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

Proceeding	92063367
Party	Defendant Buss General Partner Co. Ltd.
Correspondence Address	BUSS GENERAL PARTNER CO LTD 11765 SUMMIT CRESCENT, DELTA, CANADA
Submission	Motion to Suspend for Civil Action
Filer's Name	Mark C. Johnson
Filer's e-mail	mjohnson@rennerotto.com, ngingo@rennerotto.com, eorsine@rennerotto.com
Signature	/Mark C. Johnson/
Date	04/29/2016
Attachments	20160429 Motion to Suspend Proceedings.pdf(1410933 bytes)

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

SERIOUS, INC.

Petitioner

v.

BUSS GENERAL PARTNER CO. LTD.

Respondent.

Cancellation No. 92/063,367

Registration No. 4,017,207

Mark: BASEBOARDERS

**MOTION TO SUSPEND PROCEEDING IN VIEW OF PENDING
CIVIL ACTION PURSUANT TO TRADEMARK RULE 2.117(a)**

Respondent moves the Board to suspend this cancellation proceeding pursuant to 37 C.F.R. § 2.117(a) pending resolution of a civil action between Petitioner and Respondent concerning Respondent's BASEBOARDERS mark that will completely resolve the issues presented to the Board in the Petition to Cancel (TTABVue Docket Entry No. 1).

On June 23, 2015, Respondent filed a Complaint (Exhibit A) that included eight causes of action against Petitioner and other defendants. *See Buss General Partner Co. Ltd. v. Serious, Inc., et al*, Case No. 15-cv-01256 in the United States District Court for the Northern District of Ohio ("Civil Action"). Respondent's valid and enforceable rights in the mark BASEBOARDERS are central to six of the eight causes of action (Violation of the Ohio Deceptive Trade Practices Act; Violation of the Lanham Act, including for infringing U.S. Trademark Registration No. 4,017,207; Common Law Trademark Infringement; Misleading

Description Under 15 U.S.C. §1125(a)(1)(A); Cybersquatting; and Civil Conspiracy) in the Complaint. *Id.*

Accordingly, the determination of whether Respondent has valid and enforceable rights in the mark BASEBOARDERS in the Civil Action will have a direct and dispositive impact on this cancellation proceeding.

Although the USPTO has expertise in determining trademark registrability, such determinations are not within the USPTO's exclusive jurisdiction. See *American Bakeries Co. v. Pan-O-Gold Baking Co.*, 2 USPQ2d 1208 (D.C. Minn. 1986). To the extent that a civil action in a Federal district court involves issues in common with those in a Board proceeding, the district court's findings are binding on the Board, whereas the Board's findings are merely advisory to the district court. See *id.*; TBMP Section 510.02(a) (2014); see also *General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933, 1937 (TTAB 1992).

Thus, whenever it comes to the attention of the Board that the parties to a case before it are involved in a civil action which may be dispositive of the Board case, the proceedings before the Board may be suspended upon final determination of the civil action. TBMP § 510.02(a). Notably, a civil action need not be dispositive on the issues for the Board to suspend proceedings, although the Civil Action will be dispositive here. Ordinarily, the Board will suspend proceedings in the case before it so long as the final determination of the other proceedings **may have a bearing on** the issues before the Board. TBMP § 510.02, *citing* 37 C.F.R. § 2.117(a); *see, e.g., New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 U.S.P.Q.2d 1550,1552 (TTAB 2011).

Moreover, suspension of Board proceedings will generally be granted when, as here, a final decision of the court will likely be controlling on the issues to be decided by the TTAB. In *Whopper Burger, Inc. v. Burger King Corp.*, 171 U.S.P.Q. 805, 807 (TTAB 1971), the Board suspended proceedings, finding that “There can be no doubt ... that the outcome of the civil action will have a direct bearing on the question of the rights of the parties herein and may in fact completely resolve all the issues.” Respondent’s rights in BASEBOARDERS form at least a partial basis for each of its claims for Deceptive Trade Practices Act; Violation of the Lanham Act, including for infringing U.S. Trademark Registration No. 4,017,207; Common Law Trademark Infringement; Misleading Description Under 15 U.S.C. §1125(a)(1)(A); Cybersquatting; and Civil Conspiracy.

