

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ballistic Products, Inc.,

Plaintiff,

v.

Precision Reloading, Inc.,
Contemporary Enterprises,
Peter C. Maffei and
Thomas Maffei,

Defendants.

**MEMORANDUM OPINION
AND ORDER**

Civil No. 03-2950 ADM/AJB

Richard J. Nygaard, Esq., and Douglas J. Frederick, Esq., Rider Bennett, LLP, Minneapolis, MN, appeared on behalf of Plaintiff.

Allen W. Hinderaker, Esq., and William D. Schultz, Esq., Merchant & Gould, Minneapolis, MN, appeared for and on behalf of Defendants.

I. INTRODUCTION

On July 22, 2003, the Motion to Dismiss [Docket No. 28] of Defendants Precision Reloading, Inc., Contemporary Enterprises, Peter C. Maffei and Thomas Maffei (collectively, "Defendants") and Plaintiff Ballistic Products, Inc.'s ("Ballistic" or "Plaintiff") Motion for Temporary Restraining Order or, in the Alternative, for Preliminary Injunction [Docket No. 2] were argued before the undersigned United States District Judge. Defendants seek dismissal for lack of personal jurisdiction. Plaintiff seeks an injunction ordering the assignment or transfer of the two disputed Internet domain names to Plaintiff. For the reasons set forth below, Defendants' Motion to Dismiss is denied and Plaintiff's Preliminary Injunction is granted.

II. BACKGROUND

Ballistic sells shotgun ammunition, reloading materials, and related supplies worldwide through mail order catalogues and its Internet website **ballisticproducts.com**. Defendants do not contest that, from as early as the late 1970s, Defendants have had knowledge of Plaintiff's business and use of the trademark "Ballistic Products, Inc." in connection with its goods and services, and Plaintiff's location in Minnesota. Verified Compl. ¶¶ 35-36. Defendant Precision Reloading, Inc. ("Precision"), a Connecticut corporation, sells ballistics products including shotshell, primers, powder wads and other firearm products. P. Maffei Aff. ¶¶ 4, 6. Precision purchases products in bulk from manufacturers and resells to consumers worldwide via catalogue mail order and its Internet website **precisionreloading.com**. *Id.* ¶¶ 7-8, 10-11. Since 1995, Precision has used the name Contemporary Enterprises as a d/b/a for purchasing goods. *Id.* ¶ 9.¹

In December 2002, Peter and Thomas Maffei, Precision's president and vice-president, respectively, discussed registering additional domain names to "attract potential customers," and the domain names **ballisticproduct.com** and **balisticproducts.com** were registered by Precision. *Id.* ¶¶ 15-17. Until April 7, 2003, these domain names were directed to the **precisionreloading.com** website. P. Maffei Aff. ¶ 21. After April 7, 2003, at the request of Thomas Maffei, the domain names have been directed to the **buydomains.com** website, where the domain name is listed as "reserved."

¹ Contemporary Enterprises will be considered a part of the same corporate entity as Precision for purposes of this Motion. After registering it as a trade name, Peter Maffei did business in the name of Contemporary Enterprises, Ltd. Frederick Aff. (Jurisdiction) Ex. X. Precision admits it still uses the d/b/a name "Contemporary Enterprises." Defs.' Mem. in Supp. of Mot. to Dismiss at 3.

T. Maffei Aff. ¶ 19.

Since the beginning of 2002, Precision has distributed 223 catalogues to Minnesota residents. P. Maffei Aff. ¶ 10. Precision has also advertised nationally in publications sent to Minnesota. Id. ¶ 28. Precision’s website received 338,242 hits between May 2001 and April 2002. Id. ¶ 11.² In 2002-03, Precision sold to 197 customers in Minnesota. Id. ¶ 23. Since the beginning of 2002, Precision has received \$21,060.19 from sales to Minnesota consumers, as the result of both catalogue and website orders. Precision has purchased \$32,773.21 worth of merchandise from Minnesota sellers since 2002. P. Maffei Aff. ¶¶ 24, 27. Between December 9, 2002 to March 31, 2003, the domain names **ballisticproducts.com** and **ballisticproduct.com** collectively received 550 hits. Id. ¶ 33. Since April 2003, all Internet traffic reaching these two domain names is forwarded to the “domain reserved” page on **buydomains.com**.

