

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

ALEXANDRIA DIVISION

U-HAUL, INTERNATIONAL, INC.,)
)
 Plaintiff)
)
 v.) Civil Action No. 02-1469-A
)
WHENU.COM, INC., et. al.,)
 Defendants.)

ORDER

THIS MATTER is before the Court on Defendants', Avi Naider and WhenU.com, Inc., and Plaintiff's, U-Haul International, Inc., cross-motions for summary judgment and on Plaintiff's Motion for Leave to Amend Complaint, to Vacate Trial Date, and for Entry of Judgment Consistent with the Court's Ruling, Upon Cross-Motions for Summary Judgment. The Court has reviewed all of the parties' submissions, and for the reasons to be stated in a forthcoming Opinion, it is hereby

ORDERED that Defendants' motion for summary judgment on the following claims: trademark infringement, unfair competition, trademark dilution, copyright infringement, and contributory copyright infringement (Counts I-V), is GRANTED. It is further

ORDERED that the July 7, 2003, trial date is vacated. The Court DIRECTS the Clerk to remove this case from the trial docket, and the parties are instructed to stop their trial preparation.

The Court will consider granting dismissal without prejudice, pursuant to Rule 41(a)(2) of the Federal Rules of

Civil Procedure, of the following four remaining claims: misappropriation, interference with prospective business advantage, unjust enrichment, and violation of the Virginia Business Conspiracy Act (Counts VI-IX). Dismissal without prejudice is contingent upon the condition that, should Plaintiff file these four claims again, Plaintiff will be required to pay the legal fees for all four claims.

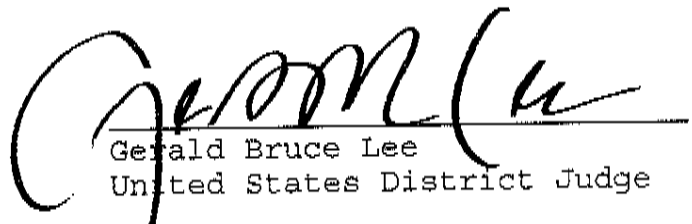
In the event Plaintiff later re-files these four claims, Defendants, WhenU.com, Inc. and Conducive Corporation, shall submit documentation of the legal fees associated with these four claims.

The statute of limitations for appeal of this decision is tolled until the Court enters its forthcoming Opinion and Judgment. This Order does not constitute a "judgment" as defined in Federal Rule of Civil Procedure 54(a).

The Court shall enter a separate Judgment, pursuant to Federal Rule of Civil Procedure 58, after the Court has issued its Opinion.

The Clerk is directed to forward a copy of this Order to counsel.

Entered this 24th day of June, 2003.


Gerald Bruce Lee
United States District Judge

Alexandria, Virginia
06/24/03