

ESTTA Tracking number: **ESTTA399080**

Filing date: **03/21/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053599
Party	Defendant Cause TV, Inc.
Correspondence Address	CAUSE TV INC 13312 BEALL CREEK COURT POTOMAC, MD 20854 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Alexander D. Widell
Filer's e-mail	adw@bickelbrewer.com
Signature	/ADW/
Date	03/21/2011
Attachments	Motion to Suspend.pdf (26 pages)(740068 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Registration No. 3,807,463
Trademark: CAUSETV

Philotic, Inc., Petitioner, v. Cause TV, Inc., Registrant.	
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**MOTION TO SUSPEND CANCELLATION PROCEEDING
PURSUANT TO TRADEMARK RULE 2.117(a)**

Cause TV, Inc. (“Registrant”), by and through its undersigned counsel, hereby moves, pursuant to Trademark Rule 2.117(a), to suspend the above-captioned cancellation proceeding pending the termination of a parallel federal court civil action.

I.

INTRODUCTION

On March 18, 2011, Registrant filed a complaint against Petitioner Philotic, Inc. (“Petitioner” or “Philotic”) in the United States District Court for the Southern District of New York captioned *Cause TV, Inc. v. Philotic, Inc.*, Civil Action No. 22 CV 1919 (SAS) (the “Federal Action”).¹ The complaint seeks injunctive relief and damages arising from Philotic’s unauthorized use of a service mark confusingly similar to Plaintiff’s CAUSETV registered

¹ A true and correct copy of the complaint in the Federal Action is attached hereto as Exhibit A.

service mark (Registration No. 3,807,463), in violation of the Lanham Act and the common law of the State of New York. Because the Federal Action will address and resolve all of the issues in this cancellation proceeding, Registrant moves to suspend this proceeding pending the resolution of the Federal Action.

II.

PROCEDURAL HISTORY

A. Cause TV's Successful Registration Of The CAUSETV Mark

On May 31, 2007, Cause TV filed an application with the PTO to register its CAUSETV service mark on the Principal Register. On July 7, 2009, the PTO published the CAUSETV mark in the *Trademark Official Gazette*. No one filed an opposition to the CAUSETV mark, including Philotic. On October 2, 2009, the PTO sent Cause TV a Notice of Allowance of the CAUSETV mark, and the mark was registered on June 22, 2010 (Registration No. 3,807,463).

B. Philotic's Unsuccessful Registration of the CAUSES Mark

On September 10, 2009, over three years after Cause TV filed its service mark application and more than three months after the CAUSETV mark was published in the Trademark Official Gazette, Philotic filed an application with the PTO to register the word CAUSES as a service mark.

On December 11, 2009, however, the PTO sent Philotic an "Office Action" that advised Philotic that its CAUSES mark may be refused federal registration based on Cause TV's earlier-filed application to register CAUSETV. The PTO informed Philotic that a likelihood of confusion may exist between the two marks and, therefore, its application may be suspended pending final disposition of Cause TV's application. On January 8, 2010, the PTO sent Philotic a Notice of Suspension, and suspended action on Philotic's application. The Notice of Suspension stated that "[s]ince applicant's effective filing date is subsequent to the effective

filing date of [Cause TV's], the latter, if and when it registers, may be cited against this application in a refusal to register under Section 2(d) of the Trademark Act.”

By Office Action dated August 9, 2010, the PTO advised Philotic that Cause TV's prior-pending registration had registered, and that, therefore, it was refusing registration of Philotic's CAUSES mark based on a likelihood of confusion with the CAUSETV mark. In that Office Action, the PTO determined that: (a) “[Philotic's] mark is confusingly similar to [Cause TV's] registered mark because the dominant and distinctive term CAUSE is nearly identical in sound, spelling and commercial impression;” and (b) “[Philotic's] and [Cause TV's] mark are used in connection with the provision of services for the organization of on-line meeting featuring discussion regarding political and social issues. Consumers encountering the respective services bearing highly similar marks are likely to be confused as to source.”

C. The Cancellation Proceeding

Philotic did not respond to the PTO's Office Action for six months. During that six-month period, and continuing to date, Philotic continued to use its CAUSES mark in connection with the services it provides.

