant and ancillary jurisdiction doctrines).

13. This Court has personal jurisdiction over Defendant as BluMedia's claim arise from Defendant's transaction of business in this judicial circuit, as BluMedia's claims arise from Defendant's commission of tortuous acts in this judicial district, and as BluMedia is being damaged in this judicial district by Defendant's tortuous activities.
14. Venue is proper in the United States District Court for the District of Colorado pursuant to 28 U.S.C. §§ 1391 (b) and 1391 (c).

GENERAL ALLEGATIONS

15. BluMedia was founded in 2004 by Colorado resident Mark Erickson and is engaged in the business of selling and promoting legal adult entertainment throughout Colorado, the United States, North America, and globally primarily through World Wide Web sales.
16. BluMedia promotes its products to wholesalers ("Affiliates") and directly to online consumers ("Surfers"). BluMedia sells website memberships, T-shirts, apparel, DVD's, and merchandise primarily through World Wide Web sales
17. BluMedia registered the domain brokestraightboys.com September 6, 2004. BluMedia registered brokestraightguys.com September 8, 2004. BluMedia began marketing the membership website brokestraightboys.com June 28, 2005. BluMedia utilized brokestraightguys.com as a companion website that capitalized on consumers errantly searching for broke straight *guys* even though the primary membership website is broke straight *boys*. The registration information showing dates of registration are attached as Exhibit 1 and incorporated by reference.
18. Broke Straight Boys has sold and marketed its goods and services utilizing inherently distinctive trade dress since June 28, 2005
19. Broke Straight Boys has expended over \$250,000 purchasing search terms through Google Adwords™. Through this program, an advertiser pays Google to place its website in consumer's search results. Thus, when a consumer searches for "broke straight boys" or "broke straight guys" on a Google search, Google will place that a link and description to the advertiser's webpage on the results page shown to the consumer. The consumer can "click" on the description which in turn gives the advertiser the opportunity to make a sale.

20. Broke Straight Boys has expended significant sums on programming efforts in a process called Search Engine Optimization. Search Engine Optimization includes utilizing key words in the actual domain name (broke and straight are both key words used in BluMedia's domains) and placing those key words or terms on the website itself. Search engines such as Yahoo and Google search for terms throughout a website. When a surfer asks the search engine to return results for the words "broke straight boys" the search engine will return web pages that include the terms "broke straight boys" extensively throughout the website. BluMedia incorporates the terms "broke & straight & boys & guys" throughout its websites, so when a surfer searches for "broke straight boys" or "broke straight guys" the search engine shows Plaintiff's website Broke Straight Boys at the top of the list of search results. The results for paid placement on the search engines are found in a different location from the unpaid results, which are improved through sophisticated programming.
21. Broke Straight Boys has spent hundreds of thousands of dollars per year in marketing its websites; nearly all of it incorporating distinctive trade dress and always including the terms "broke straight boys" and "broke straight guys" (hereinafter simply "broke straight boys"). Broke Straight Boys has marketed its products in a variety of ways, utilizing Internet marketing and through more traditional marketing methods, including those identified in the following paragraphs 22 through 36
22. Broke Straight Boys has marketed its products through print advertising in "mainstream" magazines such as Genre, which are primarily distributed in the United States. A representative sample is attached as Exhibit 3
23. Broke Straight Boys has marketed its products through print advertising in foreign magazines, such as DNA which is primarily distributed in Australia. A representative sample is attached as Exhibit 4
24. Broke Straight Boys has marketed its products through print advertising in "targeted" magazines, which are targeted at adult consumers seeking adult entertainment, including Unzipped and Freshmen. A representative sample is attached as Exhibit 5
25. Broke Straight Boys has marketed its products in freely distributed publications that are directed toward potential Affiliates, such as Cybersocket Magazine. A representative sample is attached as Exhibit 6
26. Broke Straight Boys has marketed its products in freely distributed publications that are directed toward potential Surfers, such as Just Us Boys magazine. A representative sample is attached as Exhibit 7