Precision has no property, bank accounts, telephone listings, registered agent for service of process or sales force located in Minnesota. Id. ¶ 22. Neither Peter nor Thomas Maffei have any real or personal property, bank accounts or business contacts in Minnesota. Id. ¶ 29; T. Maffei Aff. ¶ 20.

Ballistic alleges that at least three consumers have been confused by Defendants’ domain names: Chuck Savoie of Wisconsin, William Massey of Tennessee, and Jeff Kerry, whose residence is unknown, but is not Minnesota. Fackler Dep. at 87, 92, 94-95.

III. DISCUSSION

A. Jurisdiction

² Defendants assert its files are corrupted, making data from May 2002 to May 2003 unavailable. P. Maffei Aff. ¶ 11.

A plaintiff need only make a prima facie showing of personal jurisdiction over the defendant to survive a motion to dismiss for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2). Digi-Tel Holdings, Inc. v. Proteq Telecomms. (PTE), Ltd., 89 F.3d 519, 522 (8th Cir. 1996). In evaluating the prima facie showing, the court must view the evidence in the light most favorable to the plaintiff, and resolve all factual conflicts in the plaintiff's favor. Id.

To establish personal jurisdiction, the facts presented must satisfy the requirements of the forum state's long-arm statute, and the exercise of personal jurisdiction over the defendant must not violate due process. Id. The amenability of a foreign corporation to the jurisdiction of a federal district court is controlled by the law of the state in which the federal court sits. Moran v. Vermeer Mfg. Co., 498 F. Supp. 1274, 1278 (W.D. Mo. 1980) (citing Simpkins v. Council Mfg. Corp., 332 F.2d 733, 736 (8th Cir. 1964)). Because Minnesota's long-arm statute, Minn. Stat. § 543.19 (1988), extends jurisdiction to the maximum limit consistent with due process, this court need only evaluate whether or not the requirements of due process are satisfied. Wessels, Arnold & Henderson v. National Med. Waste, Inc., 65 F.3d 1427, 1431 (8th Cir. 1995).

Due process mandates that a court exercise personal jurisdiction over a nonresident defendant only when the defendant has "certain minimum contacts" with the state, such that summoning the defendant to the forum state does not offend "traditional notions of fair play and substantial justice." International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945). Sufficient contacts exist when the defendant's conduct and connection with the forum state are such that the defendant should "reasonably anticipate being haled into court there." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980). The defendant's acts must be substantial enough to give clear notice that it

would be subject to suit in the forum state. Id. However, the unilateral activities of one claiming some relationship with the non-resident defendant are not enough to satisfy the minimum contacts requirement. Hanson v. Denckla, 357 U.S. 235, 253 (1958). In every case there must be some act by which a defendant “purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.” Id. Jurisdiction is proper where the contacts proximately result from actions by the defendant that create a “substantial connection” with the forum state. Burger King Corp. v. Rudzewicz, 471 U.S. 462, 476 (1985).

The Eighth Circuit applies a five-factor test in analyzing the constitutional requirements needed for personal jurisdiction: (1) the nature and quality of defendant’s contacts with the forum state, (2) quantity of contacts, (3) source and connection of the cause of action with those contacts, (4) the interest of the forum state, and (5) the convenience of the parties. Wessels, 65 F.3d at 1432. The first three factors are of primary importance, and the last two are “secondary factors.” Digi-Tel, 89 F.3d at 523.

The third factor determines whether jurisdiction is specific or general. Wessels, 65 F.3d at 1432 n.4. General personal jurisdiction exists when a nonresident has such substantial contacts with the forum state that the state may exert jurisdiction over the nonresident “even for causes of action unrelated to defendant’s contacts with the forum state.” Domtar, Inc. v. Niagara Fire Ins. Co., 533 N.W.2d 25, 30 (Minn. 1995). Specific jurisdiction is jurisdiction over causes of actions arising from or related to a defendant’s actions within the forum state, while general jurisdiction refers to the power of a state to adjudicate any cause of action involving a particular defendant regardless of where the cause of action arose. Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 414 nn. 8-9 (1984).

