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

In the Matter of Trademark Reg. No. 1442922
For the Mark LOG CHECKER
Registered on October 2, 1986

THE TRUCKERS HELPER, LLC,

Petitioner,

v.

J.J. KELLER & ASSOCIATES, INC.,

Registrant.

Cancellation No. 92043439

MOTION TO DISMISS

Registrant hereby moves to dismiss the Petition for Cancellation filed by The Truckers Helper, LLC on May 26, 2004 and received by the TTAB on June 2, 2004. The grounds for this motion are as follows:

1. Prior to the filing of this cancellation proceeding, Registrant filed an action in federal district court against Petitioner alleging trademark infringement and unfair competition among other claims, based upon the mark which is the subject of this cancellation proceeding Case No. 03-C-0541. A copy of the Amended Complaint filed against Petitioner by Registra on July 14, 2003 is attached to the enclosed Declaration of Dyann L. Kostello as Exhibit A.

2. On June 3, 2004, the United States District Court for the Eastern District of Wisconsin, Honorable Magistrate Judge Aaron Goodstein, held a settlement conference b the parties to said litigation. Pursuant to that settlement conference, the case was settled

U.S. Patent

of the Settlement Agreement and Consent Judgment are attached to the Declaration of Dyann L. Kostello as Exhibit B. The Settlement Agreement provides, in pertinent part, that The Truckers Helper, LLC "and its officers, agents, servants, and employees, and all persons in active concert with them who receive actual notice of the provisions [of the Agreement] to which they are to be bound ... shall not at any time in the future institute or prosecute or in any way aid in the institution or prosecution of any suit, action, claim, administrative proceeding or other proceeding whatsoever, in law or at equity, challenging the adoption, use, validity, enforceability and/or registration by" Petitioner of Petitioner's trademark LOG CHECKER, shown in United States Registration No. 1,442,922.

Therefore, Petitioner is barred from continuing to prosecute this cancellation proceeding, and the Petition for Cancellation should be dismissed.

Dated this 24th day of September, 2004.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for Registrant

By:
Dyann L. Kostello

100 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 271-6560
Fax: (414) 277-6560

CERTIFICATE OF SERVICE/MAILING

This is to certify that on September 29th, 2004 I mailed a copy of the attached Motion to Dismiss and Declaration of Dyann L. Kostello, via first class, prepaid mail, to the Petitioner:

John Ewing, Operating Manager
The Truckers Helper, LLC
630 S. Wickham Road, Suite 203
Melbourne, FL 32904

With a copy to:

Allan P. Whitehead
Frese, Nash & Hansen, P.A.
930 S. Harbor City Boulevard
Suite 505
Melbourne, FL 32901

On the 29th day of September, 2004 the original of same documents were filed with the USPTO by depositing same with the U.S. Postal Service, via First Class Mail, postage prepaid, as addressed to: Commissioner for Trademarks, Box TTAB – No Fee, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Patti L. Pues

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

In the Matter of Trademark Reg. No. 1442922
For the Mark LOG CHECKER
Registered on October 2, 1986

THE TRUCKERS HELPER, LLC,

Petitioner,

v. Cancellation No. 92043439

J.J. KELLER & ASSOCIATES, INC.,

Registrant.

DECLARATION OF DYANN L. KOSTELLO

I, Dyann L. Kostello, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge and belief.

1. Attached hereto as Exhibit A is a true and correct copy of the Amended Complaint filed in federal district court in the United States District Court for the Eastern District of Wisconsin, Case No. 03-C-0541.

2. Attached hereto as Exhibit B is a true and correct copy of the Settlement Agreement and Consent Judgment in Case No. 03-C-0541.

Dated this 27th day of September, 2004.

Dyann L. Kostello

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

'03 JUL 14 P 4:31

J. J. KELLER & ASSOCIATES, INC.,
3003 West Breezewood Lane
Neenah, Wisconsin 54957,

Plaintiff,

v.

