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

Proceeding	92067873
Party	Defendant Lang Exterior, Inc.
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Submission	Motion to Suspend for Civil Action
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Date	05/02/2018
Attachments	Lang Motion to Stay Cancellation Proceeding Final for Filing 050218.pdf(38088 bytes) Ex. AComplaint 032918.pdf(122655 bytes) Ex. B Order 041918.pdf(16980 bytes)

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

Lange Windows & Siding, Inc.,
Petitioner,

v.

Lang Exterior Inc.,
Registrant.

Cancellation No.: 92067873

**REGISTRANT LANG EXTERIOR INC.'S MOTION TO SUSPEND THIS
CANCELLATION PROCEEDING PENDING CIVIL ACTION IN FEDERAL
COURT INVOLVING THE SAME PARTIES AND THE SAME TRADEMARKS**

Pursuant to the Trademark Trial and Appeal Board's (the "Board" or "TTAB") February 8, 2018 Notice (2 TTABVUE 6), Registrant, Lang Exterior Inc. ("Registrant"), hereby notifies the Board of the following pending federal civil action involving the same parties, the same registered trademarks, and overlapping questions of fact and law at issue in this cancellation proceeding. Registrant respectfully requests pursuant to Trademark Rule 2.117(a), 37 C.F.R. § 2.117(a), that the Board temporarily suspend this proceeding in light of the federal civil action for the reasons discussed below:

1. On February 5, 2018, Petitioner, Lange Windows & Siding, Inc. ("Petitioner"), filed before the Board a Petition to Cancel (1 TTABVUE) ("Petition") U.S. Registration Nos. 4,373,059; 4,340,727; and 4,340,726 (collectively, "Registrant's Trademarks").

2. On March 20, 2018, Registrant filed before the Board its Answer and Affirmative Defenses to the Petition (5 TTABVUE) ("Answer and Affirmative Defenses"). In its Answer and Affirmative Defenses, Registrant asserted, among other things, that Registrant's Trademarks are

valid, enforceable, and protectable, and that Petitioner has infringed upon Registrant's Trademarks. (5 TTABVue 6).

3. On March 29, 2018, Registrant filed a Complaint against Petitioner in the case captioned *Lang Exterior Inc. v. Lange Windows & Siding, Inc. et al.*, Case No. 1:18-cv-02301, pending before the Honorable Judge John Z. Lee in the United States District Court for the Northern District of Illinois (the "Civil Action"). A true and correct copy of the Complaint in the Civil Action is attached hereto as Exhibit A.

4. The Civil Action asserts, among other things, that Registrant's Trademarks are valid, enforceable, and protectable, and that Petitioner has infringed upon Registrant's Trademarks. The Civil Action and this proceeding, therefore, involve the same parties, the same registered trademarks, and overlapping issues of law and fact. Therefore, a final determination of the Civil Action will have a significant bearing on the issues before the Board in this cancellation proceeding.

5. Petitioner's responsive pleading in the Civil Action is due on May 7, 2018, in light of the extension of time given to Petitioner by Registrant and the court in the Civil Action. A true and correct copy of the Honorable Judge Lee's April 19, 2018 Order granting Petitioner's unopposed motion for an extension of time to file a responsive pleading is attached hereto as Exhibit B.

6. Because the Civil Action involves a number of state law claims not at issue in this cancellation proceeding, and because the Board cannot grant the important injunctive relief sought in the Civil Action, the Northern District of Illinois will almost certainly reject any motion by Petitioner to stay the Civil Action. *See, e.g., Spring Air Co. v. Englander Licensing Liab. Co.*, No. 01 C 7140, 2001 WL 1543510, at *3 (N.D. Ill. Nov. 29, 2001) (denying motion to stay civil action pending the Board's decision) (emphasis added below):

