

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

(Electronically Filed)

THE WAY INTERNATIONAL, INC.	)	CIVIL ACTION NO.	3:07CV-368-S
	)		
	)		
Plaintiff,	)		
vs.	)		
	)		
THE WAY MINISTRIES, INC. and	)		
CHARLES DARNELL,	)		
	)		
	)		
Defendants.	)		
	)		

**COMPLAINT FOR FEDERAL TRADEMARK INFRINGEMENT,  
FEDERAL UNFAIR COMPETITION, AND RELATED STATE CLAIMS**

Plaintiff, The Way International, Inc., alleges as follows for its Complaint against Defendants The Way Ministries, Inc and Charles Darnell:

**JURISDICTION AND VENUE**

1. This is a Complaint for federal trademark infringement and unfair competition under the Trademark Act of 1946, 15 U.S.C. §§ 1051 et seq. (hereinafter the “Lanham Act”), and for trademark infringement and unfair competition under the laws of the State of Kentucky.

2. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) and 15 U.S.C. §§ 1114, 1116, 1121, and 1125. Jurisdiction for the claims arising under the laws of the State of Kentucky is predicated upon 28 U.S.C. § 1338(b) in that the claims are substantial and related to those asserted under the federal trademark law, and under 28 U.S.C. § 1367(a) in that the claims are part of the same case or controversy.

3. This Court has personal jurisdiction over defendants Charles Darnell and The Way Ministries, Inc. in that Darnell resides in this district; The Way Ministries, Inc. is incorporated in this state; and Defendants have committed the alleged acts of infringement and unfair competition in this district.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

#### **THE PARTIES**

5. Plaintiff, The Way International, Inc. (hereinafter “Plaintiff” or “The Way International”), is a non-profit corporation duly organized and existing under the laws of the State of Ohio, maintaining its principal place of business at 5555 Wierwille Road, New Knoxville, Ohio 45871.

6. Upon information and belief, defendant Charles Darnell is, and at all times material hereto has been, a resident of this district, currently residing at 112 Carey Court, Bardstown, Kentucky, 40004-1792.

7. Upon information and belief, Defendant The Way Ministries, Inc. is a non-profit corporation duly organized and existing under the laws of the State of Kentucky, maintaining its principal place of business at 112 Carey Court, Bardstown, Kentucky 40004-1792.

**THE WAY INTERNATIONAL'S**  
**INTELLECTUAL PROPERTY RIGHTS**

8. The Way International is a nondenominational Christian biblical research, teaching and fellowship ministry with an international membership. Plaintiff has provided religious educational services and related materials under the trademark/service mark THE WAY, and variations thereof, in the United States and internationally for more than 50 years.

9. Originally incorporated in 1947 under the name THE CHIMES HOUR YOUTH CARAVAN, INCORPORATED, Plaintiff changed its corporate name to THE WAY, INC. in 1955, and subsequently to THE WAY INTERNATIONAL in 1974. Plaintiff is and has for years been referred to as both THE WAY and THE WAY INTERNATIONAL.

10. Plaintiff and its predecessors have utilized THE WAY mark continuously in connection with religious educational services and related materials in the United States and throughout the world since at least as early as 1955, and in the State of Kentucky since 1961.

11. Plaintiff has spent substantial time, money and effort establishing its reputation for scholarship and services in religious education, fellowship and related fields. This reputation is identified by various marks, both registered and unregistered, that use or incorporate THE WAY (collectively, "Plaintiff's Marks").

12. Through its extensive use of THE WAY and Plaintiff's Marks in connection with its religious teachings and fellowship and promotion of them, Plaintiff has established national and worldwide recognition of said marks, and people involved in religious studies and fellowship associate Plaintiff's Marks with Plaintiff. Among other things, Plaintiff preaches to new potential followers and solicits charitable contributions from its current followers under its marks THE WAY and Plaintiff's Marks.

13. Plaintiff owns two incontestable U.S. trademark registrations for the word mark THE WAY. True and correct copies of the federal registration information from the United States Patent and Trademark Office (“USPTO”) TESS electronic database for these two marks are attached hereto as Exhibit A and incorporated herein by reference. The marks are as follows:

**THE WAY** (U.S. Reg. No. 1,155,904, registered May 26, 1981) in Class 41 for “educational services--namely, providing religious teaching services by means of motion pictures and slide presentations and producing and presenting musical, dramatic musical, and dramatic productions and presenting works of art, publishing of periodicals and booklets of a religious nature.”

**THE WAY** (U.S. Reg. No. 1,236,084, registered May 3, 1983) in Class 9 for “audiotapes, videotapes, records, and cassettes” and in Class 16 for “religious paperback and hardback books, study manuals, and stationery--namely, note cards.”

14. Plaintiff also owns nine other U.S. trademark registrations for marks containing the mark THE WAY, and four U.S. trademark registrations for word marks of THE WAY INTERNATIONAL.