The Complaint in the Civil Action was filed on June 23, 2015. Discovery in the Civil Action is almost complete and will conclude on June 29, 2016, and dispositive motions are due August 14, 2016. Any question regarding Respondent’s rights in BASEBOARDERS will be resolved in the Civil Action long before a Board determination in this proceeding.

Respondent contacted Petitioner to inquire whether Petitioner consents to this motion to stay. Petitioner indicated that it does not consent because “a determination by TTAB that the mark is not registrable would end the civil action.” There can be no dispute that the determination of Respondent’s rights in the mark BASEBOARDERS in the Civil Action will have a direct and dispositive impact on this cancellation proceeding. It is also indisputable that the Civil Action will be resolved before this proceeding is concluded, and that the findings in the Civil Action will be binding on the Board. See TBMP Section

510.02(a) (2014); *General Motors Corp.*, 22 USPQ2d at 1937. This proceeding should be stayed pending resolution of the Civil Action.

In view of the fact that the pending Civil Action involves the determination of rights that will likely be dispositive of, or will at least have bearing on, this proceeding, Respondent respectfully requests suspension of this proceeding pending resolution of the Civil Action pursuant to 37 C.F.R. § 2.117(a).

Dated: April 29, 2016

Respectfully submitted,

/Mark C. Johnson/

Mark C. Johnson

Nicholas J. Gingo

RENNER OTTO

1621 Euclid Avenue, Floor 19

Cleveland, Ohio 44115

216-621-1113 (telephone)

216-621-6165 (facsimile)

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following attorney of record for Petitioner by depositing same in the United States mail, postage prepaid, this 29th day of April, 2016:

Richard M. Klein
FAY SHARPE LLP
1228 Euclid Avenue, Fifth Floor
Cleveland, Ohio 44115

Dated: April 29, 2016

/Mark C. Johnson/

Attorney for Respondent

CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that the foregoing is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 29th day of April, 2016.

Dated: April 29, 2016

/Mark C. Johnson/

Attorney for Respondent

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BUSS GENERAL PARTNER CO. LTD. : CASE NO.
11765 Summit Crescent, Delta B.,
V4E 2Z3, Canada, : JUDGE

Plaintiff, :

v. :

SERIOUS INC., dba SERIOUS BBRC : **COMPLAINT FOR VIOLATION OF**
COMPANY : **OHIO'S DECEPTIVE TRADE**
c/o Carol Frantianne, Statutory Agent : **PRACTICES ACT, THE LANHAM**
408 Greenbrier Road : **ACT, TRADEMARK INFRINGEMENT,**
Avon Lake, Ohio 44012, : **MISAPPROPRIATION OF TRADE**
and : **SECRETS, CYBERSQUATTING,**
 : **RACKETEERING, CIVIL**
 : **CONSPIRACY AND OTHER RELIEF**

GARY FRATIANNE :
408 Greenbrier Road : **(Jury Demand Endorsed Hereon)**
Avon Lake, Ohio 44012, :

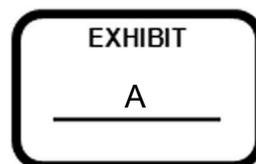
and :

OPTIMIZATION TUTOR, INC. :
1023 South Salish Court :
Spokane, Washington 99224, :

Also serve at: :

OPTIMIZATION TUTOR, INC. :
1080 Bassett Road :
Westlake, Ohio 44145, :

and :



DAVID JOHNSTON :
1023 South Salish Court :
Spokane, Washington 99224, :

Also serve at: :

DAVID JOHNSTON :
1080 Bassett Road :
Westlake, Ohio 44145, :

Defendants. :

Plaintiff, Buss General Partner Co. Ltd. ("Buss General"), for its Complaint against Defendants, Serious Inc., dba Serious BBRC Company ("Serious"), Gary Fratianne ("Fratianne"), Optimization Tutor, Inc. ("Optimization"), and David Johnston ("Johnston"), (collectively referred to as "Defendants") states as follows:

THE PARTIES AND JURISDICTION

1. Plaintiff, Buss General, is a Canadian corporation registered and authorized to do business in the state of Ohio. Buss General's business primarily consists of manufacturing and selling baseboard heater covers and related services.