Where a forum state seeks specific personal jurisdiction over a non-resident defendant, due process is satisfied if the defendant has “purposely directed” his activities at residents of the forum, and the litigation results from alleged injuries that “arise out of or relate to” those activities. Burger King, 471 U.S. at 472.

Although a single transaction with the forum state can be sufficient to establish personal jurisdiction over a defendant, when the quantity of contacts is minimal a court must rely on the nature and quality of the contacts. Krambeer v. Eisenberg, 923 F. Supp. 1170, 1174 (D. Minn. 1996). However, where nonresidents both initiated contact with Minnesota residents and took some action that induced the residents to enter into the transaction, Minnesota courts have exercised personal jurisdiction over nonresidents based on a single transaction. See TRWL Fin. Establishment v. Select Int’l, Inc., 527 N.W.2d 573, 577 (Minn. Ct. App. 1995).

Here, the due process requirement of minimum contacts with the forum state is satisfied. Defendants have purposely availed themselves of the privileges of conducting business in Minnesota consistently and systematically over at least the past year and a half. Since the beginning of 2002, Precision has distributed 223 catalogues to Minnesota residents. P. Maffei Aff. ¶ 10. Precision has also advertised nationally in publications sent to Minnesota. Id. ¶ 28. Precision’s website has received 338,242 hits between May 2001 and April 2002 – suggesting that several thousand would likely have been from Minnesota residents. Id. ¶ 11; see Bird v. Parsons, 289 F.2d 865, 872 (6th Cir. 2002). In 2002, Precision sold to 156 customers in Minnesota, and 41 customers January through June 12, 2003. P. Maffei Aff. ¶ 23. Since the beginning of 2002, Precision has sold over \$21,000 in product to Minnesota consumers, both from catalogue and website orders, and purchased over \$32,000 worth of

merchandise from Minnesota sellers. P. Maffei Aff. ¶¶ 24, 27. While a single one of these contacts alone may not support jurisdiction, taken cumulatively, and in the light most favorable to Plaintiff, these contacts are sufficient to establish general personal jurisdiction on Precision in Minnesota.

After establishing minimum contacts, other factors are considered to determine whether the assertion of jurisdiction would comport with fair play and substantial justice. Burger King, 471 U.S. at 476. The following considerations sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required: (1) the burden on the defendant, (2) the forum state's interest in adjudicating the dispute, (3) the plaintiff's interest in obtaining convenient and effective relief, (4) the interstate judicial system's interest in obtaining the most efficient resolution of controversies, and (5) the shared interest of the several states in furthering fundamental substantive social policies. Id. at 477.

Where a defendant has purposefully directed his activities at forum residents, “he must present a compelling case that the presence of some other considerations would render jurisdiction unreasonable.” Id. at 477. The factors are intended to be weighed with a mind toward protecting against the use of jurisdictional rules to make litigation “so gravely difficult and inconvenient” that a party is unfairly at a “severe disadvantage” in comparison to his opponent. Id. at 478.

Defendants have not articulated any factors supporting a finding that jurisdiction in Minnesota would fail to comport with fair play and substantial justice. Defendants have directed their activities toward Minnesota buyers and sellers consistently over time. Defendants have not presented a “compelling case” that other considerations would make jurisdiction “unreasonable” in this case. Burger King, 471 U.S. at 477. In sum, the nature, quality and quantity of Precision’s contacts with

Minnesota are commercial, relatively extensive and ongoing. Accordingly, general personal jurisdiction over Defendants is proper.