27. Broke Straight Boys has marketed its products directly to Surfers through an extensive program of sponsoring and hosting “Broke Straight Boys” nights at bars and nightclubs throughout the United States. Representative models appear shirtless at the various clubs, signing autographs, dancing, and distributing promotional materials. These events require scheduling, pre-event promotion, drop shipments of promotional materials, then transportation, food and lodging for the models and handlers. Broke Straight Boys have appeared at clubs in New York, Miami, Chicago, Philadelphia, Los Angeles, Portland (both Maine and Oregon), Dallas, Charlotte, St. Louis, and smaller cities such as Hickory, NC, and Columbus, Ohio. A representative sample of flyers distributed to announce a Broke Straight Boys club appearance is attached as Exhibit 8.
28. Broke Straight Boys has marketed its products directly to Surfers through sponsoring or hosting “Broke Straight Boys” nights at events and nightclubs in Europe, including events in London, Madrid, and Barcelona. These events are similar to the events in the United States however costs are higher. A representative sample of advertising for an event in Europe is attached as Exhibit 9
29. Broke Straight Boys has marketed its products directly to Surfers through radio advertising, including carrying a Broke Straight Boys event mentioned supra on Sirius Satellite radio February 19, 2009 and radio advertising in Huntington, West Virginia
30. Broke Straight Boys has marketed its products directly to “Affiliates” through an extensive program of sponsoring and hosting events at webmaster conferences and Internet trade shows. These marketing efforts include banner placement throughout the trade show venue, sponsoring networking parties and product placement for trade show attendees. A representative sample of trade show advertising is attached as Exhibit 10
31. Broke Straight Boys has marketed its products through profile sites such as MySpace, FaceBook and Twitter. A representative sample is attached as Exhibit 11
32. Broke Straight Boys has purchased booth space at various Gay Pride events, including Denver, Phoenix, Los Angeles, South Carolina, Pittsburg, Chicago, and St. Louis. Broke Straight Boys representatives give away branded T-shirts, temporary tattoos, and other branded merchandise.
33. Broke Straight Boys offers potential consumers a three (3)-day trial membership for \$1.00 so consumers can try out the membership website without committing to the full price monthly membership of \$34.87. If a consumer chooses the \$1.00 trial, the trial membership will convert to a regular membership unless the consumer opts out. Many

advertisements for Broke Straight Boys include references to this \$1.00 Trial and consumers look for the \$1.00 trial when they visit Broke Straight Boys website.

34. As a result of Broke Straight Boys extensive sales and marketing featuring its distinctive trade dress and terms “broke straight boys” and “broke straight guys” Broke Straight Boys has enjoyed significant consumer recognition of its trade dress and terms “broke straight boys”. Broke Straight Boys has been the subject of numerous trade magazine and Internet review articles, including, for example, Cybersocket, RabbitsReviews, GayDemon, and JustUsBoys reviews of its websites. Representative examples of such articles are attached as Exhibit 12
35. As a result of Broke Straight Boys’ inherently distinctive Broke Straight Boys trade dress and years of superior product development and placement, Broke Straight Boys has developed substantial and significant consumer recognition, trust, loyalty, and goodwill to it Broke Straight Boys trade dress and terms “broke straight boys”. Broke Straight Boys establishment and maintenance of this public recognition, trust, loyalty and goodwill has resulted in Broke Straight Boys financial success, market penetration, and growth.
36. Since being commercially marketed, Broke Straight Boys has gained tremendous commercial success and consumer recognition. Broke Straight Boys has generated millions of dollars in revenue and is consistently ranked in the top 20,000 busiest websites in the world. Alexa is a service that ranks websites according to web traffic, with a website such as Yahoo, Google, and MSN typically enjoying top rankings. A lower number represents a busier site, with the lowest ranking sites given a number over 6,000,000 An attachment showing Broke Straight Boys ranking below 20,000 is shown as Exhibit 13.
37. Broke Straight Boys has engaged in policing activities of its terms and trademarks, specifically filing ICANN (Internet Corporation for Assigned Names and Numbers, the regulatory body for Internet domain names) complaints demanding recovery of similar Internet domains believed to be cybersquatting on its trademarks, trade dress and terms. An ICANN Complaint is an arbitration proceeding following the rules of ICANN which seeks to and typically leads to the transfer of similar sounding or misspelled domains that siphon away legitimate consumer internet traffic based on consumer confusion or misspellings. Broke Straight Boys has been successful in 100% of its ICANN complaints, successfully gaining control of the domains broke-straight-boys.com, broke-straight-guys.com, broke-ass-boys.com, broke-straight-boys.net, and brokestraightboy.ent in National Arbitration Forum (NAF) decisions 999667, 1235329, 1260258, and 1262183