Then, on or about February 8, 2011, Philotic filed here its Petition to Cancel the registration of the CAUSETV mark. As grounds for the cancellation, Philotic alleged that it has priority over Cause TV because it first began using the CAUSES mark in commerce no later than May 25, 2007, prior to the date Cause TV filed its application to register the CAUSE TV mark. Philotic also alleged that registration of the CAUSETV mark should be cancelled because the “mark is confusingly similar to [Philotic's] mark such that relevant consumers are likely to be confused and that [Philotic's] business activities will be adversely impacted.”

D. The Federal Action

On March 18, 2011, in response to Philotic's Petition to Cancel – where it learned for the first time that Philotic had been refused registration of its CAUSES mark and further learned that Philotic had continued to use the mark despite the PTO's finding that it was confusingly similar to CAUSETV – Registrant commenced the Federal Action.

III.

ARGUMENT

Here, a suspension of the cancellation proceeding until the termination of the Federal Action is eminently sensible because the very issues of priority of use and consumer confusion that Philotic raised in the cancellation proceeding will be adjudicated in the Federal Action. Rule 2.117(a) of the Trademark Trial and Appeal Board, codified at 37 C.F.R. § 2.117(a), provides that:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or other Board proceeding.²

The TTAB regularly suspends its proceedings until related district court actions conclude.³

² 37 C.F.R. § 2.117(a).

³ See, e.g., *The Other Telephone Co. v. Connecticut Nat'l Telephone Co.*, 181 U.S.P.Q. 125, 126-27 (T.T.A.B. 1974) (opposition proceeding stayed because outcome of subsequently filed district court action would be dispositive of issues in opposition proceedings); *PHC, Inc. v. Pioneer Healthcare, Inc.*, 75 F.3d 75, 78 (1st Cir. 1996) (noting that the TTAB has suspended its proceedings even when the federal court action was filed after the TTAB proceedings began); *Goya Foods, Inc. v. Tropicana Prods., Inc.*, 846 F.2d 848, 850 (2d Cir. 1988) (same); *General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933, 1992 WL 141992, at *3-4 (T.T.A.B. 1992) (suspending cancellation proceeding in light of pending federal litigation because “[a] review of the complaint in the civil action indicates that a decision by the district court will be dispositive of the issues in this proceeding).

In its Petition to Cancel, Petitioner claims that it first began using the CAUSES mark before Registrant filed its application to register its CAUSETV mark, and that, therefore, Petitioner's mark has priority over Registrant's mark. Petitioner also alleged that the two marks are confusingly similar. Similarly, the complaint in the Federal Action seeks injunctive relief and damages arising from Philotic's unauthorized use of the CAUSES mark in violation of the Lanham Act and the common law of the State of New York. Among the issues to be decided are: (1) whether Philotic first used the CAUSES mark in commerce prior to Cause TV's first use of the CAUSETV mark; and (2) whether CAUSETV and CAUSES are confusingly similar. Thus, a determination of those issues in the Federal Action will be dispositive of the identical issues in the cancellation proceeding. Therefore, the cancellation proceeding should be suspended until the termination of the Federal Action.

IV.

CONCLUSION

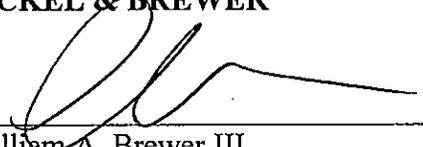
For all of the foregoing reasons, Registrant respectfully requests that the above-captioned cancellation proceeding be suspended until the termination of the Federal Action pursuant to Trademark Rule 2.117(a).

Dated: New York, New York
March 21, 2011

Respectfully submitted,

BICKEL & BREWER

By: _____


William A. Brewer III
Alexander D. Widell
767 Fifth Avenue, 50th Floor
New York, NY 10153
Tel.: (212) 489-1400

Attorneys for Cause TV, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing MOTION TO SUSPEND has been served on Petitioner's counsel of record by mailing said copy on March 21, 2011, via First Class Mail, postage prepaid to:

Thomas H. Zellerbach, Esq.
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, CA 94025
Tel.: (650) 614-7400
Attorneys for Philotic, Inc.



Alexander D. Widell

EXHIBIT A

UNITED STATES DISTRICT COURT

for the
Southern District of New York

11 CV 1917

JUDGE SCHEINDLIN

CAUSE TV, INC.

Plaintiff

v.

PHILOTIC, INC.