THE TRUCKERS HELPER, LLC,
630 South Wickham
Suite 203
West Melbourne, Florida 32904,

Defendant.

CASE NO.: 03-C-0541

AMENDED COMPLAINT

Plaintiff, J. J. KELLER & ASSOCIATES, INC., by and through its attorneys, states for its Amended Complaint as follows:

NATURE OF THE ACTION

1. This is an Amended Complaint for trademark infringement, trademark dilution, unfair competition, and cybersquatting. These claims arise under the Lanham Act, 15 U.S.C. § 1, et seq., and under the common law of the State of Wisconsin. Plaintiff owns the trademark LOG CHECKER which Defendant is using without Plaintiff's consent.

THE PARTIES

2. Plaintiff, J. J. Keller & Associates, Inc. ("J. J. Keller") is a Wisconsin corporation with its home office located at 3003 West Breezewood Lane, Neenah,

Wisconsin, 54957. J. J. Keller is in the business of supplying safety and regulatory compliance solutions, including software, in the transportation, manufacturing, construction, human resources, and security industries.

3. Defendant, The Truckers Helper LLC ("TTH"), upon information and belief, is a Florida limited liability company located at 630 South Wickham, Suite 203, West Melbourne, Florida 32904. Upon information and belief, Defendant sells similar software and web-based services for the trucking and transportation industry and is a direct competitor of J. J. Keller.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over Counts I, II, III of this action pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. § 1338(a). This Court has supplemental jurisdiction over Count IV of this action pursuant 28 U.S.C. § 1367. This Court has original jurisdiction over Count V of this action pursuant to 15 U.S.C. § 1125 (d)(l)(A) and 28 U.S.C. § 1338 (a).

5. Venue for this action is proper in this district pursuant to 28 U.S.C. § 1391.

FACTS COMMON TO ALL COUNTS

6. J. J. Keller is the owner of the following federal trademark registration issued by the United States Patent and Trademark Office: Registration No. 1,442,922 for the trademark, "LOG CHECKER" for computer programs used to audit the trip logs of truckers. A copy of the registration certificate is attached as Exhibit A.

7. Said registration is valid and subsisting and constitutes *prima facie* evidence of the validity of the mark and of J. J. Keller's exclusive right to control the use

of the mark in commerce on and in connection with the goods recited in the registration certificate.

8. Since long prior to the acts of Defendant complained of herein, J. J. Keller has used the mark LOG CHECKER on and in connection with the goods recited in the registration identified in its registration and on and in connection with goods related thereto.

9. J. J. Keller has expended a great deal of time, effort, and money in the promotion and advertisement of goods and services sold and offered for sale under the LOG CHECKER trademark.

10. Through continuous use and extensive advertising since at least as early as 1986, J. J. Keller's trademark is well-known among the trade and public as identifying the goods and services of J. J. Keller and as indicating the source of origin of goods and services provided as emanating from J. J. Keller.

11. The LOG CHECKER mark represents the reputation and goodwill of J. J. Keller, and J. J. Keller alone, which is of great value.

12. Despite receiving actual notice of J. J. Keller's long-standing use of the LOG CHECKER trademark, Defendant has utilized and continues to utilize J. J. Keller's federally registered trademark in interstate commerce in connection with the advertising of competing goods to the public throughout the United States over the Internet.

13. On information and belief, according to the "WHOIS" database on Go Daddy Software's domain name website, Defendant operates at least three Internet sites, www.truckershelper.com, www.layover.com, and www.log-checker.net, that allow for

direct ordering of its products over the Internet by typing a credit-card number onto an Internet order form.

14. On each of these Internet sites, Defendant is using, without authorization, the LOG CHECKER trademark and colorable imitations thereof, including LOG CHECK and LOG CHECKING, to advertise its business and products. Copies of the web pages evidencing this use are attached hereto as Exhibit B.

15. Upon information and belief, on July 31, 2002, Defendant registered and began using as one of Defendant's domains on the Internet, www.log-checker.net. See log-checker.net WHOIS results attached as Exhibit C.