2. Defendant, Serious, is an Ohio corporation. Its principal place of business is in Avon Lake, Lorain County, Ohio. Upon information and belief, Serious' business also consists of selling baseboard heater covers.

3. Defendant, Fratianne, is a shareholder and founder of Serious. Fratianne is a resident of Avon Lake, Lorain County, Ohio.

4. Defendant, Optimization, purports to be a Washington corporation, however, Optimization's corporate charter was cancelled by the Washington secretary of state on May 31, 2013.

5. Defendant, Johnston, is the President of Optimization and assists in the business and marketing of Serious.

6. The acts and conduct complained of herein accrued in Lorain County, Ohio.

7. Jurisdiction is proper pursuant to 28 U.S.C. §1332 as Plaintiff is domiciled in Canada, Defendants are domiciled in Ohio and Washington, and the amount in controversy is believed to exceed \$75,000.00

8. Venue is proper pursuant to 28 U.S.C. §1391(b) because the events that gave rise to this Complaint occurred in this district.

GENERAL ALLEGATIONS

9. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 8 of its Complaint as if fully rewritten herein.

10. On October 31, 2010, Fratianne, as President of Defendant Serious, signed a Memorandum of Understanding Agreement ("Agreement") and began working as an independent contractor for Buss General. A copy of the Agreement is attached as Exhibit "A".

11. Over the course of the next four and a half years, Defendants Fratianne and Serious bought and re-sold Buss General's baseboard heater covers.

12. While working in an independent contractor relationship with Buss General, Defendants gained knowledge of Buss General's products, systems, marketing, sales strategies, clients, contacts and business strategies (hereinafter referred to as Buss General's "Business").

13. Information about Buss General's Business was kept confidential, and at all times was considered confidential and proprietary to Buss General.

14. Buss General invested thousands of dollars into creating its products, its Business, and its online website and marketing tools.

15. On or about April 27, 2015, defendants Fratianne and Serious gave Buss General notice that they would no longer be a distributor for Buss General, and were terminating their relationship with Buss General.

16. Prior to April 27, 2015, Fratianne and Serious began a business relationship with Johnston and Optimizer.

17. Shortly after April 27, 2015, Defendants re-launched a website to market and sell Buss General's baseboard heater cover products, or exact replicas of the same.

18. Defendants' used the domain name baseboardradiatorcover.com for their website ("the Website").

19. Buss General owns the domain name baseboardradiatorcovers.com. Buss General also owns the established domain name baseboardheatercovers.com.

20. Serious' logo, published on its Website, is a picture of Buss General's baseboard heater cover. A screenshot of Serious' logo is attached as Exhibit "B".

21. Serious' website contains Buss General's domain name on the bottom of its homepage. A screenshot of Serious' Website identifying Buss General's domain name is attached as "Exhibit C".

22. Defendants' placed Buss General's domain name on its site to confuse or mislead members of the public into believing that Defendants' had the endorsement of Buss General and/or that Defendants were authorized to sell Buss General's products.

23. Defendants' Website contains pictures of Buss General's products and trademark, which was registered with the United States Patent and Trademark Office on August 23, 2011. A screenshot of Serious' website depicting Buss General's trademark is attached as Exhibit "D".

24. A copy of Buss General's trademark registration is attached as Exhibit "E".

25. Defendants' use of Buss General's trademark and products is a deliberate and intentional attempt to confuse the public and prey on the likeness of Buss General's name, trademark and Business.

26. The creation of and verbiage on Defendants' website imitates that of Buss General's in an attempt to confuse the public and prey on the likeness of Buss General's proprietary information and Business.