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Philotic, Inc.
2105 Martin Luther King Jr. Way
Berkeley, California 94704

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:

Bickel & Brewer
767 Fifth Avenue, 50th Floor
New York, New York 10153
Attn: Alexander D. Widell

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.

RUBY J. KRAJICK

CLERK OF COURT

Date: 03/18/2011

Catherine...
Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

JUDGE SCHEINDLIN

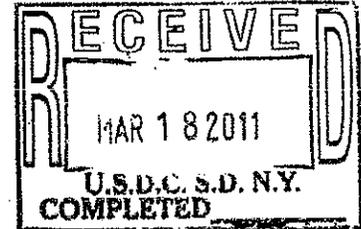
11 CV 1917

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BICKEL & BREWER
William A. Brewer III (WB 4805)
Alexander D. Widell (AW 3934)
767 Fifth Avenue, 50th Floor
New York, New York 10153
(212) 489-1400

-----X
CAUSE TV, INC.,
Plaintiff,
-v-
PHILOTIC, INC.,
Defendant.
-----X

Civil Action No.:



COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff Cause TV, Inc. ("Plaintiff" or "Cause TV") files this Complaint against Philotic, Inc. ("Defendant" or "Philotic"), upon personal knowledge concerning its own actions and on information and belief as to all other matters, as follows:

I.

NATURE OF THE ACTION

1. This is an action for injunctive relief and damages arising from defendant Philotic's unauthorized use of a service mark confusingly similar to Plaintiff's CAUSETV registered service mark, which constitutes willful infringement and unfair competition under federal and state laws.

2. On August 9, 2010, the United States Patent and Trademark Office ("PTO") denied Philotic's registration of its "CAUSES" mark based on the likelihood of confusion with

Cause TV's earlier registered "CAUSETV" mark. The PTO found that Philotic's "mark is confusingly similar to [Cause TV's] registered mark because the dominant and distinctive term CAUSE is nearly identical in sound, spelling and commercial impression." The PTO also determined that "applicant's and registrant's mark are used in connection with the provision of services for featuring discussion regarding political and social issues. Consumers encountering the respective services bearing highly similar marks are likely to be confused as to source."

3. Notwithstanding these determinations by the PTO, Philotic has continued to use the infringing mark on the social website Facebook and its own website, www.causes.com. By continuing to use the CAUSE mark, Philotic has not only infringed Cause TV's mark, but it has also created and will continue to create confusion that Cause TV is the source or sponsor of the services identified with the CAUSES mark, or that there is an association between "Cause TV" and "Causes."

4. Accordingly, Cause TV seeks injunctive relief and damages under the federal and state trademark and unfair competition laws.

II.

THE PARTIES

5. Plaintiff Cause TV, Inc. is a Delaware corporation with its principal place of business at 224 Thompson Street, Suite 15, New York, New York 10012. Through its www.mycausestv.com website, Cause TV offers a social responsibility framework that combines video interaction, peer participation, and sponsored causes into an emotional experience designed to engage users and encourage value-based purchase decisions.

6. Defendant Philotic, Inc. is a Delaware corporation with its principal place of business at 2105 Martin Luther King Jr. Way, Berkeley, California. Philotic claims to be in the business of providing software and online social networking services relating to advocacy and

organizing around social, political and charitable issues. Philotic was co-founded by Sean Parker, the former co-founder and President of Facebook, and Joseph Green, the former Harvard roommate of Facebook co-founder Mark Zuckerberg.

7. Philotic is a for-profit company that generates revenues by: (1) partnering with corporations which pay between \$50,000 and \$300,000 for sponsored fundraising campaigns; (2) charging the non-profit corporations that receive funding through its web-based services a fee equal to 4 ½% of the funds raised; and (3) soliciting and receiving from the donors "tips" of between 10%-20% of their donations. These partners, non-profit corporations and other users of its application that do business with Philotic are located throughout the United States, including the State of New York.

III.

JURISDICTION AND VENUE

8. This action arises under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, and the common laws of the State of New York. This Court's jurisdiction is based upon 15 U.S.C. § 1121, and 28 U.S.C. §§ 1131, 1332 and 1138. The amount in controversy exceeds \$75,000. The Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §§ 1338(b) and 1367.