16. At the time Defendant registered and renewed the log-checker.net domain name, the LOG CHECKER trademark was distinctive and famous.

17. Defendant has registered, used, and trafficked in a domain name that is identical to, confusingly similar to and dilutive of plaintiff's distinctive and famous trademark, in violation of 15 U.S.C. § 1125(d)(1)(A).

18. By the acts alleged herein, Defendant has registered, used and trafficked in the domain name with a bad faith intent to profit from plaintiff's trademark.

19. J.J. Keller has been damaged by such acts, and damage will continue unless defendant's acts are enjoined by this Court.

20. Users of the Internet have learned to type in the name of the product that they are seeking by typing "www" preceding the product name and ".net" as a suffix.

21. If users type in J. J. Keller's trademark and simply add a hyphen between the terms "log" and "checker" in the manner suggested in paragraph 20 above, they will be brought to Defendant's website.

22. Because of Defendant's misuse of the LOG CHECKER trademark, consumers who perform Internet searches for the LOG CHECKER trademark are misdirected and diverted to one of Defendant's Internet sites, even though these sites are not approved by or associated with J. J. Keller.

23. Defendant's intentional use of the domain-name log-checker.net incorporating J. J. Keller's identical mark is likely to cause confusion as to sponsorship of the site and the products appearing on the site.

24. Defendant has deliberately attempted to cause confusion and trade on J. J. Keller's reputation and goodwill by using J. J. Keller's LOG CHECKER trademark and colorable imitations thereof, including LOG CHECK and LOG CHECKING.

25. Defendant uses and has used these terms in the content of the website, as part of a domain name, and in "metatags," which are machine-readable code not usually visible to the Internet user but used to enable search engines to generate lists of websites corresponding to search queries. *See* Exhibit D.

26. Defendant is further purposely attempting to undermine the distinctive value of J. J. Keller's trademark by misusing the LOG CHECKER mark in a generic manner.

27. Defendant's conduct is deliberately calculated to cause damage to J. J. Keller's mark.

28. Defendant has actual and direct knowledge of J. J. Keller's trademark and of J. J. Keller's rights in it.

29. Indeed, J. J. Keller has complained in the past of Defendant's infringement of that mark and demanded that Defendant cease and desist from such infringement.

30. Defendant assured J. J. Keller that it would cease such conduct and did so for a time, but the infringement has now resumed and Defendant has expanded upon its infringing acts.

31. Defendant's entire Internet advertising campaign piggybacks on J. J. Keller's reputation and goodwill.

32. In addition, by using phrases incorporating the mark LOG CHECKER and colorable imitations of that mark, including LOG CHECK or LOG CHECKING, Defendant is purposefully attempting to genericize and dilute the distinctive value of J. J. Keller's trademark.

33. Taken as a whole, Defendant's web pages and product links are designed to have customers who have heard of J. J. Keller and its products believe that Defendant is selling those products and that Defendant is affiliated or associated with J. J. Keller.

34. Defendant has engaged in an overall pattern of intentional deceit and unfair competition designed to pass off its website and products as those of Plaintiff and trade on Plaintiff's reputation and goodwill and cause confusion, mistake, and deception as to the source or sponsorship of its goods.

35. Due to Defendant's conduct alleged above, purchasers and prospective purchasers of Defendant's goods and services and persons accessing the Internet are likely to be confused into believing, contrary to fact, that Defendant's goods and services and its websites originate with or are authorized by Plaintiff and that Defendant is licensed or otherwise sponsored by or associated with Plaintiff.

36. Defendant has used the LOG CHECKER trademark and colorable imitations thereof and has engaged in a pattern of unfair competition and deceit with the

intent to trade on Plaintiff's reputation and goodwill, to hold itself and its businesses out to the public as authorized by Plaintiff, which they are not, and to pass off Defendant's products and services as originating with or authorized by Plaintiff, which they are not.

37. Defendant's unauthorized use of the LOG CHECKER trademark is intentionally designed to confuse and deceive purchasers and prospective purchasers and to divert business and goodwill from Plaintiff.