[Plaintiff's] case against [defendant] is not solely about trademark registration. [Plaintiff's] action concerns infringement and a number of other claims. When a case involves infringement, "the interest in prompt adjudication far outweighs the value of

having the views of the [TTAB].” *Goya*, 646 F.2d at 853-54. ***The litigant seeking relief is entitled to prompt resolution of the infringement issue so that it may conduct its business affairs accordingly. Id. at 854; PHC, Inc., 75 F.3d at 80 (stating there is often urgency in infringement actions because ongoing business is involved and harm may be accruing).*** Additionally, because the infringement issue and the state law claims [plaintiff] has brought against [defendant] will not be considered by the TTAB and because the TTAB cannot award relief on these issues, a stay will unnecessarily delay the parties’ dispute. *See Am. Bakeries Co.*, 650 F.Supp. at 567-68; *PHC, Inc.*, 75 F.3d at 80. Thus, it is also not in the interests of judicial economy to stay this case.

7. The Board routinely grants a suspension of proceedings in circumstances similar to this case. *See, e.g., New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1551-1552 (TTAB 2011) (suspending TTAB proceedings pending final disposition of the civil action between the parties) (“[A] civil action does not have to be dispositive of the Board proceeding to warrant suspension, it need only have a bearing on the issues before the Board.”) (citing 6 McCarthy on Trademarks and Unfair Competition §32:47 (4th ed.) (“***It is standard procedure for the Trademark Board to stay administrative proceedings pending the outcome of court litigation between the same parties involving related issues.***”) (emphasis added)); TBMP § 510.02(a) (June 2017) (“A civil action may involve other matters outside Board jurisdiction and may consider broader issues beyond right to registration and, therefore, judicial economy is usually served by suspension. . . . ***Unless there are unusual circumstances, the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board.***”) (collecting cases) (emphasis added). *See also* 37 C.F.R. § 2.117(a) (“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 the other Board proceeding.”).

8. Registrant’s counsel has discussed with Petitioner whether Petitioner will consent to

a suspension of this proceeding in light of the pending Civil Action. To date, Petitioner has not yet agreed to a stay.

9. For the foregoing reasons, Registrant respectfully requests that the Board enter an order suspending this cancellation proceeding pending final disposition of the Civil Action.

Dated: May 2, 2018

Respectfully Submitted,

By: /s/ Raymond P. Niro, Jr.
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Attorneys for Registrant,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing REGISTRANT LANG EXTERIOR INC.'S MOTION TO SUSPEND THIS CANCELLATION PROCEEDING PENDING CIVIL ACTION IN FEDERAL COURT INVOLVING THE SAME PARTIES AND THE SAME TRADEMARKS has been filed electronically with the Board and mailed, via U.S. first class mail, this 2nd day of May, 2018, to the following:

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/s/ Raymond P. Niro, Jr.
Attorney for Registrant,
Lang Exterior Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LANG EXTERIOR INC.,

Plaintiff,

v.

LANGE WINDOWS & SIDING, INC.,
LANGE ROOFING, INC., and LANGE
ROOFING LLC,

Defendants.

Case No. 18-cv-2301

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Lang Exterior Inc. complains of Defendants Lange Windows & Siding, Inc., Lange Roofing, Inc., and Lange Roofing LLC as follows:

NATURE OF CASE

1. This Complaint includes claims for trademark infringement under 15 U.S.C. § 1051 *et seq.*; for unfair competition and false designation of origin in violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125(a); and for Illinois State statutory and common law trademark infringement, unfair competition, and deceptive trade practices.

PARTIES

2. Plaintiff Lang Exterior Inc. (“Plaintiff”) is an Illinois corporation with its principal place of business in Chicago, Illinois.

3. Defendant Lange Windows & Siding, Inc. is an Indiana corporation with its principal place of business in Saint John, Indiana.

4. Defendant Lange Roofing, Inc. is an Indiana corporation with its principal place of business in Saint John, Indiana.

5. Defendant Lange Roofing LLC is an Indiana limited liability company with its principal place of business in Saint John, Indiana.

6. Defendants Lange Windows & Siding, Inc., Lange Roofing, Inc., and Lange Roofing LLC are hereinafter collectively referred to as “Defendants.”