27. Defendants' online marketing campaign imitates and copies Buss General's online marketing efforts, including the plagiarism of Buss General's long-standing product attributes and taglines. A true and accurate copy of a Google search results page evidencing Defendants' conduct is attached as Exhibit "F".

28. The videos contained on Defendants' website include Buss General's trademark and products.

29. Defendants' website contains a "Referral Affiliate Commission Agreement" section. This document alleges that Defendant Optimization is an "Ohio Profit Company" with a principle place of business in Westlake, Ohio. A copy of the Referral Affiliate Commission Agreement is attached as Exhibit "G".

30. Upon information and belief, Optimization is not a licensed Ohio corporation, nor is it a foreign entity authorized to do business in Ohio.

31. Defendants are using the likeness of Buss General's name, trademark and products to generate revenue through their marketing referral program.

32. Defendants have profited off of the name, likeness, logo, products, trademark and Business of Buss General.

33. Defendants have used those profits to further their own enterprise.

COUNT I

(Violation of the Ohio Deceptive Trade Practices Act)

34. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 33 of its Complaint as if fully rewritten herein.

35. Defendants' use of Buss General's products, name, trademark, website content and Business is without authorization, permission or consent.

36. Defendants' use of exact or confusingly similar imitations of Buss General's trademark and product images has caused confusion, deception and mistake by causing a false and misleading impression that Defendants' products and services are the same or associated with Buss General's and that Defendants have the sponsorship or endorsement of Buss General, which they do not.

37. Defendants' use of marks and content confusingly similar or exactly the same as Buss General's federally registered mark is in violation of Ohio Rev. Code §4165.02(A)(2) and Ohio Rev. Code §4165.02(A)(3).

38. Defendants' activities have caused and will continue to cause a likelihood of confusion and deception of members of the trade and public.

39. Defendants have caused injury to Buss General's goodwill, reputation and profits.

40. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Buss General's federally registered corporate logo mark causing Buss General great injury.

41. Defendants have caused substantial injury to the public and to Buss General; therefore, Plaintiff is entitled to actual damages under Ohio Rev. Code §4165.03(A)(2) in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00), and reasonable Attorneys' fees under Ohio Rev. Code §4165.03(B).

COUNT II

(Violation of the Lanham Act)

42. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 41 of its Complaint as if fully rewritten herein.

43. Defendants' use of Buss General's products, name and trademark is without authorization, permission or consent.

44. Defendants' use of confusingly similar or exact imitations of Buss General's trademark, have caused confusion, deception and mistake by causing a false and misleading impression that Defendants' products are the same or associated with Buss General's and that they have the sponsorship or endorsement of Buss General, which they do not.

45. Defendants' use of a mark confusingly similar or exactly the same as Buss General's federally registered mark is in violation of 15 U.S.C. §1114.

46. Defendants' activities have caused and will continue to cause, a likelihood of confusion and deception of members of the trade and public.

47. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Buss General's federally registered corporate logo mark causing Buss General great injury.

48. Defendants have caused and are likely to continue causing substantial injury to the public and to Buss General; therefore, Plaintiff is entitled to relief under 15 U.S.C. §1114, and to recover Defendants' profits, actual damages and enhanced profits or damages in the amount of three times actual profits or damages, whichever is greater, under 15 U.S.C. §1117, all in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

49. In the alternative, Buss General is entitled to statutory damages under 15 U.S.C. §1117(c)

due to Defendants' unauthorized use of Buss General's trademark in connection with Defendants' offering of its products.

50. Buss General is also entitled to costs, and reasonable Attorneys' fees under 15 USC. §1117(a)(3).

COUNT III

(Common Law Trademark Infringement)

51. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 50 of its Complaint as if fully rewritten herein.

52. Buss General has common law rights in the Buss General company logo, name and trademark in connection with the products Buss General manufactures and sells.

53. Defendants' unauthorized use of Buss General's company logo and trademark/trade name to promote their own business has caused confusion, mistake and deception in the public.