Additionally, Plaintiff alleges an intentional tort and argues specific jurisdiction is proper. “[C]onsideration of additional factors when an intentional tort is alleged” is required. Dakota Indus., Inc. v. Dakota Sportswear, Inc., 946 F.2d 1384, 1391 (8th Cir. 1991). In the case of “intentional tortious wrongdoing--namely, the use of the trademark with knowledge of the infringement,” the so-called “effects test” articulated in Calder v. Jones, 465 U.S. 783 (1984) applies. Dakota Indus., 946 F.2d at 1391. The effects test “allows the assertion of personal jurisdiction over non-resident defendants whose acts ‘are performed for the very purpose of having their consequences felt in the forum state.’” Id. (internal citation omitted). Here, Defendants’ registration of domain names that are slight misspellings of Ballistic’s trademark and domain name was an action directed at Minnesota such that Defendants’ should “reasonably anticipate being haled into court” in Minnesota. Calder, 465 U.S. at 790. Substituting the venues at issue into the language of Calder, “[a]n individual injured in [Minnesota] need not go to [Connecticut] to seek redress from persons who, though remaining in [Connecticut], knowingly caused the injury in [Minnesota].” Id. Specific jurisdiction is therefore also proper over Precision. Contemporary Enterprises purchases products pursuant to ongoing relationships with Minnesota manufacturers and maintains the domain names at issue. Jurisdiction over Contemporary Enterprises is also proper.

Peter Maffei (“Peter”) is a sole proprietor conducting business as Contemporary Enterprises, Ltd. Pl.’s Ex. X (Certificate of Adoption of Trade Name). As such, Peter Maffei is subject to the same jurisdictional analysis as Contemporary Enterprises. As president of Precision, Peter is also

subject to jurisdiction. Thomas Maffei (“Thomas”), vice-president of Precision, was also integrally involved in procuring the domain names. On December 8 and 9, 2002, Peter and Thomas had telephone conversations and exchanged emails in securing the registration of the domain names **ballisticproducts.com** and **ballisticproduct.com**. P. Maffei Aff. ¶¶ 15-16. As stated in Calder, defendants’ “status as employees does not somehow insulate them from jurisdiction.” Calder, 465 U.S. at 790; see also Bird v. Parsons, 289 F.3d at 865, 870, 876 (6th Cir. 2002) (finding that agents or principals taking an active role in activating an infringing website are subject to jurisdiction along with the corporation). Defendants admit to prior knowledge of Ballistic’s business, use of its trademark and location in Minnesota. Peter and Thomas Maffei registered the domain names with slight misspellings of Ballistic’s domain name and trademark for the commercial profit-making purpose (at least until April 7, 2003) of “attract[ing] potential customers.” P. Maffei Aff. ¶¶ 15-17. The striking similarity between Ballistic’s domain name and the domains registered by Defendants is not accidental or coincidental. Thomas Maffei testified people typing Internet address words adding “.com” often misspell the words, and stated that Defendants “wanted to attract people to find ballistic products” by using the misspelling of Ballistic’s Internet address. T. Maffei Aff. ¶¶ 8-10. The individual Defendants “are primary participants in an alleged wrongdoing intentionally directed at a [forum state] resident, and jurisdiction over them is proper on that basis.” Calder, 465 U.S. at 790.

Defendants’ Motion to Dismiss for lack of personal jurisdiction is denied.

B. Injunction

Injunctive relief generally is determined by four factors: (1) the threat of irreparable harm to the moving party if an injunction is not granted, (2) the harm suffered by the moving party if injunctive relief

is denied as compared to the effect on the non-moving party if the relief is granted, (3) the probability that the moving party will succeed on the merits and (4) the public interest. Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 113-114 (8th Cir. 1981). The party requesting injunctive relief bears the burden of proving the Dataphase factors. Gelco Corp. v. Coniston Partners, 811 F.2d 414, 418 (8th Cir. 1987). The standard for a temporary restraining order is the same as for a preliminary injunction. Vopak USA, Inc. v. Hallet Dock Co., No. 02CV-393, 2002 WL 334415, at *1 (D. Minn. Feb. 22, 2002).