7. Defendants share common ownership, management, and operations. Each Defendant’s principal office is located at 11003 Thiel Street, Saint John, Indiana, 46373.

BACKGROUND

8. Mr. Eugene Lang (“Mr. Lang”) of Plaintiff Lang Exterior Inc. founded the company in 1953. Mr. Lang, a World War II veteran, initially operated Plaintiff’s business out of a small facility in the Chicagoland area. He personally made aluminum storm windows and screens at night and installed them during the day. Building his business from the ground up, Mr. Lang also handled all aspects of the sales, marketing, financial, and other areas of Plaintiff’s business. From this point forward, the “Lang” name has always been associated with Plaintiff and Plaintiff’s high-quality products and services.

9. By 1963, Plaintiff quickly grew to a force of 17 salesmen with several trucks and installers. At all times, Plaintiff has prominently displayed and used the Lang name in connection with all aspects of Plaintiff’s window and siding business.

10. For the past 65 years, Plaintiff has continuously sold windows and related products in this judicial district and throughout the United States under the Lang name.

11. As a result of Plaintiff’s long-standing sales, promotion and marketing efforts, the consuming public strongly associates “Lang,” “Lang Windows,” and “Lang Exterior” with Plaintiff’s company. Plaintiff has continuously and prominently used the Lang name on invoices,

bulletins, advertisements, promotional materials, newspapers, radio spots, yellow pages, Facebook, Pinterest, at trade shows, on its website, answering the phone, word of mouth, and elsewhere in connection with its business, from inception to the present.

12. Indeed, Plaintiff obtained secondary meaning in the terms “Lang,” “Lang Windows,” and “Lang Exterior” long before Defendants entered the market with their infringing marks.

13. From the outset, the public has associated Plaintiff’s windows and related products as being of high quality. Plaintiff’s windows and related products are expertly constructed, designed, and easy to install. Plaintiff also offers exceptional service, thus gaining a reputation in the industry as being a fast and reliable company with high-quality products for the past 65 years.

14. Plaintiff has developed significant goodwill, reputation, and name recognition in the window and siding industry.

15. Plaintiff owns and has standing to sue for infringement of the family of trademarks associated with the “Lang” name in the window and siding industry, including common law trademarks and the following federally registered trademarks issued by the United States Patent and Trademark Office (“USPTO”) (collectively, the “Lang Trademarks”):

5,333,049	4,340,726
5,333,037	4,340,727
4,240,474	4,373,060
4,481,541	4,481,542
4,481,543	4,481,540
4,373,059	

16. The Lang Trademarks are in full force and effect. Plaintiff’s USPTO Reg. No. 4,240,474 has become incontestable pursuant to 15 U.S.C. § 1065.

17. Plaintiff has diligently and successfully policed the marketplace to prevent other companies from using the Lang name in connection with windows and related products, including:

- *Lang Exterior Inc. v. Lang Windows Inc., et al.*, Case No. 1:11-cv-05517 (N.D. Ill.); and
- *Lang Exterior Inc. v. Custom Order Online, Inc.*, Case No. 1:11-cv-03083 (N.D. Ill.)

18. Despite Plaintiff's long and well-established rights in the Lang Trademarks, Defendants wrongfully adopted and used in interstate commerce (including in this judicial district) the name "Lange Windows" in connection with their business, which is confusingly similar to Plaintiff's products and services under the Lang Trademarks. Specifically, Defendants' unauthorized use of the Lang Trademarks in connection with the sale, offer for sale, distribution, marketing, and advertising of windows, siding, and related products, including their use of the terms "Lange Windows" and "Lange-Zeller Windows & Siding" in interstate commerce (the "Infringing Products and Services"), has caused and is likely to cause confusion, mistake, or deception among the consuming public, and creates the false impression that the Infringing Products and Services are authorized, sponsored, or approved by Plaintiff. Accordingly, Defendants are infringing upon the Lang Trademarks.

19. Defendants do not have any license rights to use the Lang Trademarks or any terms that are confusingly similar thereto.