15. Plaintiff promotes and advertises its services, products and marks in interstate and foreign commerce through many avenues, including magazines, newsletters, books, note cards, and audio and video tapes. Plaintiff spends a substantial amount of effort and money on such promotion and advertising. As a result of these activities, Plaintiff has developed a reputation as a recognized provider of religious instruction, educational materials and fellowship.

16. In February of 1999, Plaintiff expanded the promotion of its services to the Internet when it registered the THEWAY.ORG domain name and began operating its official website at [www.theway.org](http://www.theway.org) (hereinafter “The Way Website”). The Way Website provides, among other things, an overview of Plaintiff’s mission, historical information regarding Plaintiff, descriptions of various educational services and products offered by Plaintiff, and contact

information. In sum, The Way Website provides a global platform for the promotion of Plaintiff's services and trademarks, making it an integral part of Plaintiff's operations.

17. Plaintiff also owns the following domain names: <thewayinternational.net>; <thewayinternational.org>; <thewayinternational.info>; <thewayintl.net>; <thewayintl.org>; <thewayintl.info>; <theway.com>; <theway.net>; <theway.info>; <theway.tv>; <thewayministry.com>; <thewayministry.net>; <thewayministry.info>; and <wayinternational.org>. Plaintiff utilizes these domains to redirect Internet users to The Way Website.

18. By reason of the promotion, advertising, media coverage, and the people who have sought Plaintiff's teachings, services, and products, Plaintiff's Marks--since long prior to Defendant's acts complained of herein--have come to be recognized by the public as identifying The Way International and its products and services, and readily serve to distinguish Plaintiff from other religious groups.

19. Plaintiff actively polices possible infringements of Plaintiff's Marks, and takes appropriate action to protect its Marks.

20. Plaintiff has not authorized Darnell or the Way Ministries, Inc. to utilize the THE WAY mark in any manner at any time.

**DEFENDANTS' INFRINGING CONDUCT**  
(Applicable to and Incorporated in All Counts)

21. Upon information and belief, Defendant Darnell personally selected the name, and owns and dominates, Defendant The Way Ministries, Inc. Both Defendants utilize the trade name and mark "The Way Ministries, Inc.," and the mark "The Way Study Foundation" and the domain name and mark <thewayministries.org> (collectively "the Infringing Marks").

22. Upon information and belief, Defendants adopted the Infringing Marks with full knowledge of The Way International, its longstanding rights in and to THE WAY mark and Plaintiff's Marks, and with the intent to profit from their unauthorized use of Plaintiff's Marks.

23. Upon information and belief, Defendants have used the Infringing Marks to promote and advertise their services and products, including religious teaching services, and also to solicit monetary contributions.

24. Plaintiff has demanded that Defendants discontinue their use of the Infringing Marks, but Defendants have continued to use those Infringing Marks.

### **COUNT I**

#### ***Federal Trademark Infringement [15 U.S.C. § 1114(1)]***

25. Plaintiff repeats and realleges all of the allegations contained in the preceding paragraphs of this Complaint as though the same were fully set forth herein.

26. Plaintiff's Marks, as set forth in the preceding paragraphs hereof, have been used throughout the United States and are well known to members of the public. The public generally associates and identifies Plaintiff's Marks with Plaintiff.

27. Defendants' use of Plaintiff's Marks is likely to cause confusion, mistake and deception among the relevant public as to the source of the services provided, and is likely to deceive the relevant public into believing that the services being offered by Defendants originate from, are associated with and/or are otherwise authorized by Plaintiff, all to the damage and detriment of Plaintiff's reputation and goodwill.

28. Defendants' use of Plaintiff's Marks is likely to cause confusion, mistake and deception among the relevant public as to the source providing religious teaching, and soliciting monetary contributions, and is likely to deceive the relevant public into believing that those

teachings or requests emanate from Plaintiff or are associated with or authorized by Plaintiff, all to the damage and detriment of Plaintiff's reputation and goodwill.

29. Defendants' actions constitute willful infringement in violation of Plaintiff's rights.

30. Plaintiff has been damaged by and Defendants have profited from their wrongful conduct in an amount to be proven at trial.

31. Plaintiff has no adequate remedy at law. The conduct of Defendants has caused and, if not enjoined, will continue to cause irreparable damage to the rights of Plaintiff in its Marks and to its reputation and goodwill.

## **COUNT II**

### ***Federal Unfair Competition [15 U.S.C. § 1125(a)(1)]***

32. Plaintiff repeats and realleges all of the allegations contained in the preceding paragraphs of this Complaint as though the same were fully set forth herein.

33. By misappropriating and using Plaintiff's Marks, Defendants have misrepresented and falsely described to the general public the origin and source of their teachings and services, as well as the source soliciting and collecting monetary contributions, and created a likelihood of confusion by the consumer as to both the source and sponsorship of such teachings, services and solicitations.