38. Defendant's conduct alleged herein creates a likelihood of confusion, mistake and deception as to the source and sponsorship of Defendant's goods, services and website, all to Plaintiff's irreparable loss and damage.

39. In addition, Defendant's acts complained of herein are likely to dilute the distinctive quality of the LOG CHECKER trademark.

40. Defendant's conduct is likely to dilute the ability of said mark to function as a source-indicator.

41. Defendant is aware of Plaintiff's rights and will continue, notwithstanding such notice, to willfully infringe Plaintiff's trademark unless enjoined by the Court.

42. Plaintiff will suffer irreparable injury to its reputation and goodwill unless Defendant is enjoined from continuing the conduct complained of, which injury cannot be adequately compensated monetarily. As long as Defendant is allowed to continue the acts complained of, Plaintiff's reputation is wrongly in Defendant's hands.

COUNT ONE

FEDERAL TRADEMARK INFRINGEMENT

43. Plaintiff realleges each and every allegation of paragraphs 1 through 42 as though fully set forth herein.

44. The acts of Defendant complained of herein constitute trademark infringement in violation of 15 U.S.C. §§ 1114-1118.

COUNT TWO

FEDERAL UNFAIR COMPETITION

45. Plaintiff realleges each and every allegation of paragraphs 1 through 44 as though fully set forth herein.

46. The acts of Defendant complained of herein constitute unfair competition in violation of 15 U.S.C. §1125 (a), also known as § 43 (a) of the Lanham Act.

COUNT THREE

FEDERAL AND STATE TRADEMARK DILUTION

47. Plaintiff realleges each and every allegation of paragraphs 1 through 46 of this complaint as though fully set forth below.

48. The acts of Defendant complained of herein are likely to dilute and have diluted the distinctive value of Plaintiff's trademark and are likely to injure and have injured Plaintiff's business reputation. These acts constitute trademark dilution under 15 U.S.C. § 1125 (c)(l) and (2), also known as § 43 (c) of the Lanham Act.

COUNT FOUR

COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

49. Plaintiff realleges each and every allegation of paragraphs 1 through 48 as though fully set forth herein.

50. The acts of Defendant complained of herein constitute common law trademark infringement and unfair competition under the laws of the State of Wisconsin.

COUNT FIVE

FEDERAL CYBERSQUATTING

51. Plaintiff realleges each and every allegation of paragraphs 1 through 50 as though fully set forth herein.

52. The acts of Defendant complained of herein constitute cybersquatting under 15 U.S.C. § 1125 (d)(l)(A), also known as § 43(d) of the Lanham Act.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

A. An injunction against Defendant and its servants, agents, employees, successors and assigns, and all persons acting in concert with it, enjoining them from using in any manner:

(i) the LOG CHECKER trademark; or

(ii) any colorable imitation of the LOG CHECKER trademark as or as part of Defendant's domain name, URL, directory name, or other computer address; as or as part of the name of Defendant's website service; in buried code or metatags in Defendant's home page or web pages; in connection with the retrieval of data or information; in the content of Defendant's websites; or in any other manner on or in connection with any goods or services not originating entirely with or authorized by Plaintiff;

(iii) disseminating, using or distributing any website pages, advertising, or Internet code words or titles, or any other promotional materials whose appearance so resembles the website pages or trademarks used by Plaintiff as to create a likelihood of confusion, mistake or deception or to dilute the distinctive

value of the LOG CHECKER trademark or that contain the unauthorized use of the LOG CHECKER trademark or any colorable imitations thereof;

(iv) using the LOG CHECKER trademark or any colorable imitation thereof on or in connection with any of Defendant's goods or services or in any other manner likely to cause confusion, mistake or deception as to the source or sponsorship of Defendant's goods or services;

(v) holding The Trucker's Helper LLC out to the public as being authorized by Plaintiff or as being affiliated with or sponsored by Plaintiff in any manner or committing any acts likely to imply such a relationship or affiliation; and

(vi) further diluting the distinctive value of the LOG CHECKER trademark.