resulting in the transfer of twenty-two (23) domain names thus far. These decisions also resulted in determinations that BluMedia had established common law rights in the name BrokeStraightBoys sufficient to take similar domains from other domain owners. Representative samples of NAF decisions, showing that Broke Straight Boys has established rights to the terms and award of the domains are attached as Exhibit 14

38. Based on the inherently distinctive character and nature of Broke Straight Boys trade dress and terms “broke straight boys” continuous, uninterrupted, and widespread use of the Broke Straight Boys trade dress and terms “broke straight boys” for many years in interstate commerce, and its substantial marketing and policing activities, relevant consumers have come to associate Broke Straight Boys trade dress and terms exclusively with Broke Straight Boys.
39. Broke Straight Boys has acquired strong common law rights in and to the Broke Straight Boys trade dress and terms “broke straight boys” based on its continuous, uninterrupted and widespread use of its Broke Straight Boys trade dress and terms in commerce in connection with the advertising, marketing and sales of its products.
40. In addition to common law rights, Broke Straight Boys is the effective owner of Colorado Trade Mark 20091215689, registered April 15, 2009 for the terms “broke straight boys” (Colorado registration). The Colorado registration is valid, subsisting and incontestable. The Colorado registration constitutes prima facie evidence of Broke Straight Boys ownership rights in and to the Broke Straight Boys terms and also evidences Broke Straight Boys’ exclusive right to use the Broke Straight Boys terms in commerce. Copies of the Colorado Trademark Certificates are attached as Exhibit 14. Federal trademarks for the name and logo Broke Straight Boys applied as Serial # 85008987 and 85008989.

DEFENDANTS’ UNAUTHORIZED AND INFRINGING USE
OF BROKE STRAIGHT BOYS TRADE DRESS AND TERMS

41. Broke Ass Boys and Real Broke Boys are direct competitors to Broke Straight Boys. Upon information and belief, Defendant has marketed and sold website membership under the domains www.brokeassboys.com and www.realbrokeboys.com that incorporate and use the Broke Straight Boys trade dress, terms, and even markets itself to consumers using identical offer of \$1.00 trial membership followed by recurring regular membership, all without Broke Straight Boys authorization.