9. This Court has personal jurisdiction over Philotic pursuant to N.Y. Civ. Proc. L. & R. ("CPLR") § 301(a) because Philotic is engaged in a continuous and systematic course of doing business in New York, and CPLR § 302(a) because Philotic has (i) transacted business within the state (CPLR § 302(a)(1)); (ii) committed a tortious act within the state (CPLR § 302(a)(2)); and/or (iii) committed a tortious act without the state causing injury to person or property within the state, expects or should reasonably expect to have consequences in the state, and derives substantial revenue from interstate commerce (CPLR § 302(a)(3)(ii)).

10. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b) because it is the judicial district in which a substantial part of the events and omissions giving rise to the claims occurred.

IV.

FACTUAL BACKGROUND

A. An Idea Is Born: Sharing Personal Stories Through On-Line Video And Social Networking

11. In 2002, a group of Stanford University students started Relay For Life on the university campus to raise money for the American Cancer Society. Relay For Life is an overnight event in which teams across the country organize and share in taking laps around a track to symbolize the nonstop battle against cancer. Between year one and year two, the event at Stanford University grew from 300 to 2,200 participants, raising \$120,000 in the span of 18 months.

12. Jonathan Olsen, a student at Stanford at the time, was struck by the tremendous growth in membership in such a short period of time, and set out to learn the reason for such explosive growth. What he discovered was that sharing personal stories about how cancer had touched the lives of the participants was the most intensely viral and engaging bond among volunteers and donors before, during and after the event. Jonathan learned that asking people to share their story by word-of-mouth was universally empowering, and inspired people to recruit others to take action.

13. Based upon his experience at Stanford, Jonathan Olsen formed Cause TV, Inc., a company dedicated to bringing together cause-driven individuals and non-profit corporations. The vehicle for Cause TV's mission is an interactive website called www.mycasustv.com. The website is an online platform that enables "conversation" between personal causes, charitable

organizations, and cause-affiliated consumer brands, and creates an environment where causes and products interact with their most loyal advocates.

14. At the core of Cause TV's mission is its unique social responsibility framework that combines video interaction, peer participation, and sponsored causes into an emotional experience designed to engage its users. On mycausetv.com, personal video experiences and cause-motivated activities engage users in peer-to-peer communications that result in real-world impact.

B. Cause TV Obtains Federal Registration Of Its CAUSETV Service Mark

15. In addition to its website, Cause TV promotes and identifies its services with its federally registered CAUSETV mark. On May 31, 2007, Cause TV filed an application with the PTO to register its CAUSETV service mark on the Principal Register.

16. On July 7, 2009, the PTO published the CAUSETV mark in the *Trademark Official Gazette*. After publication, anyone who believed that they would be harmed by the proposed trademark registrations was permitted to file an objection, within the 30-day publication period, with the Trademark Trial and Appeal Board.

17. No one filed an opposition to the CAUSETV mark, including Philotic.

18. On October 2, 2009, the PTO sent Cause TV a Notice of Allowance of the CAUSETV mark. The PTO informed Cause TV that the CAUSETV mark was "published without opposition and is cleared for registration." The CAUSETV mark was registered on June 22, 2010, under Registration No. 3,807,463.

C. The Infringers: Philotic's Development And Use Of The "CAUSES" Mark

19. In or about late 2006 or early 2007, Philotic began to develop an internet application designed to enable "individuals to express and act upon their beliefs, create a group focused on an issue they care about, and pick an existing non-profit organization as their

beneficiary.” From its inception, Philotic’s development of the application was shrouded in secrecy. When Philotic’s founders, Sean Parker and Joe Green, finally discussed the application in the media, they referred to it as “Project Agape.”

20. Parker and Green initially intended to offer their application on their own, stand-alone website, but that strategy was abandoned in 2007, when Facebook began developing a new platform – called “The Platform.” The Platform was designed to allow third party companies to program their services for use inside of Facebook user pages. At that point, Philotic decided to make Project Agape available on Facebook only. As the company’s head engineer explained on August 21, 2008:

We started by writing a standalone website, but we quickly changed gears and focused on a Facebook app when we heard of their new platform. There are a few reasons for this, essentially, it’s easier for someone who’s already on Facebook to add an app than it is for someone to become a regular user of a new website.

21. On May 24, 2007, Facebook held a press conference where it announced its new platform. In connection with the announcement, Facebook invited approximately 30 hand picked companies that had integrated with The Platform ahead of time to showcase the types of services that would be made possible. One of those companies was Philotic, who was invited to preview its Project Agape. Thus, in connection with Facebook’s launch of The Platform, Philotic unveiled a limited, “special version” of its Facebook application. Indeed, on the date of its preview, it was reported that Project Agape was “still in stealth mode and won’t fully launch for sometime.”