B. Requiring Defendant to deliver up to Plaintiff for destruction all goods, signs, advertisements, literature, business forms, cards, labels, packages, wrappers, pamphlets, brochures, receptacles, and any other written or printed material in its possession or under its control, which bear the LOG CHECKER trademark, or any colorable imitation thereof or any mark confusingly similar thereto, which was not manufactured by or for Plaintiff or which contain any false or misleading representation of fact and any plates, molds and other means of making the same;

C. Requiring Defendant to transfer the domain name log-checker.net to Plaintiff within 10 days after entry of judgment.

D. Requiring an accounting of profits made by Defendant as a result of the acts complained of herein;

E. Awarding damages sustained by Plaintiff as a result of the acts complained of herein, to be trebled in accordance with 15 U.S.C. § 1117;

F. Awarding Plaintiff attorneys' fees pursuant to 15 U.S.C. § 1117;

G. Awarding Plaintiff interest, costs, and such other relief as the court may deem just and equitable.

Dated this 14th day of July, 2003

MICHAEL BEST & FRIEDRICH LLP
Attorneys for Plaintiff
J. J. Keller & Associates, Inc.,

By: Dana Berce Serrano
Dyann L. Kostello
Christine Cooney Mansour
Dana Berce Serrano

P.O. ADDRESS:
Two Riverwood Place, #200
N19 W24133 Riverwood Drive
Waukesha, Wisconsin 53188-1174
Telephone: (262) 956-6560
Telefax: (262) 956-6565

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SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into as of the date of the last authorizing signature below (the "Effective Date") by and between J.J. Keller Associates, Inc. ("J.J. Keller") a Wisconsin corporation located at 3003 West Breezewood Lane, Neenah, Wisconsin and The Truckers Helper LLC ("Defendant"), a Florida corporation located at 630 South Wickham, Suite 203, West Melbourne, Florida 32504.

WHEREAS, J.J. Keller and Defendant are parties in an action pending in the United States District Court for the Eastern District of Wisconsin, Case No. 03-C-0541 ("the Litigation"); and

WHEREAS, J.J. Keller owns the trademark LOG CHECKER and United States Reg. No. 1,442,922 therefor ("the J.J. Keller Trademark"); and

WHEREAS, J.J. Keller and Defendant desire to settle the Litigation.

NOW, THEREFORE, in consideration of the mutual promises, covenants and obligations set forth herein, the parties agree as follows:

1. Defendant and its officers, agents, servants, and employees, and all persons in active concert with them who receive actual notice of the provisions hereof to which they are to be bound (all collectively, excluding Defendant, hereinafter referred to as "the Enjoined Persons") shall not at any time in the future institute or prosecute or in any way aid in the institution or prosecution of any suit, action, claim, administrative proceeding or other proceeding whatsoever, in law or at equity, challenging the adoption, use, validity, enforceability and/or registration by J.J. Keller of the J.J. Keller Trademark.

2. Each party to this Agreement, simultaneously with its execution of this Agreement, shall execute a Stipulation for Entry of Consent Judgment stipulating to the entry of

a Consent Judgment in the form attached hereto as Exhibit A and incorporated herein by reference.

3. Defendant and the Enjoined Persons shall not at any time, either directly or indirectly:

(a) use nor aid, abet, or induce any third party to use without authorization, including use as or as part of any unauthorized URL, domain name, directory name, or other computer address; as or as part of the name of any unauthorized web-site service; in buried code or metatags in any home page or web pages; in connection with the retrieval of data or information; as an identifier for any unauthorized web-site links:

(i) the J.J. Keller Trademark; or

(ii) any colorable imitation of any of the J.J. Keller Trademark,

on or in connection with the advertising, offering for sale, or sale of any goods or services not originating with and authorized entirely by J.J. Keller; or

