

DEL - 7 2007



S078309-

No.
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

CANWEST MEDIAWORKS PUBLICATIONS INC.,

Plaintiff

and:

HORIZON PUBLICATIONS LTD., GARTH LEDDY,
MORDECAI BRIEMBERG, JOHN DOE #1, JOHN DOE #2,
JOHN DOE #3, JANE DOE #1, JANE DOE #2 and JANE DOE #3

Defendants

WRIT OF SUMMONS

Name and address of the Plaintiffs:

CANWEST MEDIAWORKS PUBLICATIONS INC.
c/o Church & Company
900 - 1040 West Georgia Street
Vancouver, BC V6E 4H1

Name and address of the Defendants:

HORIZON PUBLICATIONS LTD.
19th Floor, 885 West Georgia Street
Vancouver, BC V6C 3H4

GARTH LEDDY
c/o Horizon Publications Ltd.
1983 Pandora Street
Vancouver, BC V5L 5B2

MORDECAI BRIEMBERG
123 North Sea Avenue
Burnaby, BC V5B 1K4

JOHN DOE #1
(address unknown)

JOHN DOE #2
(address unknown)

JOHN DOE #3
(address unknown)

JANE DOE #1
(address unknown)

JANE DOE #2
(address unknown)

JANE DOE #3
(address unknown)

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith,

To the Defendants:

TAKE NOTICE that this action has been commenced against you by the Plaintiff for the claims set out in this Writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or Counterclaim that you wish to have taken into account at the trial, YOU MUST

- (a) GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above registry of this court at the address shown below, within the Time for Appearance provided for below and YOU MUST ALSO DELIVER a copy of the "Appearance" to the Plaintiffs' address for delivery, which is set out in this Writ; and
- (b) if a Statement of Claim is provided with this Writ of Summons or is later served on you or delivered to you, FILE a Statement of Defence in the above registry of this court within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence to the Plaintiffs' address for delivery.

YOU OR YOUR SOLICITOR may file the "Appearance" and the Statement of Defence. You may obtain a form of "Appearance" at the registry.

JUDGMENT MAY BE TAKEN AGAINST YOU IF

- (a) YOU FAIL to file the "Appearance" within the Time for Appearance provided for below, or
- (b) YOU FAIL to file the Statement of Defence within the Time for Defence provided for below.

TIME FOR APPEARANCE

If this Writ is served on a person in British Columbia, the time for Appearance by that person is 7 days from the service (not including the day of service).

If this Writ is served on a person outside British Columbia, the time for appearance by that person after service, is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere [or, if the time for appearance has been set by order of the court, within that time].

TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the Plaintiff within 14 days after the later of

- (a) the time that the Statement of Claim is served on you (whether with this writ of summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- (b) the end of the Time for Appearance provided for above.

(1)	The address of the registry is: 800 Smithe Street Vancouver, BC V6Z 2E1
(2)	The plaintiff's' address for delivery is: Church & Company 900 - 1040 West Georgia Street Vancouver, BC V6E 4H1 Attention David P. Church
(3)	The name and office address of the plaintiffs' solicitor is: same as above

The plaintiff's claim is set out in the Statement of Claim, which is filed and served herewith.

Dated: December 7, 2007



David P. Church
CHURCH & COMPANY
Solicitors for the Plaintiff

STATEMENT OF CLAIM

1. The plaintiff is a media company that owns, among other things, the Vancouver Sun newspaper published in Vancouver, British Columbia. The plaintiff has an address in British Columbia at Granville Square, 200 Granville Street.
2. The defendant Horizon Publications Ltd. ("Horizon") is a publishing/printing company with a business address at 1983 Pandora Street, Vancouver, British Columbia. Part of Horizon's business is the printing of newspapers, and other publications for, and on behalf of, customers who retain Horizon for that purpose.
3. The defendant Garth Leddy ("Leddy") has an address care of 1983 Pandora Street, Vancouver, British Columbia. Leddy is the President and general manager of the defendant Horizon and is responsible for the acceptance and execution of printing contracts by the defendant, Horizon.
4. The defendant Mordecai ("Briemberg") has an address at 123 North Sea Avenue, Burnaby, BC. Briemberg is the webmaster/administrator of a website called Canpalnet-Vancouver.org ("Canpalnet"), which styles itself as a Palestine support network. Briemberg is a founding member. Canpalnet regularly publishes anti-Israeli/pro-Palestinian articles.
5. The defendants John Doe #1, John Doe #2 and John Doe #3 have addresses unknown to the plaintiff. Each of these defendants has a relationship, directly or

indirectly, with one or more other named defendants and is a participant, directly or indirectly, in the other defendants' activities.