20. Defendants' infringement has been willful and deliberate.

21. In addition to infringing upon the Lang Trademarks, Defendants improperly and deceptively pass themselves off as Plaintiff by falsely claiming that "Lange-Zeller Windows & Siding has been locally owned and operated since 1950" (see <https://www.bylange.com/>), even though they were only recently created in July 2017. Defendants' websites state "ensuring your

peace of mind since 1950,” “windows & siding specialist since 1950,” and “a family tradition since 1950” (*see, e.g.,* <https://www.bylange.com/>) – all of which tries to confuse the public and unfairly capitalize on Plaintiff’s 65 years of operation.

22. As a result of Defendants’ intentional infringement of the Lang Trademarks, the consuming public is likely to be confused as to source, sponsorship, or affiliation between Plaintiff’s and Defendants’ companies.

23. In fact, there have already been several instances of actual confusion because of Defendants’ infringement, including customers and potential customers contacting Plaintiff by mistake to “confirm” appointments, quote amounts, dates for window installations, and the like, under the false impression that Defendants are affiliated with Plaintiff.

24. Any product or advertisement bearing the Lang Trademarks in the window and siding industry is immediately associated by purchasers, potential purchasers, and the public as being a product of Plaintiff.

JURISDICTION AND VENUE

25. This Court has original subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, and 1338.

26. This Court has general personal jurisdiction over Defendants because, among other things, Defendants routinely transact, advertise, and solicit business in this judicial district. Defendants, therefore, have continuous and systematic contacts with the State of Illinois such that they could reasonably foresee being brought into court in Illinois.

27. This Court also has specific personal jurisdiction over Defendants. Defendants transact business in this district at least by offering to sell, selling, and advertising the Infringing

Products and Services in such a way as to purposefully reach out to customers in Illinois and this judicial district through at least their websites, <http://langerroofing.com/> and <http://www.bylange.com/>, thus specifically committing acts of infringement in this judicial district. Defendants admit that “Lange-Zeller Windows & Siding . . . provide[s] residential windows, siding, and roofing installations and sales throughout Northwest Indiana and the Chicagoland Region.” (See <https://www.bylange.com/home-improvement-specialists>). Defendants also claim to be from Lansing, Illinois originally. (See <http://langerroofing.com/>). Notably, Defendants’ websites include Illinois phone numbers: (708) 474-3255 and (847) 800-8980. (See <http://langerroofing.com/>; <https://www.bylange.com/>). Defendants, therefore, have purposefully availed themselves of the privilege of conducting business with residents of this judicial district and have established sufficient minimum contacts with the State of Illinois such that they should reasonably and fairly anticipate being brought into court in Illinois. Accordingly, the exercise of jurisdiction over Defendants comports with the traditional notions of fair play and substantial justice.

28. Venue is proper in this district under 28 U.S.C. § 1391(b)-(d).

COUNT I
FEDERAL TRADEMARK INFRINGEMENT

29. Plaintiff repeats and incorporates by reference the allegations contained in the preceding paragraphs as if set forth fully herein.

30. This Court has jurisdiction over the subject matter of this claim for trademark infringement under the Trademark Laws of the United States as codified in 15 U.S.C. § 1051 *et seq.*

31. Defendants' unlicensed use of confusingly similar terms to the Lang Trademarks in connection with the sale, offering for sale, marketing, distribution, and advertising of the Infringing Products and Services in interstate commerce, without the consent of Plaintiff, has caused and is likely to cause confusion, mistake, or deception among the consuming public, and creates the false impression that Defendants' Infringing Products and Services are authorized, sponsored, or approved by Plaintiff.

32. Based on Plaintiff's continuous and exclusive use, extensive advertising, sales, and the popularity of the Lang Trademarks, the Lang Trademarks acquired secondary meaning for Plaintiff prior to Defendants' infringement.

33. Plaintiff has been directly injured by Defendants' infringing activities.

34. Defendants have copied and imitated the Lang Trademarks in connection with selling, offering for sale, marketing, distributing, and advertising Defendants' Infringing Products and Services.

