

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Oregon

MARC JACO

Plaintiff

v.

PATRICIA S. BENNETT, dba PREFERED PROCESS
SERVERS aka PERFECT PROCESS

Defendant

Civil Action No.

11-6091-TC

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

PATRICIA S. BENNETT
dba PREFERED PROCESS SERVERS aka PERFECT PROCESS
167 HIGH STREET SE
PO BOX 846
SALEM, OR 97308-0846

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Carl D. Crowell
Crowell Ing, LLP
1313 Mill St. SE
P.O. Box 923
Salem, OR 97308-0923

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

Date:

3/17/11

CLERK OF COURT

[Handwritten Signature]

Signature of Clerk or Deputy Clerk



Carl D. Crowell OSB # 982049
carl@kite.com
Michelle Vlach-Ing OSB # 015063
ming@kite.com
Crowell Ing, LLP
PO Box 923
Salem, Oregon 97308-0923
Telephone: 503-581-1240
Facsimile: 503-585-0368

FILED '11 MAR 17 16:01 USDC-ORE

of Attorneys for Plaintiff
Marc Jaco

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

MARC JACO,

Plaintiff,

v.

PATRICIA S. BENNETT, dba PREFERRED
PROCESS SERVERS aka PERFECT
PROCESS;

Defendant.

CIVIL NO.

11-6091-TC

**COMPLAINT;
EXHIBITS 1-3.**

Trademark Infringement, 15 USC 1114;
Trademark Dilution, 15 USC 1125(c); False
Marking, 15 USC 1125(a); Cyberpiracy, 15
U.S.C. 1125(d)(1); Unlawful Trade Practice;
Common Law Injury to Business Reputation

DEMAND FOR JURY TRIAL

COMPLAINT

1.

Plaintiff, Marc Jaco, through counsel alleges against Defendant, Patricia S. Bennett,
doing business in the State of Oregon under the assumed business names Preferred
Process Servers and Perfect Process, as follows:

JURISDICTION AND VENUE

2.

This is an action for trademark infringement under the Lanham Act, 15 U.S.C. § 1051 *et seq.*; 15 U.S.C. § 1114(a); unfair competition, passing off, false advertising and false designation of origin under the Lanham Act, 15 U.S.C. § 1125(a); dilution of a famous mark under the Lanham Act, 15 U.S.C. § 1125(c), injury to business reputation, arising from Defendant's unauthorized use of Plaintiff's Trademark Registration No.; and 15 U.S.C. § 1125(d), using a protected mark in bad faith with intent to profit.

3.

This court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a) and 15 U.S.C. § 1121.

4.

Venue is proper under 28 U.S.C. §1391(b)(2).

THE PARTIES

5.

Plaintiff, Marc Jaco, is an individual who resides in Texas, doing business nationwide and is the lawful and registered owner of the distinctive mark Perfect Process®, Registration No. 2428108.

6.

Defendant, Patricia Bennett, is an individual doing business under the assumed business names Perfect Process and Preferred Process Servers, with principal offices in Marion County, Oregon and using the domain name PERFECT-PROCESS.COM.

FACTUAL BACKGROUND

7.

Plaintiff, Marc Jaco, at all relevant times is in the business providing services including service of process and missing persons investigations to clients nationwide.

8.

On August 18, 1999, plaintiff filed an application to register with the United States Patent and Trademark Office the distinctive mark "PERFECT PROCESS" for used with service of process and missing persons investigations services.

9.

On February 13, 2001, after examination and review, plaintiff's distinctive mark "PERFECT PROCESS" was registered, Registration No. 2428108. *Exhibit 1.*

10.

The current status of the "PERFECT PROCESS" mark is valid and properly renewed.

11.

Since registration, plaintiff's use of the mark "PERFECT PROCESS" has been continuous and used in conjunction with service of process and missing persons investigations services.

12.

At all relevant times, plaintiff advertised and promoted his business though the domain name PERFECTPROCESS.COM.

13.

On or about October, 2010, defendant registered the domain name PERFECT-PROCESS.COM.

14.

In 2010 or 2011, defendant began to advertise and promote services, including service of process, under the assumed business name “PERFECT PROCESS” through the domain name PERFECT-PROCESS.COM. *Exhibit 2.*

15.

Defendant’s use of the “PERFECT PROCESS” business name and PERFECT-PROCESS.COM was with knowledge of plaintiff’s registered trademark.

16.

After notice and demand, defendant continues to use the confusingly similar and dilutive domain name PERFECT-PROCESS.COM to promote and market competing services. *Exhibit 3.*

CLAIM ONE: TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)

17.