54. The confusion, mistake and deception has caused harm to Buss General.

55. Despite their actual and constructive knowledge of Buss General's ownership and prior use of the Buss General trademark, Defendants have continued to use the trademark without Buss General's authorization or consent.

56. Defendants' actions are deliberate and willful and have been done with the intention of trading upon the valuable goodwill built up by Buss General in its trademark.

57. Defendants have caused substantial injury to the public and to Buss General; therefore, Plaintiff is entitled to actual damages in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00), and reasonable attorneys' fees.

COUNT IV

(Misleading Description Under 15 U.S.C. §1125(a)(1)(A))

58. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 57 of its Complaint as if fully rewritten herein.

59. Defendants' use in commerce of Buss General's trademark and logo is diverting internet traffic for people searching for Buss General's products to Defendants' website.

60. Defendants' use in commerce of Buss General's trademark and logo is causing confusion, mistake and leading members of the public to believe that Defendants have the endorsement or approval of Buss General in connection with its products, which they do not.

61. As a direct and proximate result of Defendants' violation of 15 U.S.C. § 1125(a)(1)(A), Buss General has suffered damages in the nature of loss of business, revenue and profits in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

62. Pursuant to 15 U.S.C. § 1117 Buss General is entitled to recover Defendants' profits, and actual damages, under 15 U.S.C. § 1117.

63. In the alternative, Buss General is entitled to statutory damages under 15 U.S.C. § 1117(c) due to Defendants' unauthorized use of Buss General's trademark in connection with Defendants' offering of its product.

64. Buss General is also entitled to costs and reasonable attorneys' fees under 15 USC. § 1117(a)(3).

COUNT V

(Misappropriation of Trade Secrets)

65. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1

through 64 of its Complaint as if fully rewritten herein.

66. Defendants acquired Buss General's trade secrets and Business information while working for Buss General.

67. Defendants used Buss General's trade secrets and Business information for the benefit of Defendants.

68. Defendants had reason to know that they had acquired the trade secrets and Business information by improper means.

69. Defendants' misappropriation of Buss General's trade secrets and Business information was done willfully and maliciously.

70. As a direct and proximate result of Defendants' misappropriation, Buss General has sustained damages in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

71. Pursuant to Ohio Rev. Code § 1333.63(A), Buss General is entitled to a royalty to be determined at trial.

72. Pursuant to Ohio Rev. Code § 1333.63(A), Buss General is entitled to any funds which Defendants unjustly received based upon their misappropriation of Buss General's trade secrets and Business information.

73. Buss General is entitled to punitive damages against Defendants in an amount of three times compensatory damages pursuant to Ohio Rev. Code § 1333.63(B).

74. Buss General is entitled to attorneys' fees in an amount to be determined at trial pursuant to Ohio Rev. Code §1333.64(C).

COUNT VI

(Cybersquatting)

75. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 74 of its Complaint as if fully rewritten herein.

75. This claim arises under 15 U.S.C. §1125(d), *et sec.*

76. Defendants, in violation of 15 U.S.C. §1125(d), *et sec.*, have engaged in bad faith use of trade names and marks of others as internet domain names, with no bona fide noncommercial or fair use of those marks, and with the intent to profit from the goodwill associated with those marks.

77. As a direct and proximate result of Defendants' actions, Buss General has sustained damages in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

78. Pursuant to 15 U.S.C. §1117(a), Buss General is entitled to recover Defendant's profits, court costs and attorneys' fees due to the egregious misconduct of Defendants in cybersquatting on the domain name baseboardradiatorcovers.com.

79. In the alternative, Buss General is entitled to statutory damages under 15 U.S.C. §1117(d) due to Defendants' unauthorized use of Buss General's trademark in connection with Defendants' offering of its product.

COUNT VII

(Racketeering)

80. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 79 of its Complaint as if fully rewritten herein.

81. Buss General has been injured by a series of fraudulent acts which arise to the nature of theft or other crimes as defined in Title 29 of the Ohio Revised Code.

82. This Count is brought pursuant to Section §2923.34 of the Ohio Revised Code and any and all relevant statutes relating to corrupt activity.