35. Defendants' conduct is intended to exploit the goodwill and reputation associated with the Lang Trademarks. Defendants' Infringing Products and Services are sold, offered for sale, marketed, distributed, and advertised in the same channels of trade to the same consumers as Plaintiff's products and services.

36. The terms "Lang" and "Lange" are strikingly similar and phonetically identical. Plaintiff's and Defendants' products and services are offered to the same consumers in the same channels of trade. Plaintiff's Lang Trademarks are strong and have obtained significant secondary meaning. There is actual confusion because of Defendants' infringing marks.

37. Defendants' conduct was intentionally designed to create confusion in the marketplace between Plaintiff's and Defendants' businesses, and unfairly profit from the Lang Trademarks.

38. Defendants' unauthorized and unlicensed use of the Lang Trademarks has resulted in Defendants unfairly benefiting from Plaintiff's goodwill, and profiting from Plaintiff's reputation and its family of registered trademarks, to the substantial and irreparable injury of the public, Plaintiff, the Lang Trademarks, and the substantial goodwill represented thereby.

39. Defendants' aforesaid acts constitute trademark infringement in violation of section 32 of the Lanham Act, 15 U.S.C. § 1114.

40. Plaintiff has suffered actual damages as a result of Defendants' infringement. In addition, Defendants' acts have caused, and will continue to cause, great and irreparable injury to Plaintiff, and unless such acts are restrained by this Court, Defendants will continue such acts, thereby causing Plaintiff to continue to suffer substantial and irreparable harm for which it has no adequate remedy at law.

41. Defendants' infringement has been knowing, intentional, and willful, entitling Plaintiff to increased damages, statutory damages, prejudgment interest, attorney fees, and costs.

COUNT II
UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN

42. Plaintiff repeats and incorporates by reference the allegations contained in the preceding paragraphs as if set forth fully herein.

43. This Court has jurisdiction over the subject matter of this claim for unfair competition and false designation of origin arising under section 43(a) of the Lanham Act, codified in 15 U.S.C. § 1125(a).

44. Defendants were fully aware of the popularity of Plaintiff's products and services and the clear association of the Lang Trademarks with these products and services. Defendants intentionally copied and offered in interstate commerce Infringing Products and Services, including in connection with the advertising, distribution, marketing, offering for sale, and sale of windows, siding, and related products, that are likely to cause confusion, mistake, and deception as to the origin, affiliation, sponsorship, endorsement, or approval of Defendants' products and services, and to impair the distinctiveness of the Lang Trademarks. As a result, the public is, and is likely to be, confused.

45. Defendants have used in commerce, and continue to use in commerce, the Lang Trademarks to unfairly benefit from Plaintiff's success by selling the same or similar products and services bearing the same or confusingly similar terms associated with the Lang Trademarks in this jurisdiction.

46. Defendants could have selected alternative names for their products and services.

47. Defendants used and continue to use the Lang Trademarks on their Infringing Products and Services with the intent to confuse the purchasing public into believing that Defendants' Infringing Products and Services and/or Defendants are authorized, sponsored, affiliated with, or associated with Plaintiff, and to trade upon Plaintiff's reputation for high-quality and to improperly appropriate to themselves Plaintiff's valuable goodwill and trademark rights.

48. Sales of the Infringing Products and Services by Defendants are likely to cause consumer confusion; consumers will believe that Defendants' Infringing Products and Services are either manufactured, licensed, affiliated with, or sponsored by Plaintiff or are being placed on

the market with Plaintiff's consent and/or actual or implied authority. As a result, Plaintiff has been and will continue to be irreparably injured by Defendants' improper acts.

49. Defendants have willfully and deliberately created such confusion by copying and reproducing the distinctive Lang Trademarks associated with Plaintiff's products and services; and have advertised and sold, and threaten to advertise and sell, their products and services so as to cause public confusion and deception. Further, Defendants' sales and offer for sale of their products and services has caused and threaten to cause Plaintiff the loss of its valuable goodwill and reputation for making and selling distinctive, unique, and high-quality products and services under the Lang name.

