



Amended pursuant to Rule 24(1)(a) original filed January 11, 2008

No. S078309
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

AMENDED STATEMENT OF DEFENCE

1. The defendant Briemberg admits the facts set out in paragraphs 1, 2 and 3 of the statement of claim.
2. The defendant Briemberg admits the facts set out in the first sentence of paragraph 4 of the statement of claim. He denies that he is the webmaster/administrator of a website called Canpalnet-Vancouver.org. He denies that he is a founding member of that website.
3. The defendant Briemberg says that there is a website called Canpalnet.ca which does publish articles critical of Israeli policies that violate International law. He was an originator of that website. He is not however the site webmaster/administrator.

Canpalnet's objective is to seek to influence the policies of the Canadian government so that they support the rights of the Palestinian people. It is guided by various United Nations resolutions affirming Palestinian rights of return and calling for an end to Israeli occupation. Canpalnet guides itself by International

law including the Fourth Geneva Convention which upholds the equal worth and dignity of persons regardless of their ethnic or religious identity and which affirms democratic rights and opposes apartheid structures.

4. With respect to paragraphs 5 and 6, the defendant Briemberg denies the facts set out in those paragraphs in so far as they refer to him.
5. The defendant Briemberg admits the facts set out in paragraphs 7, 8 and 9.
6. With respect to paragraphs 10, 11, and 12 the defendant Briemberg says that the facts set out in those paragraphs are wholly irrelevant to the plaintiff's claim. They are pled contrary to Rule 19(24)(b), (c), and (d) of the *Rules of Court*. In addition, they are sufficiently vague that the defendant is unable to properly plead to them. The defendant Briemberg does say that he is involved in media activities that are critical of Israeli policies that violate International law. In all other respects, the defendant Briemberg denies the facts set out in paragraphs 10 and 11.
7. With respect to paragraph 13, the defendant Briemberg denies that facts set out in paragraph 13. Specifically, the defendant Briemberg denies conspiring with anyone. He denies having any intent to injure the plaintiff. He denies entering into an agreement as alleged.
8. The defendant does admit to handing out a number of copies of a four-page document critical of the plaintiff in the Vancouver area in June of 2007. He denies causing the content of any fake newspaper to be published on any website. He denies and has no knowledge of any publication on any of the websites listed in paragraph 13 of the statement of defence. The defendant Briemberg denies entering into any conspiracy. He denies intending to embarrass or injure the plaintiff in any way. He denies being motivated by hostility to any of the plaintiff shareholders or by any desire to hurt the business of the plaintiff or its shareholders.


9. The defendant Briemberg denies that any of his conduct in question was unlawful. He denies that it injured the plaintiff and/or its principal shareholders. He denies knowing the likelihood of injury to the plaintiff or that it should have been known in the circumstances.
10. The defendant denies the facts set out in paragraphs 14 and 15 of the statement of claim.
11. With respect to paragraph 16, the defendant Briemberg denies the existence of any conspiracy. If there was a conspiracy, he denies being a party to it. He denies performing any of the acts set out in paragraphs (a) to (d) and (f) to (k) of paragraph 16. He does admit to handing out a number of copies of a four-page document critical of the plaintiff in the Vancouver area in June of 2007.
12. With respect to paragraph 17, the defendant Briemberg denies threatening or intending to repeat any of the acts of which he has been accused in the statement of claim.
13. With respect to paragraph 18, the defendant Briemberg denies publishing any fake newspaper. He denies re-publishing the content thereof on the websites listed or any website. He denies any malicious conduct intended to injure the plaintiff and the goodwill and custom of the plaintiff.
14. With respect to paragraph 19, the defendant Briemberg denies that the conduct alleged constituted a misrepresentation and passing off of any fake newspaper. He denies that the four-page document handed out by him constituted a misrepresentation and passing off that document as a newspaper of the plaintiff. He denies that any fake newspaper or the four-page document handed out by the plaintiff led the public or anyone to believe that there was an association between the plaintiffs and the fake newspaper or the four-page document.
15. With respect to paragraph 20, the defendant Briemberg denies that the plaintiff has suffered loss or damage and continues to suffer any loss or damage. The

defendant denies that the plaintiff has lost any goodwill or suffered a depreciation in its goodwill with respect to its trade mark.

16. With respect to paragraph 21, the defendant Briemberg denies the facts set out in that paragraph.
17. With respect to paragraph 22, the defendant Briemberg says that section 7 of the *Trade Marks Act* has no application to the conduct of the plaintiff complains of nor does it have any application to the conduct to which the defendant Briemberg has admitted.
18. The defendant Briemberg says that section 7 of the *Trade Marks Act* is contrary to section 2(b) of the *Canadian Charter of Rights and Freedoms* in so far as it is applied to freedom of expression, when that expression is used for non-commercial purposes involving the use of parody, satire, irony, or exaggeration, on political issues.
19. In the alternative, the defendants say that section 7 of the *Trade Marks Act* must be interpreted according to *Charter* principles relating to the exercise of freedom of expression in matters of political concern.
20. With respect to paragraph 23, the defendant Briemberg denies that the plaintiff is entitled to any punitive damages. In addition, he demands particulars of the facts upon which the claim for punitive damages are based.
21. With respect to paragraph 24, the defendant Briemberg denies that the plaintiff is entitled to any aggravated damages. In addition, he demands particulars of the facts upon which the claim for aggravated damages are based.
22. With respect to paragraph 25, the defendant Briemberg says that the plaintiff is not entitled to any of the remedies set out in paragraph 25 as against him.
23. The defendant Briemberg says that certain of the remedies sought bear no relationship to any of the plaintiff's claims.

24. With respect to the entire statement of claim, the defendant says that the torts of conspiracy, injurious falsehood, and passing off must be interpreted according to Charter principles relating to the exercise of freedom of expression in matters of political concern.
25. Also with respect to the entire statement of claim, the defendant says that it an abuse of process and contrary to Rule 19(24) of the Supreme Court Rules. It is a strategic lawsuit against public participation in so far as it names the defendant Briemberg.
26. WHEREFORE the defendant Briemberg seeks an order that the plaintiff's claim against him be dismissed with costs awarded to him.

Dated at Vancouver, British Columbia, this 25th day of April, 2008.


Mordecai Briemberg
Defendant

This statement of claim is filed by the defendant Mordecai Briemberg, whose address for service is 123 North Sea Avenue, Vancouver, BC, V5B 1K4.