22. Philotic’s webpage on Facebook was not available to Facebook users or any other consumer until July 24, 2007, at the earliest.

23. Philotic’s new application was deeply integrated with Facebook. In connection with the limited-edition preview of Project Agape, Sean Parker explained that “deep integration

into the Facebook system will allow the Facebook-ers to click-and-create causes.” Similarly, shortly after Philotic’s preview of Project Agape, Joe Green stated that the company’s “large scale goal is to build a set of tools that empowers people to realize the potential of tapping into their own networks. *Facebook is the first step* With Facebook, we’ve got this existing community with a very strong network of connections”

24. Naturally enough, Philotic initially referred to its new application as “Causes on Facebook.” Industry publications following Project Agape also routinely referred to Philotic’s application as “Causes on Facebook.” For example, an article reporting the launch of Project Agape stated that:

About a week ago, Project Agape, a company founded by Sean Parker – that focuses on philanthropy – launched a special version of their services for Facebook, called Causes on Facebook Causes on Facebook successfully takes social activism online and into the realm of social networking.

25. Ultimately, Philotic made its internet application available on its own website – www.causes.com – in addition to Facebook. The transition to www.causes.com began in April of 2010.

D. The PTO Refuses To Register Philotic’s CAUSES Mark Because Of A Likelihood Of Confusion With Cause TV’s Earlier Filed CAUSETV Mark.

26. Consistent with the expansion, on September 10, 2009, more than three months after the CAUSETV mark was published in the Trademark Official Gazette, Philotic filed an application with the PTO to register the single word CAUSES as a service mark.

27. On December 11, 2009, however, and unbeknownst to Plaintiff, the PTO sent Philotic an “Office Action” that advised Philotic that its CAUSES mark may be refused federal registration based on Cause TV’s earlier-filed application to register CAUSETV. The PTO

informed Philotic that a likelihood of confusion may exist between the two marks and, therefore, its application may be suspended pending final disposition of Cause TV's application.

28. Philotic responded to the Office Action by modifying the description of the services associated with its mark, but the modification was insufficient to cure the likelihood of confusion between the CAUSETV and CAUSES marks. Thus, on January 8, 2010, the PTO sent Philotic a Notice of Suspension, and suspended action on Philotic's application. The Notice of Suspension stated that "[s]ince applicant's effective filing date is subsequent to the effective filing date of [Cause TV's], the latter, if and when it registers, may be cited against this application in a refusal to register under Section 2(d) of the Trademark Act."

29. By Office Action dated August 9, 2010, the PTO advised Philotic that Cause TV's prior-pending registration had been approved, and that, therefore, it was refusing registration of Philotic's CAUSES mark based on a likelihood of confusion with the CAUSETV mark.

30. In its Office Action, the PTO determined that: (a) "[Philotic's] mark is confusingly similar to [Cause TV's] registered mark because the dominant and distinctive term CAUSE is nearly identical in sound, spelling and commercial impression. The only slight difference is that [Philotic's] mark is depicted in the plural form. Trademarks and/or service marks consisting of the singular and plural forms of the same term are essentially the same mark;" and (b) "[Philotic's] and [Cause TV's] mark are used in connection with the provision of services for the organization of on-lein (sic) meeting featuring discussion regarding political and social issues. Consumers encountering the respective services bearing highly similar marks are likely to be confused as to source."

E. Philotic's Unlawful Activities

31. Philotic did not respond to the PTO's Office Action for six months. During that six-month period, and continuing to date, Philotic continued to use its infringing CAUSES mark

on, among other places, its Facebook page and on its own free-standing website, www.causes.com.

32. Philotic used its infringing mark in bad faith, with actual knowledge of the existence of Plaintiff's registered CAUSETV mark, and in the face of the PTO's express refusal to register its CAUSES mark because of a likelihood of confusion with Cause TV's federally-registered CAUSETV mark.