50. Defendants' aforesaid acts constitute the use in commerce of false designations of origin and false and/or misleading descriptions or representations, tending to falsely or misleadingly describe and/or represent Defendants' products and services as those of Plaintiff in violation of section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

51. Plaintiff has suffered actual damages as a result of Defendants' aforesaid acts. In addition, Defendants' acts have caused, and will continue to cause, great and irreparable injury to Plaintiff, and unless such acts are restrained by this Court, Defendants will continue such acts, thereby causing Plaintiff to continue to suffer substantial and irreparable harm for which it has no adequate remedy at law.

52. Defendants' aforesaid acts have been knowing, intentional, and willful, entitling Plaintiff to increased damages, statutory damages, prejudgment interest, attorney fees, and costs.

COUNT III
**STATE STATUTORY AND COMMON LAW TRADEMARK INFRINGEMENT,
UNFAIR COMPETITION, AND DECEPTIVE TRADE PRACTICES**

53. Plaintiff repeats and incorporates by reference the allegations contained in the preceding paragraphs as if set forth fully herein.

54. This claim arises under the pertinent statutes and common law of this State relating to trademark infringement, unfair competition, and deceptive trade practices. This Court has jurisdiction over the subject matter of this claim pursuant to the provisions of 28 U.S.C. § 1338(b), this being a claim of unfair competition and deceptive trade practices joined with a substantial and related claim under the Trademark Laws of the United States, and under 28 U.S.C. § 1367.

55. Defendants' wrongful conduct constitutes unfair methods of competition and unfair and deceptive acts or practices in trade or commerce and creates a likelihood of confusion, misunderstanding, or deception in the public's mind as to the origin of the parties' goods and services, all in violation of 815 ILCS 505/1 *et seq.*, 815 ILCS 510/1 *et seq.*, and the common law of Illinois. Defendants have also been and are engaged in deceptive trade practices within the meaning of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*, and the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.*

56. Plaintiff is the owner of all right, title, and interest in and to the Lang Trademarks, trade names, and logos used by Plaintiff by virtue of its extensive development and sale of products and services bearing such trade names, trademarks, and logos (collectively, Plaintiff's "family of common law trademarks") as set forth in the preceding paragraphs of this Complaint. In particular, because of its extensive sales and publicity, Plaintiff has acquired a family of common law

trademark rights in and to the term “Lang” and confusingly similar variations thereof for its products and services.

57. The Infringing Products and Services advertised, distributed, offered for sale, marketed, and/or sold by Defendants incorporate matter constituting replicas and imitations of Plaintiff’s family of common law trademarks. Such unauthorized use by Defendants of Plaintiff’s family of common law trademarks constitutes trademark infringement, unfair competition, and deceptive trade practices, and is likely to cause confusion and mistake in the minds of the trade and the purchasing public as to the source of the products and services and to cause purchasers or potential purchasers to believe that such products and services are associated with Plaintiff when, in fact, they are not.

58. Defendants have willfully and intentionally misappropriated one or more of Plaintiff’s family of common law trademarks with the intent of causing confusion, mistake, and deception as to the source of their goods and services. Accordingly, Defendants have committed trademark infringement, unfair competition, and deceptive trade practices under the common law.

59. By such actions in infringing Plaintiff’s family of common law trademarks, Defendants are improperly trading upon the reputation and goodwill of Plaintiff and impairing Plaintiff’s valuable rights in and to such family of trademarks.

60. Defendants committed the above alleged acts in conscious disregard of Plaintiff’s rights, and Plaintiff is therefore entitled to exemplary and punitive damages pursuant to the common law of the State of Illinois.