(b) use nor aid, abet, or induce any third party to use without authorization

(i) the mark LOG CHECKER or

(ii) the phrases "log checker," "log checking," "log check" or

(iii) the inverse of those phrases (i.e., "checker log," "checking log," or "check log") or

(iv) any other terminology wherein the word "log" is used with the word "checker" or

(v) any other terminology wherein the word "log" is used with any variation of the word "check" without any words or phrases in between those two words or

(vi) any other terminology wherein the word "log" precedes any variation of the word "check"

in any manner in their websites, in advertising or promotional materials, in hidden text or metatags for their websites, or in any other media or manner and shall not otherwise improperly use any of the foregoing terms or phrases in a descriptive or generic manner, except as allowed by section 3(b)(v) above, and any terminology allowed by section 3(b)(v) above wherein the word "checking" precedes the word "log" with other words or phrases in between must be used only fairly and descriptively and not in a trademark manner.

4. In accordance with the timeline set forth in the Consent Judgment, Defendant shall disclose to J.J. Keller's counsel, Dyann L. Kostello, MICHAEL BEST & FRIEDRICH LLP, Two Riverwood Place, Suite 200, N19 W24133 Riverwood Drive, Waukesha, WI 53188:

(a) every Internet advertisement currently in use on the Internet either by it or the Enjoined Persons or at their direction or on their behalf or with their assistance, involvement, or cooperation, including, but not limited to, all publicly accessible Internet files with their location within folders; all HTML files; all image files, such as, jpeg files, gif files, and java code; and all links, hyperlinks, domain names, or URLs; and

(b) every instance in which any J.J. Keller Trademark has been included in Defendant's or any Enjoined Person's Internet advertising, including disclosure of every instance in which a J.J. Keller Trademark has been used as or as part of a domain name, URL, directory name or other computer address, metatag, buried code, link, hyperlink, or any other form.

5. In accordance with the timeline set forth in the Consent Judgment, Defendant

shall remove from all Internet websites, advertising, promotional materials, and all other media and materials within the possession, custody or control of it or any Enjoined Person the J.J. Keller Trademark and any other terms not in compliance with paragraph 3 above.

6. In accordance with the timeline set forth in the Consent Judgment, Defendant shall transfer ownership of the www.log-checker.net domain name to J.J. Keller.

7. J.J. Keller, Defendant and the Enjoined Persons shall not make any statements on websites or otherwise about the Litigation, the result of the Litigation, this Agreement, the Consent Judgment, or the contents of this document or any document relating to the Litigation, except the following or such other statement as may be agreed to in writing by the parties in the future: "The Truckers Helper and J.J. Keller are pleased to announce that they have settled the lawsuit between them over J.J. Keller's registered trademark, LOG CHECKER®. Both sides are happy with the result." Each party will as promptly as possible but in no event less than three (3) days after the date of this Agreement cease using and remove from the Internet and other places any statements not in compliance with this paragraph.

8. Except as otherwise provided herein, J.J. Keller, on behalf of itself and its agents, employees, successors and assigns, hereby releases, acquits and forever absolutely discharges Defendant and its agents, servants, employees, successors and assigns from any and all actions, causes of action, claims, liabilities, debts, accounts, demands, damages, causes, claims for indemnification or contribution or any other thing whatsoever, whether known or unknown, suspected or unsuspected, certain or speculative, including but not limited to trademark and unfair competition claims, on account of the above-identified Litigation, any proceeding therein or any investigation directed to the subject matter thereof, and existing as of the Effective Date of this Agreement or which may have come into existence at any time prior to the Effective Date

hereof or which may in the future arise out of any acts or omissions of any discharged person committed at any time prior to the effective date hereof, said release being contingent on the entry of the Consent Judgment by the court and the stipulation thereto by all parties.

