

Alan L. Edwards (6086)
Alec J. McGinn (10775)
KUNZLER & MCKENZIE
8 East Broadway Ste 600
Salt Lake City, Utah 84111
Telephone: (801)994-4646
Facsimile: (801)531-1929
aedwards@kmiplaw.com
alecmcginn@kmiplaw.com

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

A.L. ENTERPRISES. INC., a Nevada
corporation,

Plaintiff,

v.

LATITUDES INTERNATIONAL, a business
entity of unknown form; GORDON
DOUGLAS, an individual; and DOES 1 – 10,

Defendant.

COMPLAINT

Civil No.: 2:09-cv-50

Judge Tena Campbell

Comes now A. L. Enterprises, Inc., by and through counsel, who complains
against Defendant as follows:

PARTIES

1. Plaintiff A.L. Enterprises, Inc. (ALE) is a Nevada corporation in good standing, having its principal place of business at 396 South Carbon Avenue, Price Utah, 84501. ALE is in the business of producing, marketing, and selling male chastity devices.
2. Upon information and belief, the defendant Gordon Douglas is an individual residing in Scarborough, Ontario, Canada who is involved in managing Latitudes International.
3. Upon information and belief, the defendant Latitudes International is a business entity of unknown form with its principal place of business in Scarborough, Ontario, Canada. Latitudes International does business in Utah and throughout the United States. Upon information and belief, Latitudes International is the same as, or is controlled by, Gordon Douglas.
4. Upon information and belief, the Defendant DOES 1 – 10 are additional individuals and entities who are involved in the harm done to ALE as outlined below. ALE does not know the true names of these individuals and entities and is presently naming these parties by the above fictitious name.

JURISDICTION

5. Jurisdiction in this case is based on causes of action for trademark infringement arising under the Lanham Act. This Court has jurisdiction under 15 U.S.C § 1121 and 28 U.S.C. § 1338. The Court has supplemental jurisdiction over related causes of action under 28 U.S.C.A § 1367(a).

6. This Court has personal jurisdiction over the Defendants. Defendants have advertised and offered products for sale throughout the United States, including Utah, through an Internet store at all times relevant to the allegations herein.
7. Defendants have offered to sell items in Utah through an online store and have made actual sales to representatives of ALE (see Para. 16 below).
8. Defendants' websites are e-commerce sites that allow visitors from Utah to purchase goods and have them shipped to Utah. Defendants' websites also provide a shopping cart feature and allow users to make purchases using PayPal (a nationwide payment processing system) with a number of major credit cards. The Defendant sells, and is willing and able to sell, products throughout the United States, including Utah.
9. Upon information and belief, Defendants are knowingly selling counterfeits of goods made by a company located in Utah and are thus knowingly causing harm in Utah.

GENERAL ALLEGATIONS

10. ALE manufactures and markets male chastity devices under trademarks including CB-3000®, CB-6000® and The Curve™ (“the Marks”).
11. ALE manufactures and markets its products worldwide. The Marks and the designs of ALE's products have become well-known and are immediately recognizable by people familiar with the market.
12. Because ALE's devices have become so well known, any chastity device that is associated with them through name or appearance has a great advantage over competitors.
13. Upon information and belief, Defendants operate the websites www.chastitydeviceformen.com and www.latitudes-international.com. The two

websites are Internet stores from which Defendants sell counterfeits of ALE products, including counterfeits of the CB-3000, CB-6000, and The Curve.

14. The counterfeits sold by Defendants are almost identical to the devices sold by ALE in every respect. Defendants market the counterfeits using ALE's trademarks.
15. It is extremely difficult to tell the difference between the counterfeit devices sold by the Defendants and genuine ALE products. Often the counterfeit devices can be identified only after close examination and by the slightly different boxes they are offered in.
16. ALE caused a Utah-based private investigator, Joe Reardon, to purchase a CB-3000 and a CB-6000 from the Defendants' www.chastitydeviceformen.com website. Mr. Reardon paid for the device using a credit card and had the device shipped to an address in Utah.
17. Principals of ALE have examined the devices sold by the Defendants and have determined that they are indeed counterfeits.

FIRST CAUSE OF ACTION

Trademark Infringement

18. ALE has established a protectable interest in the Curve mark and in the trade dress of its products, and has federally registered both the CB-3000 and CB-6000 marks.
19. Defendants are selling devices that are almost identical to ALE products using ALE's CB-3000, CB-6000, and The Curve trademarks.
20. Defendants' activities constitute trademark infringement of ALE's registered marks, actionable under the Lanham Act, and infringement of ALE's unregistered marks, actionable as common law trademark infringement.
21. Unless Defendants are restrained from continuing their infringing activities, these injuries will continue to occur.
22. Defendants' acts of infringement have damaged ALE in an amount to be proven at trial.
23. ALE is further entitled to recover from Defendants the gains, profits, and advantages Defendants have obtained as a result of his acts.
24. Because Defendants' actions are willful, ALE is entitled to recover its attorney's fees in this matter.