The threat of irreparable harm factor favors Plaintiff in this case. Ballistic asserts that one of its customers called on April 7, 2003, to report confusion about reaching Defendants' website upon misspelling Ballistic's domain name, and that other Internet users and customers were likewise confused. Pl.'s Mem. in Supp. of TRO at 5. Ballistic also identifies three other consumers allegedly confused by the domain names. Fackler Dep. at 87, 92, 94-95. Ballistic argues that other unwary Internet users may have been misdirected during the time when the domain names forwarded to Defendants' site, and are currently being misled upon being directed to the **buydomains.com** site. Ballistic avers that such confusion causes consumers to falsely believe that Ballistic does not operate a website, or that Ballistic was or has been affiliated with Precision. Id. "We can never know how much traffic was lost, or how much faster the traffic would have grown" absent Defendants' registration of the **ballisticproducts.com** and **ballisticproduct.com** domain names. Shields v. Zuccarini, 89 F. Supp. 2d 634, 641 (E.D. Pa. 2000). Where a plaintiff can show "probable success in proving a likelihood of consumer confusion," irreparable harm is properly presumed. General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 625 (8th Cir. 1987).

The balance of harms factor also favors Ballistic. The continuing risk of Ballistic losing consumers attempting to reach the **ballisticproducts.com** site when directed to the “domain reserved” page on **buydomains.com** is not counterbalanced by attendant harm to Defendants resulting from a temporary injunction or the transfer of the **ballisticproducts.com** and **ballisticproduct.com** domain names to Plaintiff. Defendants concede that since April 7, 2003, these two domain names have not forwarded to the **precisionreloading.com** site, but instead forward to “a dead letter office.” The domains are serving no current profit-making function to benefit Defendants, which does little to tip the balance of harms in their favor.

The third factor, likelihood of success on the merits, also favors Plaintiff. The Anticybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. § 1125(d), provides that a court may award injunctive relief to the rightful owner of a trademark or trade name by prohibiting bad faith and abusive registration of distinctive marks as domain names with the intent to profit from the goodwill associated with those names. 15 U.S.C. § 1125 (2002). The cyberpiracy prevention statute, § 1125(d), applies to the use of a domain name that is identical or confusingly similar to a distinctive or famous mark, or dilutive of a famous mark. In addition to damages under 15 U.S.C. § 1117, the ACPA provides that “a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.” 15 U.S.C. § 1125(d)(1)(C).

Accordingly, the relevant inquiries are: (1) was Plaintiff’s trademark distinctive or famous at the time Defendants registered the allegedly illegal domain names, (2) are the Defendants’ domain names identical or confusingly similar to Plaintiff’s, and (3) did Defendants register the domain names with a bad faith intent to profit?

Registered trademarks are presumed to be distinctive. Aromatique, Inc. v. Gold Seal, Inc., 28 F.3d 863, 869 (8th Cir. 1994). Defendants assert that registration of Ballistic’s trademark on December 31, 2002, subverts the presumption of distinctiveness because Defendants had previously registered the domain names on December 9, 2002. P. Maffei TRO Aff. ¶¶ 9-10. Defendants’ attempt to claim Ballistic’s mark was not “distinctive” prior to December 31, 2002. The ACPA protects both registered and common law trademarks. Northland Ins. Cos. v. Blaylock, 115 F. Supp. 2d 1108, 1124 (D. Minn. 2000). Here, Ballistic’s mark, Ballistic Products, Inc.®, has been used by Plaintiff since the 1970s. Pl.’s Mem. in Supp. of TRO at 2. It is undisputed that Defendants were aware of Ballistic’s mark and domain name prior to its registration of the accused domain names. Plaintiff submits evidence of widespread use in advertising and catalogues supporting the exclusivity and duration of Ballistic’s use of its trade name and Internet domain. See Frederick Aff. Exs. B, K, L, M. Moreover, “[t]he existence of secondary meaning of a mark may be inferred from evidence of deliberate copying of that mark.” Aromatique, 28 F.3d at 871. Ballistic’s mark is distinctive as required by statute.