9. Except as otherwise provided herein, Defendant, on behalf of itself and its agents, employees, successors and assigns, hereby releases, acquits and forever absolutely discharges J.J. Keller and J.J. Keller's officers, directors, agents, servants, employees, successors and assigns from any and all actions, causes of action, claims, liabilities, debts, accounts, demands, damages, causes, claims for indemnification or contribution or any other thing whatsoever, whether known or unknown, suspected or unsuspected, certain or speculative, including but not limited to trademark and unfair competition claims, on account of or in any way growing out of the subject matter of the above-identified Litigation, any proceeding therein or any investigation directed to the subject matter thereof, and existing as of the effective date of this Agreement or which may have come into existence at any time prior to the effective date hereof or which may in the future arise out of any acts or omissions of any discharged person committed at any time prior to the effective date hereof.

10. Each party hereto acknowledges that no other party or any agent or attorney of any other party, or any other person, firm, corporation, or any other entity, has made any promise, representation or warranty whatsoever, express, implied or statutory, not contained herein, concerning the subject matter hereof, to induce the execution of this instrument, and each signatory hereby acknowledge that he or she has not executed this instrument in reliance on any promise, representation, or warranty not contained herein. This Agreement and the Consent Judgment and all of their exhibits constitute the entire understanding of the parties regarding

their subject matter and supercede all prior agreements or understandings between the parties regarding said subject matter.

11. Any violation of any provision of sections 2, 3, 4, 5, or 7 of this Agreement will cause irreparable harm to J.J. Keller and will entitle J.J. Keller to injunctive and similar relief in addition to relief for breach of this Agreement. In addition, in the event of any such violation that is not inadvertent or accidental or otherwise unintentional or done without malice or gross recklessness, J.J. Keller shall be entitled to liquidated damages in the amount of $5,000 per violation as compensation and not as a penalty, it being understood that the damage caused by such a violation would be difficult to determine. In addition, should any action be brought to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees incurred in connection therewith.

12. This Agreement and all documents attendant thereto shall be binding upon and inure to the benefit of the parties hereto, and each of them, and each and all of their representatives, officers, directors, shareholders, partners, successors, assigns, employees, agents, parents, sister companies, subsidiaries, and any other related entities, and those provisions designated as binding on the Enjoined Persons shall be binding on them whether or not they remain officers, agents, servants, or employees of Defendant.

13. This instrument shall be interpreted, enforced and governed by and under the laws of the State of Wisconsin.

14. This Settlement Agreement may be executed with one or more separate counterparts which, taken together, shall constitute and be the same instrument.

15. The waiver of any breach of this Agreement shall not be a waiver of any other subsequent or prior breach.

16. This Agreement shall be construed without regard to the party or parties responsible for the preparation of the same and shall be deemed as prepared jointly by the parties hereto. Any ambiguity or uncertainty existing herein shall not be interpreted or construed against any party hereto.

17. This Agreement may not be modified except by a writing fully executed by all parties.

18. Defendant and J. J. Keller represent and warrant that they have read and understand this Agreement and voluntarily affix their signatures below and agree to be bound hereby.

J.J. KELLER & ASSOCIATES, INC.

Dated: 10 JUN 2004

By: Webb T. Shaw
Webb Shaw
Director – Editorial Resources

THE TRUCKERS HELPER LLC

Dated: 6/25/04

By: _____
John Ewing
Operating Manager

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

JUL 20 2004
AT ____ O'CLOCK ____ M
SOFRON B. NEDILSKY

CASE NO.: 03-C-0541

7-21-04 CV.

Copy mailed to attorneys for parties by the Court pursuant to Rule 77 (d) Federal Rules of Civil Procedures.

J. J. KELLER & ASSOCIATES, INC.,
3003 West Breezewood Lane
Neenah, Wisconsin 54957,

Plaintiff,

THE TRUCKERS HELPER, LLC,
630 South Wickham
Suite 203
West Melbourne, Florida 32904,

Defendant.