SECOND CAUSE OF ACTION

Counterfeiting, 15 U.S.C. §1114 et seq.

25. Defendants are selling counterfeits of the CB-3000 and CB-6000 devices.
26. ALE has federally registered both the CB-3000 and the CB-6000 marks.
27. Upon information and belief, the devices the Defendants are selling are not grey market goods or product overruns.
28. ALE has been damaged by Defendants' sales of counterfeit goods.

THIRD CAUSE OF ACTION

Federal Unfair Competition and False Designation of Origin, 15 U.S.C. §1125(a)

29. ALE has made continuous, uninterrupted, and extensive use of the CB-3000, CB-6000, and The Curve marks in commerce.
30. Defendants' use of ALE's Marks in connection with the promotion and sale of competing products and services is intended to cause confusion and mistake.
31. Defendants' use of the Marks misappropriates the extensive and long-standing good will associated with ALE's Marks.
32. ALE has no adequate remedy at law for these injuries. Moreover, unless the Defendants are restrained by this Court from continuing its use of the Marks, these injuries will continue to occur.
33. As a direct and proximate result of Defendants' acts of unfair competition alleged here, ALE has been damaged and will continue to sustain damage in an amount to be proven at trial.
34. ALE is further entitled to recover from Defendants the gains, profits, and advantages they have obtained as a result of Defendants' acts of unfair competition.

FOURTH CAUSE OF ACTION

Intentional Interference with Economic Relations

35. Defendants' business is based on confusing consumers into believing that they are purchasing ALE products. Sales by the Defendants cost ALE business and damage their trademarks because, *inter alia*, products sold by Defendants are of inferior quality.

36. Upon information and belief, Defendants' acts are willful and malicious and constitute intentional interference with ALE's economic relationships with customers and prospective customers.

37. ALE has suffered and continues to suffer damages, including, without limitation, the loss of sales and profits on products which would have been sold by ALE and its distributors. ALE has also suffered and continues to suffer irreparable and incalculable injury to business reputation, good will, and to the integrity of the Marks.

FIFTH CAUSE OF ACTION

Unfair Competition, Utah Code Ann. §§ 13-5a-101 et seq.

38. Defendants' actions constitute unfair competition with ALE; by reason of Defendants' actions, ALE has sustained and will continue to sustain substantial injury, loss, and damage to its ownership rights.

39. Unless Defendants are restrained by this Court from continuing such conduct, ALE will suffer irreparable injury.

40. As a direct and proximate result of Defendants' acts of unfair competition alleged here, ALE has been damaged and will sustain damage in an amount to be proven at trial.

41. ALE is further entitled to recover from Defendants the gains, profits, and advantages Defendants have obtained as a result of their acts of unfair competition alleged here.

PRAYER FOR RELIEF

WHEREFORE, ALE requests judgment against Defendant as follows:

1. For a preliminary injunction and permanent injunction against Defendants, their partners, successors, predecessors, assigns and all persons acting for, with, by, through, or under them, and:
 - a. Restraining Defendants from using the Marks or associated trade dress, designs or any other terms or distinguishing features, in a manner that is likely to cause dilution, confusion, mistake, or to deceive;
 - b. Restraining Defendants from using in any manner a name or mark confusingly similar to ALE's in connection with Defendants' goods or services in such a manner that is likely to create the erroneous belief that these goods or services are authorized by, sponsored by, licensed by, or are in some other way associated with ALE;
2. For statutory and civil damages in an amount to be proven at trial;
3. For punitive damages;
4. For treble damages;
5. For disgorgement of all gains, profits, and advantages derived by Defendants from their acts of unfair competition, infringement, dilution, and other violations of law;
6. For monetary damages according to proof at trial sustained by ALE as a result of Defendants' unlawful acts alleged here;
7. For all costs and expenses, including without limitation, reasonable attorney's fees;

8. For an order requiring the destruction of all infringing products in the Defendants' possession;
9. For prejudgment interest at the maximum legal rate; and
10. For other and further relief as the court deems just and proper.

DATED this 21st day of January 2009.

KUNZLER & MCKENZIE

By: /s Alan L. Edwards
Alan L. Edwards
KUNZLER & MCKENZIE
Attorneys for Plaintiff
8 East Broadway Ste 600
Salt Lake City, Utah 84111

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
A.L. Enterprises

(b) County of Residence of First Listed Plaintiff Carbon County, Utah
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Alan L. Edwards, Kunzler & McKenzie, 8 E Broadway, Suite 600
 (801) 994-4646

DEFENDANTS
Latitudes International
Gordon Douglas
Does 1 - 10

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General			<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify) _____

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. 1114

Brief description of cause:
Trademark infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 01/21/2009

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____