6. The defendants Jane Doe #1, Jane Doe #2 and Jane Doe #3 have addresses unknown to the plaintiff. Each of these defendants has a relationship, directly or indirectly, with one or more other named defendants and is a participant, directly or indirectly, in the other defendants' activities.
7. The plaintiff publishes the Vancouver Sun six days a week in hard copy in British Columbia and enjoys a circulation of approximately 200,000. Further, the Vancouver Sun is also published on the Vancouver Sun website, www.vancouversun.com, which is typically viewed by 400,000 readers a month.
8. The Vancouver Sun has published continuously in Vancouver since 1912. The Vancouver Sun logo, layout and other visual identifiers of the newspaper have been used in connection with the newspaper and to distinguish it from other newspapers. The logo is distinctive and known to the public as being indicative of the plaintiff's newspaper.
9. The public in Canada, and particularly in British Columbia and western Canada, have come to recognize the Vancouver Sun publication as being distinctive and there is goodwill or reputation attached to the name and to the usage of it as a daily newspaper and media outlet in the mind of the purchasing public in Canada, and particularly in British Columbia and western Canada.

10. Each of the defendants is involved, directly or indirectly, in anti-Israeli and pro-Palestinian media activities. Further, the defendants, or some of them, harbour antagonistic views towards the plaintiff, its principal shareholders and the reporting and editorial opinions expressed in the plaintiff's publications, including in the Vancouver Sun.
11. Each of the defendants, has been involved, directly or indirectly, in the past in the authoring and publication of books, articles and the provision of interviews harshly critical of the State of Israel and of the plaintiff and anyone who publishes articles or views which the defendants perceive to be contrary to their views.
12. Each of the defendants is involved, directly or indirectly, in publishing articles, on the internet and otherwise, which are pro-Palestinian and anti-Israeli and which articles, among other things, are directed at the plaintiff and its principal shareholders and other individuals and corporations who, in the opinion of the defendants, express support for the State of Israel.
13. On or before June 1, 2007, the defendants conspired, each with the other, with the intent to injure the plaintiff by entering into an agreement to author, print and distribute a fake edition of the Vancouver Sun on June 7, 2007 (the "fake newspaper"). The defendants distributed approximately 12,000 hard copies of the fake newspaper in Vancouver, and Victoria, including on the campus of the University of British Columbia. Further, the defendants caused the content of the fake newspaper to be published on a website, which the defendants created,

www.vancouversun.7p.com. The defendants also published the content of the fake newspaper on various other websites including the following:

electronicintifada.net - Electronics Intifada

stopthewall.org - Stop the Wall Campaign

btselem.org/english - Israeli Human Rights Group

pchrgaza.org - Palestinian Centre for Human Rights

www.ochaopt.org - UN Office for Humanitarian Affairs

caiaweb.org/indigoboycott - Boycott Chapters/Indigo

yournews.ca - media concentration in Canada

zmag.org/meastwatch/meastwat.cfm - Middle East Watch

ifamericansknew.org - Middle East Media Analysis

14. The sole, or predominant, intention of the defendants in entering into the conspiracy was to embarrass and to injure the plaintiff in its business and the defendants were motivated by hostility to the principal shareholders of the plaintiff and by a desire to undermine, or hurt, the business of the plaintiff and its principal shareholders.
15. Alternatively, the conduct of the defendants in furtherance of their conspiracy was unlawful and was directed toward the plaintiff, and its principal shareholders, and the likelihood of injury to the plaintiff was known to the defendants at all material times or should have been known to them in the circumstances.

16. Pursuant to their conspiracy, the defendants, or one or more of them, carried out or caused to be carried out the following overt acts, which were aimed, or directed, at the plaintiff, and which it could reasonably be foreseen would injure the plaintiff:
- (a) creating the text and layout of the fake newspaper;
 - (b) utilizing text and layouts as published on Canpalnet, which text and layouts were designed to directly or indirectly promote anti-Israeli and pro-Palestinian sentiment;
 - (c) utilizing the name Vancouver Sun for the publication of the fake newspaper and, in essence, taking the plaintiff's identity for the purpose of lending credibility to the statements in the fake newspaper;
 - (d) printing the fake newspaper;
 - (e) distributing 12,000 copies of the fake newspaper in Vancouver and Victoria;
 - (f) breaking into Vancouver Sun newspaper boxes and wrapping copies of the Vancouver Sun newspaper in the fake newspaper;
 - (g) publishing the fake newspaper on a website created by the defendants, or some of them, www.vancouversun.7p.com;
 - (h) publishing the fake newspaper on various other websites, including those listed in paragraph 13;
 - (i) publishing a press release, on June 7, 2007, advertising the activity that the conspirators were involved in and further criticizing the plaintiff and its principal shareholders;
 - (j) under the pseudonym "Earl Zatz Handel" conducting an interview on a Vancouver radio station, and, in that interview, further publishing the

existence of the fake newspaper and further criticizing the plaintiff and its principal shareholders; and

- (k) providing those who contacted the email address and phone number, provided in the defendants' press release, with further commentary criticizing the plaintiff and its principal shareholders.