42. Upon information and belief, Defendants are incorporating the terms “broke straight boys” into its Search Engine Optimization efforts so that consumer searches for “Broke Straight Boys” result in Defendant’s websites and misleading consumers.
43. Defendants first used Broke Straight Boys trade dress and terms long after Broke Straight Boys had acquired its strong common law rights in and to the Broke Straight Boys trade dress and terms “Broke Straight Boys”.
44. Upon information and belief, Defendants market and sell their products through the same types of distribution channels, including the Affiliate model, as Broke Straight Boys and to the same types of consumers as Broke Straight Boys markets and sells its products.
45. Upon information and belief, Defendants chose to use the Broke Straight Boys trade dress and terms in order to identify themselves and/or associate themselves with Broke Straight Boys, to confuse and more easily reach Broke Straight Boys customers, penetrate Broke Straight Boys’ market, and otherwise usurp Broke Straight Boys goodwill.
46. Upon information and belief, Defendant’s misappropriation of Broke Straight Boys’ goodwill and reputation, through the unauthorized use of Broke Straight Boys’ trade dress and terms, was simply to provide Defendants with a proven identity and to make the sale of Defendant’s product more financially successful.
47. Defendant’s past and continued unauthorized use of Broke Straight Boys’ trade dress and terms will deceive the relevant purchasing public as to the source or origin of Defendant’s product sold under and in connection with Broke Straight Boys’ trade dress and terms.
48. Upon information and belief, Defendant’s actions have been motivated exclusively by financial gain and have been taken with full knowledge of Broke Straight Boys’ superior legal rights and are without regard to the public policy right of consumers to be free of confusion as to the source and origin of products.
49. Upon information and belief, Defendants have engaged in creation of multiple companies across several jurisdictions with the intention of hiding true ownership in an effort to mislead creditors and evade prosecution of intellectual property infringements.
50. Defendants had prior knowledge of Broke Straight Boys trade dress and terms as Defendant signed up as an Affiliate of Broke Straight Boys before 08/01/2006 and have sent Internet traffic to Broke Straight Boys. Defendant should be presumed to know of Broke Straight Boys trade dress, terms, products, and target market if Defendant signed

up as an Affiliate of Broke Straight Boys and have sent Internet traffic to Broke Straight Boys. An Affiliate should be presumed to be aware of the product, trade dress, and terms of a product it promotes. An Affiliate would not send Internet traffic to a website without knowledge of the product available on that website.

51. Upon information and belief, Defendants have acted in willful and wanton disregard of Broke Straight Boys' rights and willfully intended to trade upon Broke Straight Boys' reputation. Defendants' infringing use of Broke Straight Boys' trade dress and terms evidences a wrongful intent to trade upon Broke Straight Boys' goodwill and reputation.

FIRST CLAIM FOR RELIEF

52. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
53. Without authorization from Broke Straight Boys, Defendants have promoted and sold, and continue to promote and sell in interstate commerce, a membership website utilizing Broke Straight Boys trade dress and terms. In so doing, Defendants have falsely described and misrepresented their goods and the characteristics of their goods to the consuming public.
54. Defendants actions have created a likelihood of consumer confusion as to the affiliation, connection or association of themselves with Broke Straight Boys, and as to the origin, sponsorship or approval of Defendants' membership website Straight Guys are Broke
55. Upon information and belief, Defendants adopted and continue to use infringing trade dress and terms with full knowledge of Broke Straight Boys's superior legal rights but without Broke Straight Boys' authorization. Defendants' tortuous acts constitute willful and deliberate infringement of Broke Straight Boys' common law trademark and trade dress rights and are in willful and wanton disregard of Broke Straight Boys' established and superior rights.
56. As a result of Defendants' unlawful actions, Broke Straight Boys has suffered financial harm.
57. Broke Straight Boys has been, and continues to be, harmed irreparably by Defendants' unlawful actions and Broke Straight Boys has no adequate remedy at law.

SECOND CLAIM FOR RELIEF

58. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
59. Upon information and belief, Defendants adopted and continue to use infringing trade dress and terms with full knowledge of Broke Straight Boys' superior legal rights but without Broke Straight Boys' authorization. Defendants' tortuous acts constitute willful and deliberate infringement of Broke Straight Boys' common law trademark and trade dress rights and are in willful and wanton disregard of Broke Straight Boys' established and superior rights.
60. As a result of Defendants' actions, Broke Straight Boys has suffered commercial harm.
61. Broke Straight Boys has been, and continues to be, harmed irreparably by Defendants' unlawful actions and Broke Straight Boys has no adequate remedy at law.