61. Plaintiff has no adequate remedy at law. Defendants' conduct has caused and, if not enjoined, will continue to cause, irreparable damage to Plaintiff's rights in and to its family of trademarks, and to Plaintiff's business, reputation, and goodwill.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for the following relief:

A. That judgment be entered in favor of Plaintiff and against Defendants on each claim made in the Complaint;

B. That the Court order that Defendants, their officers, agents, directors, servants, employees, representatives, successors, and assigns, and all persons, firms, or corporations in active concert or participation with Defendants, be immediately and permanently enjoined from:

1. directly or indirectly infringing the Lang Trademarks as described above in any manner including generally, but not limited to, copying, distributing, advertising, marketing, selling, and/or offering for sale any merchandise that infringes the Lang Trademarks, including, without limitation, Defendants' Infringing Products and Services, and specifically distributing, advertising, selling, and/or offering for sale unauthorized copies of the Lang Trademarks and/or the design or any other unauthorized goods or services that picture, reproduce, or utilize the likenesses of or which copy or bear a substantial similarity to any of the Lang Trademarks;
2. using the Lang Trademarks or marks confusingly similar thereto;
3. engaging in any conduct that tends falsely to represent that, or is likely to confuse, mislead, or deceive purchasers, potential purchasers, Defendants'

customers, and/or members of the public to believe that, the actions of Defendants, the products and services sold by Defendants, or Defendants themselves are connected with Plaintiff, are sponsored, approved, or licensed by Plaintiff, or are in some way connected or affiliated with Plaintiff;

4. otherwise competing unfairly with Plaintiff in any manner; and/or
5. eroding the distinctiveness of the Lang Trademarks and Plaintiff's family of common law trademarks, and damaging Plaintiff's goodwill, reputation, and business;

C. That Plaintiff be awarded damages in an amount sufficient to compensate it for the injuries it has sustained by reason of Defendants' unlawful acts, including Plaintiff's loss of goodwill, loss of past and/or future sales, and damages caused by Defendants' acts of trademark infringement, unfair competition, false designation of origin, and Illinois State statutory and common law trademark infringement, unfair competition, and deceptive trade practices. That Plaintiff be awarded increased damages based upon the intentional and willful nature of Defendants' conduct of the kind complained of herein. That Plaintiff be awarded all gains, profits, and advantages received by Defendants from the sale of their Infringing Products and Services and any other products and services that infringe upon Plaintiff's family of trademark rights;

D. That Plaintiff be awarded all additional remedies provided for in 15 U.S.C. § 1117;

E. That Defendants be ordered to deliver up for destruction all advertisements, circulars, brochures, and any other items in their possession, custody, or control bearing the Lang Trademarks or any other similar designations on all social and non-social media platforms, including but not limited to Facebook, Instagram, and Pinterest;

F. That Defendants be ordered to (a) prepare and send to their customers and the general public corrective statements approved by Plaintiff, correcting all false statements made and all misrepresentations made concerning the Lang Trademarks; (b) disclaim any association between Defendants and Plaintiff and/or Plaintiff's products and services; and, (c) recall and make reasonable efforts to obtain the return of any infringing or confusingly similar products and services from their customers;

G. That the <http://www.bylange.com/> domain name, which is presently owned and controlled by one or more of Defendants, as well as any domain names owned and controlled by Defendants using the terms "Lange Windows," "Lange-Zeller Windows & Siding," or confusingly similar variations thereof, be transferred to Plaintiff;

H. That the phone number 866-BY-LANGE, which is presently owned and operated by one or more of Defendants, be transferred to Plaintiff;

I. That Plaintiff be awarded punitive damages for Defendants' willful and malicious acts of common law unfair competition and deceptive trade practices; and

J. That the Court provide Plaintiff with such other and further relief as it deems just and proper, or that Plaintiff may be entitled to under the law, including but not limited to attorney fees, costs and interest.

JURY DEMAND

Plaintiff demands a trial by jury on all issues presented in this Complaint.

Respectfully submitted,

/s/ Raymond P. Niro, Jr.

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1
Eastern Division**

Lang Exterior Inc.

Plaintiff,

v.

Case No.: 1:18-cv-02301

Honorable John Z. Lee

Lange Windows & Siding, Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, April 19, 2018:

MINUTE entry before the Honorable John Z. Lee: Defendant's unopposed motion for extension of time until May 7, 2018 to file a responsive pleading [10] is granted. No appearance is required on the motion. Mailed notice(ca,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.