CONSENT JUDGMENT

This matter, having come on for consideration upon the complaint of the plaintiff, J.J. Keller & Associates, Inc. (hereinafter "J.J. Keller") for trademark infringement and dilution, and unfair competition, and the parties having stipulated to the entry of a permanent injunction against The Truckers Helper LLC ("Defendant") under the terms provided herein:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over this action under the laws of the United States U.S.C. § 1051 et seq., and 28 U.S.C. §§ 1332(a) and 1338 and over the parties to this suit. T claims arising under the laws of the State of Wisconsin are joined with substantial and relat claims under the trademark laws of the United States.

2. J.J. Keller is the owner of the trademark LOG CHECKER and United Stat No. 1,442,922, therefor.

3. Defendant and its officers, agents, servants, and employees, and all pers active concert with them who receive actual notice of the provisions hereof (all collec

excluding Defendant, hereinafter referred to as "the Enjoined Persons") shall not at any time, either directly or indirectly:

(a) use nor aid, abet, or induce any third party to use without authorization, including use as or as part of any unauthorized URL, domain name, directory name, or other computer address; as or as part of the name of any unauthorized web-site service; in buried code or metatags in any home page or web pages; in connection with the retrieval of data or information; as an identifier for any unauthorized web-site links:

(i) the J.J. Keller Trademark; or

(ii) any colorable imitation of any of the J.J. Keller Trademark,

on or in connection with the advertising, offering for sale, or sale of any goods or services not originating with and authorized entirely by J.J. Keller; or

(b) use nor aid, abet, or induce any third party to use without authorization

(i) the mark LOG CHECKER or

(ii) the phrases "log checker," "log checking," "log check" or

(iii) the inverse of those phrases (i.e., "checker log," "checking log," or "check log") or

(iv) any other terminology wherein the word "log" is used with the word "checker" or

(v) any other terminology wherein the word "log" is used with any variation of the word "check" without any words or phrases in between those two words or

(vi) any other terminology wherein the word "log" precedes any variation of the word "check"

in any manner in their websites, in advertising or promotional materials, in hidden text or metatags for their websites, or in any other media or manner and shall not otherwise improperly use any of the foregoing terms or phrases in a descriptive or generic manner, except as allowed by section 3(b)(v) above, and any terminology allowed by section 3(b)(v) above wherein the word "checking" precedes the word "log" with other words or phrases in between must be used only fairly and descriptively and not in a trademark manner. The provisions of this paragraph 3 of this Consent Judgment shall be binding on the Enjoined Persons whether or not they remain officers, agents, servants, or employees of Defendant.

4. Within ten (10) days of the entry of this Consent Judgment, Defendant shall disclose to J.J. Keller's counsel, Dyann L. Kostello, MICHAEL BEST & FRIEDRICH LLP, Two Riverwood Place, Suite 200, N19 W24133 Riverwood Drive, Waukesha, WI 53188:

(a) every Internet advertisement currently in use on the Internet either by it or any Enjoined Person or at their direction or on their behalf or with their assistance, involvement, or cooperation, including, but not limited to, all publicly accessible Internet files with their location within folders; all HTML files; all image files, such as, jpeg files, gif files, and java code; and all links, hyperlinks, domain names, or URLs; and

(b) every instance in which any J.J. Keller Trademark has been included in Defendant's or any Enjoined Person's Internet advertising, including disclosure of every instance in which a J.J. Keller Trademark has been used as or as part of a domain name, URL, directory name or other computer address, metatag, buried code, link, hyperlink, or any other form.

5. Within ten (10) days of entry of this Consent Judgment, Defendant shall remove

from all Internet websites, advertising, promotional materials, and all other media and materials within the possession, custody or control of it or any Enjoined Person the J.J. Keller Trademark and any other terms not in compliance with paragraph 3 above.

6. Within thirty (30) days from the date of entry of this Consent Judgment, Defendant shall transfer ownership of the www.log-checker.net domain name to J.J. Keller.

7. Jurisdiction is retained by this Court for the purpose of ensuring compliance with the terms hereof and for enabling the parties to apply to this Court for further orders.

IT IS SO ORDERED.

Dated this 20th day of June, 2004.

BY THE COURT:

William C. Griesbach

Honorable William C. Griesbach
United States District Judge