THIRD CLAIM FOR RELIEF

62. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
63. Defendants' actions as described above have caused and are likely to cause confusion with Broke Straight Boys' established and superior trademark rights in and to the Broke Straight Boys trade dress and terms. As such, Defendants' action constitute trademark infringement under Colorado Common Law, Colorado trademark law, and federal trademark law
64. Upon information and belief, Defendants' unlawful actions were and continue to be committed with willful and wanton disregard for Broke Straight Boys superior rights
65. As a result of Defendants' unlawful actions, Broke Straight Boys has suffered commercial harm.
66. Broke Straight Boys has been, and continues to be, harmed irreparably by Defendants' unlawful actions and Broke Straight Boys has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF

67. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
68. Defendants' actions as described above have caused and are likely to cause confusion with Broke Straight Boys' established and superior rights and otherwise unfairly compete with Broke Straight Boys. As such, Defendants' actions constitute unfair competition under Colorado Common law, Colorado trademark law and federal trademark law
69. Upon information and belief, Defendants' wrongful actions were committed with willful and wanton disregard of the laws of the State of Colorado and Broke Straight Boys' superior rights
70. As a result of Defendants' unlawful actions, Broke Straight Boys has suffered commercial harm.
71. Broke Straight Boys has been and continues to be irreparably harmed by Defendants' unlawful actions and Broke Straight Boys has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF

72. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
73. By the actions described above, Defendants have engaged in deceptive trade practices as defined by C.C.P.A., C.R.S. §§ 6-1-101 *et seq.*
74. Upon information and belief, Defendants' wrongful actions were committed with an intent to deceive the public and with willful and wanton disregard of the laws of the State of Colorado and Broke Straight Boys' superior rights.
75. As a result of Defendants' unlawful actions, Broke Straight Boys has suffered commercial harm.
76. Broke has been and continues to be irreparably harmed by Defendants' unlawful actions and Broke Straight Boys has no adequate remedy at law.

SIXTH CLAIM FOR RELIEF

77. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
78. Through the expenditure of substantial and significant time, effort, and money Broke Straight Boys has acquired protectable business values in and to Broke Straight Boys trade dress and terms.
79. Defendants have taken, without compensation to Broke Straight Boys, its protectable business values in and to Broke Straight Boys trade dress and terms
80. Upon information and belief, Defendants' wrongful actions were committed with an intent to deceive the public and with willful and wanton disregard of the laws of the State of Colorado and Broke Straight Boys' superior rights.
81. As a result of Defendants' unlawful actions, Broke Straight Boys has suffered commercial harm.
82. Broke has been and continues to be irreparably harmed by Defendants' unlawful actions and Broke Straight Boys has no adequate remedy at law.

SEVENTH CLAIM FOR RELIEF

83. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
84. By utilizing Broke Straight Boys trade dress and terms, Defendants have received benefits at Broke Straight Boys' expense.
85. It would be inequitable for Defendants to retain the benefits conferred upon them by Broke Straight Boys without payment.
86. Broke Straight Boys has suffered damages as a result of Defendants' conduct and is entitled to actual economic damages and other consequential damages and interest for Defendants' unjust enrichment, all in amounts to be proven at trial.

EIGHTH CLAIM FOR RELIEF

87. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
88. By intentionally causing confusion among the target market, Defendants have tortuously interfered with Plaintiff's business relationships.
89. Due to Defendant's tortuous interference with Plaintiff's business relationships, Plaintiff has suffered damages to business and reputation and is entitled to actual economic damages and other consequential damages and interest, all in amounts to be proven at trial.