33. On or about February 8, 2011, Philotic filed with the Trademark Trial and Appeal Board of the PTO a Petition to Cancel the registration of the CAUSETV mark. As grounds for the cancellation, Philotic alleged that it has priority over Cause TV because it first began using the CAUSES mark in commerce no later than May 25, 2007, prior to the date Cause TV filed its application to register the CAUSETV mark. Philotic also alleged that registration of the CAUSETV mark should be cancelled because the "mark is confusingly similar to [Philotic's] mark such that relevant consumers are likely to be confused and that [Philotic's] business activities will be adversely impacted."

V.

CLAIMS FOR RELIEF

COUNT I

(Service Mark Infringement Under The Lanham Act)

34. Cause TV repeats and realleges the allegations set forth in Paragraphs 1 through 33 hereof as if fully set forth herein.

35. Cause TV owns the CAUSETV registered service mark.

36. The CAUSETV service mark is valid.

37. Philotic has used, and is using, a confusingly similar mark in interstate commerce, without the consent of Cause TV, in connection with the advertising, promotion and use of its services.

38. Philotic's conduct as alleged above constitutes the unauthorized use in commerce in the United States of a mark confusingly similar to Plaintiff's registered CAUSETV mark in connection with the sale, offering for sale, distribution, or advertising of its products and/or services, and has caused and/or is likely to cause confusion or mistake or deception of the public as to (1) the affiliation, connection, and/or association with Cause TV of Philotic's services; (ii) the origin of Philotic's services; and/or (iii) the sponsorship, endorsement, or approval of Philotic's services by Cause TV, in each case a violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114(1).

39. Philotic's unlawful conduct has been willful, deliberate and in bad faith.

40. Philotic's conduct as alleged above has caused and/or will cause Cause TV to suffer irreparable harm, for which it has no adequate remedy at law.

41. Pursuant to 15 U.S.C. § 1117, Cause TV is entitled to actual damages in an amount to be determined at trial, to have such damages trebled, to Philotic's profits, to a reasonable royalty, and to the costs of this action and attorneys' fees.

COUNT II

(Unfair Competition And False Designation Of Origin Under The Lanham Act)

42. Cause TV repeats and realleges the allegations set forth in Paragraphs 1 through 41 hereof as if fully set forth herein.

43. Cause TV owns the CAUSETV registered service mark.

44. The CAUSETV service mark is valid.

45. Philotic has used, and is using, a confusingly similar mark in interstate commerce, without the consent of Cause TV, to identify services that compete with those offered by Cause TV and/or in connection with the advertising, promotion and use of such services.

46. Philotic's conduct as alleged above constitutes the unauthorized use in commerce in the United States of a mark confusingly similar to Plaintiff's registered CAUSETV mark in connection with the sale, offering for sale, distribution, or advertising of its products and/or services, and has caused and/or is likely to cause confusion, mistake or deception of the public as to (i) the affiliation, connection, and/or association with Cause TV of Philotic's services; (ii) the origin of Philotic's services; and/or (iii) the sponsorship, endorsement, or approval of Philotic's services by Cause TV, in each case a violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

47. Philotic's unlawful conduct has been willful, deliberate and in bad faith.

48. Philotic's conduct as alleged above has caused and/or will cause Cause TV to suffer injury for which it has no adequate remedy at law.

49. Pursuant to 15 U.S.C. § 1117, Cause TV is entitled to actual damages in an amount to be determined at trial, to have such damages trebled, to Philotic's profits, to a reasonable royalty, and to the costs of this action and attorneys' fees.

COUNT III.

(Common Law Trademark Infringement)

50. Cause TV repeats and realleges the allegations set forth in Paragraphs 1 through 49 hereof as if fully set forth herein.

51. Cause TV owns the CAUSETV registered service mark.

52. The CAUSETV service mark is valid.

53. Philotic's conduct as alleged above constitutes infringement and misappropriation of the CAUSES mark in violation of Cause TV's rights under the common law of the State of New York.

54. Philotic's unlawful conduct has been willful, deliberate and in bad faith.

55. Philotic's conduct as alleged above has caused and/or will cause Cause TV to suffer injury, for which it has no adequate remedy at law.

56. Cause TV is entitled to actual damages in an amount to be determined at trial, to have such damages trebled, to Philotic's profits, to a reasonable royalty, and to the costs of this action and attorneys' fees.

COUNT IV

(Common Law Unfair Competition)

57. Cause TV repeats and realleges the allegations set forth in Paragraphs 1 through 56 hereof as if fully set forth herein.