Plaintiff realleges paragraphs 1- 16.

18.

Plaintiff did not license registered mark, Registration No. 2428108 to defendant.

19.

Plaintiff is not in any way associated with defendant.

20.

Defendant has been using and continues to use plaintiff’s mark without permission.

21.

By using plaintiff's registered trademark on her website, defendant is using the mark in interstate commerce.

22.

Defendant's use of Trademark Registration No. 2428108 is likely to cause confusion among the general public and plaintiff's customers.

23.

Defendant's mark use and Trademark Registration No. 2428108 are exactly the same and used for almost identical services making defendant's conduct use of a counterfeit mark.

24.

Defendant's use of the "PERFECT PROCESS" name and PERFECT-PROCESS.COM internet domain is for almost identical services making defendant's conduct use of a counterfeit mark.

25.

On information and belief, defendant intentionally infringed plaintiff's trademark.

26.

On information and belief, defendant's infringement of the trademark is willful and with advance notice of plaintiff's rights in the mark.

27.

On information and belief, defendant's infringement of the trademark harms or is likely to harm plaintiff as plaintiff suffers diversion, dilution and diminution of goodwill.

CLAIM TWO: TRADEMARK DILUTION (15 U.S.C. § 1125(c))

28.

Plaintiff realleges paragraphs 1-27.

29.

Defendant's continued illegal and misleading use of plaintiff's mark dilutes the reputation and goodwill and industry trust associated with plaintiff and its services.

CLAIM THREE: CYBERSQUATING

15 U.S.C. § 1125(d)(1)

30.

Plaintiff realleges paragraphs 1-29.

31.

Defendant, with knowledge of plaintiff's rights and use of plaintiff's registered trademark, did register the domain name PERFECT-PROCESS.COM in violation of 15 U.S.C. § 1125(d)(1). Specifically, defendant's conduct included: registering a domain that was confusingly similar and almost identical to plaintiff's registered mark; defendant had no prior use of the mark; and defendant's conduct was for the purposes of profit, diverting consumers and creating confusion.

///

///

CLAIM FOUR: UNFAIR TRADE PRACTICES (ORS 646.608)

32.

Plaintiff realleges paragraphs 1- 31.

33.

Plaintiff never sponsored or affiliated with defendant.

34.

Plaintiff never approved defendant as a licensee, franchisee or partner.

35.

Plaintiff has never been connected or associated with defendant.

36.

Defendant's misleading and illegal use of the plaintiff's mark otherwise known as Registration No. 2428108 in connection with the provision of service of process services is likely to mislead the public and cause confusion as to the source of sponsorship, affiliation connection, association, or approval from plaintiff.

CLAIM FOUR: FALSE DESCRIPTION

37.

Plaintiff realleges paragraphs 1-36.

38.

Defendant's misleading and illegal use of Plaintiff's mark is likely to mislead and create confusion, or to cause mistake, or to deceive consumers as to the affiliation, connection or association with plaintiff, or to deceive consumers as to the origin, sponsorship or approval of defendant's services.

39.

Plaintiff alleges defendant's use of plaintiff's mark comprises a false description or representation of such business or services under 15 U.S.C. § 1125(a).

CLAIM SIX: COMMON LAW INJURY TO BUSINESS REPUTATION

40.

Plaintiff realleges paragraphs 1-39.

41.

Plaintiff alleges defendant's improper and illegal use of plaintiff's registered trademark inures and creates a likelihood of injury to plaintiff's business reputation because, persons encountering plaintiff's services will believe plaintiff is affiliated with, related to, or approves of defendant's services, and any adverse reaction by the public to defendant and the quality of her products and services and the nature of her business will injure the business reputation of plaintiff and the goodwill plaintiff enjoys in connection with its lawfully registered trademark.

WHEREFORE, Plaintiff prays for the following relief:

- I. Defendant and her agents, officers, employees, representatives, successors, assigns, attorneys and all other persons acting for, with, by, through or under authority from defendant, and each of them, be preliminarily and permanently enjoined from:

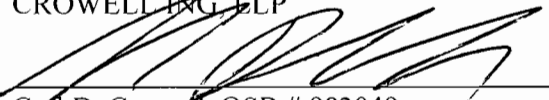
- a. using plaintiff's registered trademark;
 - b. using any trademark that imitates or is confusingly similar to or in any way similar to plaintiff's registered trademark, or that is likely to cause confusion, mistake, deception, or public misunderstanding as to the origin of competing services or the connectedness of plaintiff and defendant;
2. defendant's website WWW.PERFECT-PROCESS.COM be shut down immediately;
 3. defendant be held liable for all damages suffered by plaintiff resulting from the acts alleged herein pursuant to 15 U.S.C. § 1117,
 4. defendant be compelled to account to plaintiff for any and all profits derived by it from its illegal acts complained of herein pursuant to 15 U.S.C. § 1117;
 5. plaintiff be allowed the election of recovering damages, profits or statutory damages of not less than \$1,000 and that the court in finding defendant's use of a counterfeit mark willful award up to the full statutory amount of \$2,000,000.00 pursuant to 15 U.S.C. § 1117(c);
 6. due to defendant's violation of 15 U.S.C. § 1125(d)(1), plaintiff be awarded statutory damages of between \$1,000 and \$100,000 as the court considers just pursuant to 15 U.S.C. § 1117(d);
 7. defendant be ordered to deliver up for destruction all containers, labels, signs, prints, packages, wrappers, receptacles, advertising, promotional material or the like in possession, custody or under the control of defendant bearing a

trademark similar to Registration No. 2428108, as well as all plates, matrices, and other means of making the same pursuant to 15 U.S.C. § 1118;

8. the court declare this to be an exceptional case and award plaintiff its full costs and reasonable attorney fees pursuant to 15 U.S.C. § 1117;
9. the court declare defendant's actions to be willful and award treble damages to plaintiff;
10. the court grant plaintiff any other remedy to which it may be entitled as provided for in 15 U.S.C. §§ 1116 and 1117 or under state law; and,
11. Any further such relief the court deems just and equitable.

Dated this 17th day of March, 2011.

CROWELL ING, LLP



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Facsimile: 503-585-0368

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,428,108

United States Patent and Trademark Office

Registered Feb. 13, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

PERFECT PROCESS

JACO, MARC R. (UNITED STATES CITIZEN)
P. O. BOX 796398
DALLAS, TX 753796398

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT
TO USE "PROCESS", APART FROM THE MARK
AS SHOWN.
SEC. 2(F).

FOR: SERVICE OF PROCESS AND MISSING PER-
SONS INVESTIGATIONS SERVICES, IN CLASS 42
(U.S. CLS. 100 AND 101).

SER. NO. 75-778,184, FILED 8-18-1999.

FIRST USE 6-2-1994; IN COMMERCE 7-14-1994.

GENE MACIOL, EXAMINING ATTORNEY

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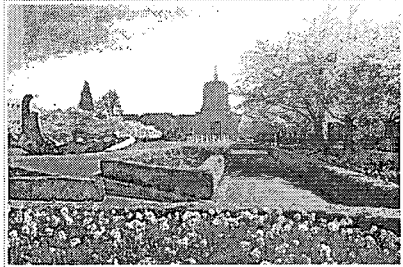
PERFECT
PROCESS

"At Your Service Since 1994"

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 167 High Street SE
 PO Box 846
 Salem, OR 97308

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 Fax: 503-990-6473

Attorneys, landlords, collection agencies, private individuals — we are here for you. **Perfect Process is a full-service process serving business located in Salem, Oregon.** We serve legal documents in Marion County, Polk County, statewide, and nationwide. We're within walking distance of CT Corporation, US Corporation, and the State Capitol Complex. We know the unique legal landscape here in Oregon's capital city, so we can effectively and efficiently serve our clients.



Need a process server? We're in downtown Salem, Oregon.

Our goal is to be your first choice, offering faster service at a more affordable price. Whether your documents need to be served down the city street or down a rural lane, you can rely on Perfect Process. **Our process servers are trained professionals with a comprehensive understanding of legal and ethical procedures.** We treat your documents with the same care and sense of urgency as you do!

Our Promise to You

The mission of Perfect Process is to create lasting relationships with our clients based on integrity, honesty and mutual respect. We do this by providing our clients with a single point of contact for all their process serving and legal support needs — at the best value!

Member Oregon Assoc. of Process Servers



Why Would You Need a Process Server?
The service of process explained here.

Need a process server? Call 503-990-6637 · We serve legal documents in Salem, Marion County, Polk County, stateside and nationwide.

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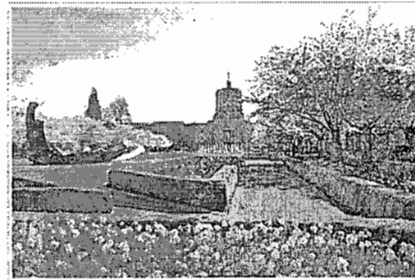
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EXHIBIT 3