NINTH CLAIM FOR RELIEF

90. Broke Straight Boys incorporates and realleges Paragraphs 1-51 above as though fully set forth herein.
91. Plaintiffs have entered into, and continue to enter into, membership subscriptions with potential customers in the gay adult entertainment market
92. Defendant has had actual or constructive notice of Plaintiff's marketing efforts
93. Defendant's offerings intentional and maliciously attempt to confuse consumers into believing Defendant's offerings are produced by Plaintiff.
94. As a direct and proximate result of the conduct of Defendant, such consumers have entered into membership subscriptions with Defendant that they otherwise would have entered into with Plaintiff if not for Defendant's misleading marketing.
95. The actions of Defendant are without any privilege or legitimate business justification.
96. As a direct and proximate result of the conduct of Defendant, Plaintiff has been damaged, and continues to be damaged, in its trade or business and has suffered, and continues to suffer, monetary loss from lost sales that would have been made but for Defendant's tortuous conduct and is threatened with continuing and irreparable damage and/or loss.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff BluMedia Inc. prays for judgment in its favor and against Defendants as follows:

- A. That Defendants, their agents, servants, officers, directors, employees, attorneys, privies, representatives, successors and assigns and parent and subsidiary corporations or other related entities, and any or all persons in act of concert or participation with any of them, be preliminarily and permanently enjoined from:
- (1) Any further use of Broke Straight Boys trade dress and terms which is confusingly similar thereto;
 - (2) Directly or indirectly using Broke Straight Boys trade dress and terms or confusingly similar trade dress and terms, either alone or in combination with other terms, marks, symbols or trade dress;
 - (3) Any further use of Broke Straight Boys' trade dress or terms, or any element thereof, in connection with the marketing or sale of gay adult entertainment;
 - (4) Performing any action or using any trade dress, terms, or other name, mark, symbol, imagery or slogan which is likely to cause confusion or mistake, or to deceive or otherwise mislead the trade and/or public into believing that Broke Straight Boys and Defendants are one and the same, or in some way connected, or that Broke Straight Boys is the sponsor of Defendants or their products, or the Defendants in some manner are affiliated or associated with, or under the supervision of Broke Straight Boys, or that Defendants' products originate with Broke Straight Boys, or are connected or offered with the approval, consent, authorization, or under the supervision of Broke Straight Boys;
 - (5) Marketing or selling any product containing or utilizing Broke Straight Boys' intellectual property or business values; or
 - (6) Any other conduct constituting unfair competition with Broke Straight Boys, misappropriation of Broke Straight Boys' trade dress or terms or business values, or a violation of the C.C.P.A.
- B. That Defendants be ordered to transfer the domains www.brokeassboys.com www.realbrokeboys.com and www.boyslickass.com and all similar domains to Plaintiff Blu Media Inc.
- C. That Defendants be ordered to file with the Court and serve upon Plaintiff, within thirty (30) after the entry of an injunction, a report in writing and under oath, setting

- forth in detail the manner and form in which Defendants have complied with any ordered injunction;
- D. That Broke Straight Boys be awarded damages in an amount to be determined at trial all infringing activities, including Broke Straight Boys damages and lost profits, Defendants' profits, plus any costs incurred in preventing future confusion, mistake or deception, all from the date of first infringement;
 - E. That Defendants pay Broke Straight Boys a sum sufficient to cover the cost of corrective advertising necessary to alleviate any existing or lingering confusion resulting from Defendants' unauthorized use of Broke Straight Boys trade dress and terms;
 - F. That Defendants be ordered to account to Broke Straight Boys for all profits, gains and advantages which they have realized as a consequence of their unauthorized use of Broke Straight Boys trade dress and terms, as well as any confusingly similar trade dress or terms;
 - G. That Broke Straight Boys be awarded enhanced damages and attorney's fees;
 - H. That Broke Straight Boys be awarded pre-judgment and post-judgment interest;
 - I. That Broke Straight Boys be awarded costs and expenses incurred in prosecuting this action, including expert witness fees; and
 - J. That such other and further preliminary and permanent relief be award to Broke Straight Boys as the Court deems appropriate.

JURY DEMAND

Plaintiff BluMedia Inc. demands a jury on all issues so triable.

DATED: May 18, 2010

Respectfully submitted,

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