That the domain names **balisticproducts.com** and **ballisticproduct.com** are confusingly similar to Plaintiff’s domain name **ballisticproducts.com** is manifest. Defendants’ admission that the domain names were selected specifically because Internet users would be likely to misspell words while intending to find ballistic products is telling. P. Maffei Aff. ¶ 10; see Shields v. Zuccarini, 254 F.3d 476, 483-84 (3d Cir. 2001) (“A reasonable interpretation of conduct covered by the phrase ‘confusingly similar’ is the intentional registration of domain names that are misspellings of distinctive or famous names, causing an Internet user who makes a slight spelling or typing error to reach an

unintended site.”).

The final inquiry is whether or not Defendants registered the domain names with a bad faith intent to profit.³ The only uses made by Defendants of the domain names after registration were to

³ Bad faith intent to profit is determined by nine non-exclusive factors:

(I) the trademark or other intellectual property rights of the person, if any, in the domain name;

(II) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

(III) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

(IV) the person's bona fide noncommercial or fair use of the mark in a site accessible under the domain name;

(V) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

(VI) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person's prior conduct indicating a pattern of such conduct;

(VII) the person's provision of material and misleading false contact information when applying for the registration of the domain name, the person's intentional failure to maintain accurate contact information, or the person's prior conduct indicating a pattern of such conduct;

(VIII) the person's registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names, without regard to the goods or services of the parties; and

(IX) the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous within the meaning of subsection (c)(1) of this section.

“promote” Precision products and “attract potential customers” by forwarding the domain names to the **precisionreloading.com** website. P. Maffei Aff. ¶¶ 14, 17; T. Maffei Aff. ¶ 5. These are explicitly commercial uses designed toward profit making. As stated above, Defendants’ registration of the domain names was done with knowledge of Ballistic’s trademark, business operation and location in Minnesota. Plaintiff has trademark rights in its domain name, which is commonly associated with Ballistic. 15 U.S.C. § 1125(d)(1)(B)(i)(I) & (II). The domain names also are confusingly similar enough to divert Internet traffic from Ballistic’s web site, and Defendants have registered multiple domain names which do so. 15 U.S.C. § 1125(d)(1)(B)(i)(V) & (VIII). These factors demonstrate that Ballistic has a likelihood of success on the merits sufficient to satisfy the requirements of the Dataphase analysis.⁴

Finally, public policy supports granting an injunction. A trademark infringement involving an Internet domain name would constitute a “misuse of the Internet, which is a resource that has the potential to benefit hundreds of millions of people. There is a strong public interest in stopping such misuses of this new technology.” Minnesota Mining & Mfg. Co. v. Taylor, 21 F. Supp. 2d 1003, 1005 (D. Minn. 1998). Ballistic’s Motion for Preliminary Injunction is granted.

IV. CONCLUSION

Based on the foregoing, and all the files, records and proceedings herein, **IT IS HEREBY**

15 U.S.C. § 1125(d)(1)(B)(i).

⁴ Because the likelihood of success on Plaintiff’s primary claim is sufficient for issuing the preliminary injunction, the likelihood of success of Plaintiff’s other claims will not be addressed at this time.

ORDERED that:

1. Defendants' Motion to Dismiss [Docket No. 28] is **DENIED**, and
2. Plaintiff's Motion for Temporary Restraining Order or, in the Alternative, for Preliminary Injunction [Docket No. 2] is **GRANTED**.
3. Accordingly, Defendants and their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order, are temporarily and preliminarily prohibited and enjoined from using the domain names **ballisticproducts.com** and **ballisticproduct.com**, and from registering or using any other domain name that is identical or confusingly similar to Plaintiff's trademark Ballistic Products, Inc.®
4. Defendants, within three days of this Order, will transfer to Ballistic ownership of the domain names **ballisticproducts.com** and **ballisticproduct.com**.
5. This Order is effective upon the date recited below, and shall remain in effect until further Order of this Court, provided that, within 10 days of the date of this Order, Plaintiff posts a bond with the Clerk of this Court, pursuant to Rule 65(c) of the Federal Rules of Civil Procedure, in the sum of \$5,000.

BY THE COURT:

ANN D. MONTGOMERY
UNITED STATES DISTRICT JUDGE

Dated: July 28, 2003.