

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA,
ALEXANDRIA DIVISION**

PaineWebber Inc. v. WWWPAINERWEBBER.COM (E.D. Va. 1999)

1999 U.S. Dist. LEXIS 6552

Decided April 9, 1999

Claude M. Hilton, District Court Judge

This matter came before the Court on plaintiff's motion for a Preliminary Injunction following the Court's entry of a Temporary Restraining Order on April 2, 1999. The Court finds upon consideration of the four factors comprising the Fourth Circuit's "hardship balancing test" for preliminary injunctions, that the plaintiff is entitled to a preliminary injunction.

First, the likelihood of irreparable harm to plaintiff if the preliminary injunction does not issue is very high, in light of the undisputed fact that WWWPAINWEBBER.COM automatically links with a website offering pornography.

Second, it does not appear that Defendants will suffer any harm if the preliminary junction is granted. To provide security to Defendant, however, the preliminary injunction will be contingent upon the deposit by the plaintiff into this Court of a bond in the amount of \$10,000.

Third, the Court finds that "PaineWebber" is a famous mark which will be diluted in violation of 15 U.S.C. § 1115(c) by being linked with pornography. The Court thus finds it likely that the plaintiff will succeed on the merits.

Fourth, the Court finds that the public interest would be served by entry of a preliminary injunction.

THEREFORE, and for the reasons stated from the bench, the Court finds the entry of a Preliminary Injunction to be proper, and it is hereby

ORDERED that upon the posting of a bond in the amount of \$10,000 into this Court by the plaintiff:

(1) Defendant Fortuny and his agents, servants and employees and all those acting in concert with him are preliminarily enjoined from operating, maintaining, or sponsoring, or permitting to operate, any web site identified with the domain name WWWPAINWEBBER.COM, including but not limited to permitting such site to have any content or to automatically forward or link to any other IP address or domain name whatsoever;

(2) Defendant Fortuny is preliminarily enjoined from selling, disposing or otherwise terminating his rights in and to the WWWPAINEWEBBER.COM domain name; and

(3) Network Solutions, Inc. is ordered to put the domain name WWWPAINEWEBBER.COM on "hold" so that it cannot be used by anyone, until the rights of the parties hereto in and to the domain name can be determined by this Court.