34. Upon information and belief, Defendants' actions were done willfully with: (i) full knowledge of Plaintiff's success and goodwill and public recognition of Plaintiff's Marks; (ii) full knowledge that their conduct constituted misrepresentations of the nature, characteristics, source, and qualities of their services and commercial activities; and (iii) the intent to deceive the public.

35. Plaintiff has been damaged by and Defendants have profited from Defendants' wrongful conduct in an amount to be proven at trial.

36. Plaintiff has no adequate remedy at law. The conduct of Defendants described above has caused and, if not enjoined, will continue to cause irreparable damage to the rights of Plaintiff in its Marks, and to its business, reputation, and goodwill.

### **COUNT III**

#### ***Kentucky Common Law Trademark Infringement and Unfair Competition***

37. Plaintiff repeats and realleges all of the allegations contained in the preceding paragraphs of this Complaint as though the same were fully set forth herein.

38. This claim arises under the common law of Kentucky relating to trademark infringement, unfair competition, and passing off.

39. Plaintiff is the owner of all right, title, and interest in and to the distinctive trademarks THE WAY and Plaintiff's Marks by virtue of its good-faith, extensive promotion of its services with its advertising and educational materials bearing such marks as set forth in the preceding paragraphs of this Complaint.

40. Upon information and belief, Defendants have intentionally (i) appropriated one or more of Plaintiff's Marks with the intent of causing confusion, mistake, and deception as to the source of their website and services and has thereby misled and will continue to mislead the public into assuming a connection between The Way International and The Way Ministries goods and services, (ii) injured Plaintiff by taking its business and/or impairing its goodwill, and (iii) unfairly profited and has been unjustly enriched by using Plaintiff's name or one similar thereto, and as such, Defendants have committed trademark infringement, unfair competition, and passing off under Kentucky common law.

41. Plaintiff has been damaged by and Defendants have profited from Defendant's wrongful conduct in an amount to be proven at trial.

42. Plaintiff has no adequate remedy at law. The conduct of Defendants has caused and, if not enjoined, will continue to cause irreparable damage to the rights of Plaintiff in its Marks and to its business, reputation, and goodwill.

### **DEMAND FOR JUDGMENT**

WHEREFORE, Plaintiff respectfully demands that this Court enter judgment for it and against the Defendants as follows:

1. That Defendants and their agents, servants, employees, representatives, successors, and assigns and all other persons, firms, or corporations in active concert or participation with Defendants who receive actual notice of this Order be preliminarily and permanently enjoined from:

(a) directly or indirectly engaging in unfair competition with Plaintiff by means of any activities, including generally, but not limited to, conducting, promoting, and/or advertising their business and/or services under the marks "The Way Ministries," "The Way Study Foundation" or the domain name <the way ministries.org> or any other name or mark utilizing any variation of THE WAY marks;

(b) using Plaintiff's Marks and/or any marks confusingly similar thereto, or any reproduction, counterfeit, copy, or colorable imitation thereof, in connection with conducting, promoting, and/or advertising any religious or spiritual services of any nature, including religious educational services and related materials;

(c) directly or indirectly engaging in unfair competition with Plaintiff in any manner, including distributing print, broadcast, or other forms of advertising or promotional materials, including but not limited to website and e-mail advertising and promotional material, which in any manner misrepresent the nature, characteristics, qualities, or source of their services, or make use of Plaintiff's Marks as described herein;

(d) engaging in any conduct that tends falsely to represent that, or is likely to confuse, mislead, or deceive consumers, Defendants' customers and/or subscribers, and/or members of the public to believe that, the actions of Defendants, or the services or products sold or offered by Defendants, are connected with Plaintiff, are sponsored, approved, or licensed by Plaintiff, or are in some way connected or affiliated with Plaintiff.

2. That Defendants be required:

(a) to pay Plaintiff such damages as Plaintiff has suffered, in consequence of Defendants' above-described acts of trademark infringement and unfair competition with Plaintiff, such amount which is undetermined but may be in the tens of thousands of dollars;

(b) to account for and pay to Plaintiff all gains, profits, benefits, and advantages derived from their unlawful practices; and

(c) to take all steps necessary to transfer the rights to the infringing domain name to Plaintiff.

3. That Plaintiff be awarded treble damages for Defendants' acts of trademark infringement and unfair competition in accordance with 15 U.S.C. § 1117(a), or for such amount as the Court shall find to be just, according to the circumstances of the case.

4. That Plaintiff be awarded its attorneys' fees and costs incurred in this action, as well as prejudgment interest, in accordance with 15 U.S.C. § 1117(a).

5. That Plaintiff have such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

The Way International respectfully demands a trial by jury on all issues so triable by right, pursuant to Fed. R. Civ. P. 38(b).

Dated: July 13,2007

Respectfully submitted,

s/Kevin T. Duncan

Kevin T. Duncan

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