58. Cause TV owns the CAUSETV registered service mark.

59. The CAUSETV service mark is valid.

60. Philotic has used, and is using, a confusingly similar mark in interstate commerce, without the consent of Cause TV, in connection with the advertising, promotion and use of its services.

61. By using a mark confusingly similar to Plaintiff's registered mark in commerce and without authorization by Cause TV, Philotic knowingly and willfully is confusing consumers by creating the false and misleading impression that Philotic's services are related to, affiliated with, or connected with Cause TV.

62. Philotic's deliberate use of a mark confusingly similar to Plaintiff's CAUSETV mark in connection with the marketing, advertising, promotion, and/or distribution of its services was done in bad faith with the intent to unfairly benefit from the expense, time, effort and labor expended by Cause TV in developing and promoting its CAUSETV mark and services.

63. By reason of the foregoing, Philotic's conduct constitutes willful and false designation of origin, false description and representation, and unfair competition, in violation of Cause TV's rights under the common law of the State of New York.

64. Philotic's unlawful conduct has been willful, deliberate and in bad faith.

65. Philotic's conduct as alleged above has caused and/or will cause Cause TV to suffer injury, for which it has no adequate remedy at law.

~~66. Furthermore, Cause TV is entitled to actual damages in an amount to be~~
determined at trial, to Philotic's profits attributable to its unlawful conduct, a reasonable royalty, and to the costs of this action and attorneys' fees.

COUNT V

(Unjust Enrichment)

67. Cause TV repeats and realleges the allegations set forth in Paragraphs 1 through 66 hereof as if fully set forth herein.

68. By the acts alleged above, Philotic has been unjustly enriched by its unlawful conduct at the expense of Cause TV. Philotic's acts have unjustly enriched and wrongfully benefited defendant, in an amount to be determined at trial and to which Cause TV is rightfully entitled.

VI.

DEMAND FOR RELIEF

WHEREFORE, Cause TV demands judgment against defendant as follows:

1. Preliminary and permanently enjoining and restraining defendant, its officers, agents, servants, employees, attorneys, and all persons acting in concert or participation with them, or having actual notice of this Order, from:

(a) imitating, copying, or making unauthorized use of Cause TV's CAUSETV mark, or any variation thereof;

(b) manufacturing, producing, distributing, advertising, promoting, selling, or offering for sale any products or services bearing the CAUSES mark or any other designation confusingly similar to CAUSETV;

(c) using the CAUSES mark or any other designation confusingly similar to CAUSETV in connection with the promotion, advertisement, display, sale, offering for sale, or distribution of any product or services;

(d) making any designation of origin, descriptions, or representations indicating or suggesting that Cause TV is the source or sponsor of, or in any way has endorsed or is affiliated with Philotic, or any product or service manufactured, distributed, promoted, marked, or sold by Philotic;

(e) continuing its current advertising campaign using the CAUSES mark or any other designation confusingly similar to CAUSETV; and

(f) aiding or abetting any party in the commission of the acts specified in subparagraphs (a)-(f) above.

2. Ordering Philotic to account to Cause TV for all gains, profits, savings, and advantage obtained by it as a result of its service mark infringement and unfair competition and awarding Cause TV restitution in the amount of all such gains, profits, savings and advantages;

3. Awarding Cause TV damages resulting from defendant's unlawful conduct, including the amount by which defendant was unjustly enriched, in an amount to be determined at trial and trebled pursuant to 15 U.S.C. § 1117;

4. Awarding to Cause TV defendant's profits attributable to its unlawful conduct, in an amount to be determined at trial and increased in the Court's discretion pursuant to 15 U.S.C. § 1117;

5. Awarding to Cause TV a reasonable royalty attributable to defendant's unlawful conduct, in an amount to be determined at trial and increased in the Court's discretion pursuant to 15 U.S.C. § 1117;

6. Awarding to Cause TV its reasonable attorneys' fees, together with the costs and ~~disbursements of this action;~~

7. Awarding Cause TV punitive damages in an amount sufficient to deter other and future similar conduct by Philotic and others, in view of Philotic's wanton and deliberate unlawful acts; and

8. Granting such other and further relief as the Court deems just and proper.

VII.

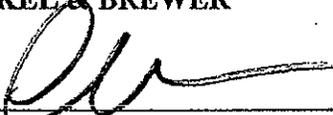
DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: New York, New York
March 18, 2011

BICKEL & BREWER

By: _____


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