17. The defendants threaten and intend to repeat the acts complained of.
18. The actions of the defendants in publishing the fake newspaper and republishing the content thereof, on the www.vancouversun.7p.com website and on various other websites, were malicious acts intended to injure the plaintiff and the goodwill and custom of the plaintiff.
19. Further, the actions of the defendants, and each of them, in publishing the fake newspaper, and republishing the content thereof on the www.vancouversun.7p.com website and on various other websites, constitute a misrepresentation and passing off of the fake newspaper as that of the plaintiff, leading the public to believe there was an association between the plaintiff and the fake newspaper.
20. As a result of the acts carried out by the defendants, or one or more of them as particularized in paragraph 16 of the statement of claim, in furtherance of the conspiracy, the plaintiff has suffered loss and damage and continues to suffer loss and damage including loss of goodwill and depreciation of the plaintiff's goodwill in its trademark.

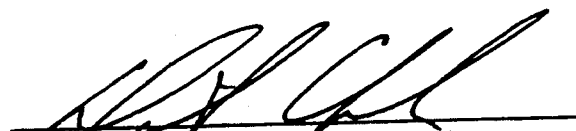
21. Further and in the alternative, the plaintiff claims that, as the acts described in paragraph 16 of this statement of claim are independently actionable as passing off and injurious falsehood, even if not committed pursuant to a conspiracy, the plaintiff claims damages, in relation to those acts.
22. The plaintiff pleads and relies on the provisions of section 7 of the Trade-marks Act, R.S. 1985, c. T-13, as well as the common-law of British Columbia in relation to the torts of passing off and injurious falsehood.
23. The plaintiff claims punitive damages. The facts on which the plaintiff relies in support of this claim are the fact of the conspiracy to which the defendants are parties and the acts carried out in the furtherance of the conspiracy as particularized in paragraph 16 of this statement of claim.
24. The plaintiff claims aggravated damages. The facts on which the plaintiff relies in support of this claim include the acts of the defendants in furtherance of the conspiracy and, in particular, the acts of republication of the fake newspaper, the issuance of a press release regarding the fake newspaper and the giving of interviews relating to the publication of the fake newspaper.
25. The plaintiff claims against the defendants and each of them as follows:
- (a) a declaration that the defendants have passed off, both at common law and as prohibited by section 7(b) of the Trade-marks Act, R.S. 1985, c. T-13, the fake newspaper as and for that of the plaintiff;

- (b) an injunction restraining the defendants, and each of them, either by themselves, their servants, agents or otherwise from:
- (i) creating, printing, or distributing any publications, including on any websites, bearing the plaintiff's name and trade marks and in a getup similar to the plaintiffs and represented as the plaintiff's wares;
 - (ii) passing off or attempting to pass off or causing, enabling, or assisting others to pass off or to attempt to pass off fake newspapers or any other publications as and for the publications of the plaintiff, including the Vancouver Sun;
 - (iii) publishing injurious falsehoods by way of newspapers or other publications, on the internet or otherwise;
 - (iv) falsely suggesting any association between the defendants' fake newspaper, or other publication including on the internet, and the Vancouver Sun; and
 - (v) restraining the defendants, and each of them, by themselves, their servants, agents or otherwise, from continuing with the acts alleged in paragraph 13 of this statement of claim, or acts similar in kind to those acts;
- (c) an order for delivery up to the plaintiff of all material of any kind in the possession, custody or control of the defendants or any of them as may offend the injunction sought in sub-paragraph (b) above;
- (d) general damages;
 - (e) special damages;
 - (f) punitive damages;

- (g) aggravated damages;
- (h) special costs, or alternatively costs; and
- (i) such further and other relief as the court deems just.

PLACE OF TRIAL: Vancouver, British Columbia

DATED: at Vancouver, British Columbia, this 7th day of December, 2007.


David P. Church
CHURCH & COMPANY
Solicitors for the Plaintiff

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Defendants

WRIT OF SUMMONS

and STATEMENT OF CLAIM

CHURCH & COMPANY
Barristers
900 - 1040 West Georgia Street
Vancouver, BC V6E 4H1

Attention: David P. Church