83. Defendants Serious, Optimization, Fratianne and Johnston engaged in pattern of a corrupt activity to misappropriate trade secrets and infringe on the trademark of Buss General.

84. Defendants have used proceeds from their corrupt activity to fund their website and enterprise.

85. Plaintiff has been injured due to Defendants' violation of Ohio Rev. Code §2923.32.

86. Plaintiff will be able to prove competitive injury directly related to Defendants' corrupt activity.

87. As a direct and proximate result of Defendants' actions, Buss General has sustained damages in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

88. Pursuant to Ohio Rev. Code §2923.34, Plaintiff is entitled to treble damages, costs of this action, attorneys fees and property which is criminally forfeited as a result of this action.

COUNT VIII

(Civil Conspiracy)

89. Plaintiff restates and realleges all of the allegations contained in Paragraphs 1 through 88 of its Complaint as if fully rewritten herein.

90. Defendants Serious, Optimization, Fratianne and Johnston conspired to misappropriate trade secrets and infringe on the trademark of Buss General.

91. Defendants relied on each other to defraud, misappropriate trade secrets and infringe on the trademark of Buss General.

92. As a direct and proximate result of Defendants' actions, Buss General has

sustained damages in an amount to be proven at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

WHEREFORE, Plaintiff Buss General Partner Co. Ltd., demands judgment against Defendants, Serious Inc., dba Serious BBRC Company and Gary Fratianne, as follows:

- A.** Under Count I, (i) compensatory damages to be determined at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00), and (ii) reasonable attorneys' fees to be determined at trial;
- B.** Under Count II, (i) compensatory or statutory damages to be determined at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00); (ii) Defendants' profits in an amount to be determined at trial (iii) enhanced damages in the amount of three times actual profits or damages; (iv) reasonable attorneys' fees; and (v) the costs of this action;
- C.** Under Count III, (i) compensatory damages to be determined at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00); and (ii) reasonable attorneys' fees.
- D.** Under Count IV, (i) compensatory or statutory damages to be determined at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00); (ii) Defendants' profits in an amount to be determined at trial (iii) reasonable attorneys' fees to be determined at trial; and (iv) the costs of this action;
- E.** Under Count V, (i) compensatory damages to be determined at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00); (ii) punitive damages in the amount of three times actual profits or damages; (iii) funds which Serious received based upon the misappropriation of Buss Generals trade secrets in an amount to be determined at trial; (iv) a royalty to be determined at trial; (v) reasonable attorneys' fees; and (vi) the costs of this action;
- F.** Under Count VI, (i) compensatory or statutory damages to be determined at trial but believed to exceed Seventy-Five Thousand Dollars (\$75,000.00); (ii) Defendants' actual profits in an amount to be determined at trial; (iii) reasonable attorneys' fees; (iv) the costs of this action.
- G.** Under Count VII, (i) compensatory damages to be determined at trial and believed to exceed Seventy-Five Thousand Dollars (\$75,000.00); (ii) treble damages in the amount of three times actual profits or damages; (iii) Defendants' property which is criminally forfeited as a result of the corrupt activity; (iv) the costs of this action; (v) reasonable attorneys' fees.
- H.** Under Count VIII, (i) compensatory damages to be determined at trial and believed to

exceed Seventy-Five Thousand Dollars (\$75,000.00);

- I. Reasonable attorneys' fees to be determined at trial;
- J. Pre- and post-judgment interest on any judgment awarded at the maximum rate permitted by law;
- K. Costs of this action and;
- L. All such additional relief which this Court deems appropriate.

Respectfully submitted,

DINN, HOCHMAN & POTTER, LLC:

/s/ Thomas A. Barni

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Counsel for Plaintiff

JURY DEMAND

Plaintiff, **Buss General Partner Co. Ltd.**, hereby demands a trial by jury pursuant to the Ohio Rules of Civil Procedure.

/s/ Thomas A. Barni

THOMAS A. BARNI (0064555)
JARED S. KLEBANOW (0092018)
Counsel for Plaintiff