

WORLD SERVICE OFFICE, INC., a
a Charitable Corporation and
Trustee of the Copyrights,
Trademarks and Service Marks
for the Fellowship of
Narcotics Anonymous,

v.

Defendant.

Civil Action No.

90-7631

This is an action for copyright infringement, federal trademark and service mark infringement, common law unfair competition, violation of § 43(a) of the Lanham Act, common law trademark and service mark infringement, and trademark and service mark dilution.

1. Plaintiff World Service Office, Inc. (hereinafter "WSO") is a California non-profit corporation with a principal place of business at 16155 Wyandotte Street, Van Nuys, CA 90025.

2. WSO is the service and support arm of the Fellowship of Narcotics Anonymous (hereinafter "The Fellowship"). The Fellowship is an organization composed of local Narcotics Anonymous (sometimes hereinafter "N.A.") groups and chapters situated throughout the world.

3. In accordance with the direction of the Fellowship's

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governing body, the World Service Conference, WSO holds the copyrights, trademarks and service marks to all Narcotics Anonymous literature and services in a charitable trust on behalf of the entire Fellowship. The World Service Conference is the settlor of the charitable trust. WSO currently publishes and sells over 20 works of literature, including a 286 page basic text entitled "Narcotics Anonymous" (hereinafter the "Basic Text").

4. To date, WSO has not granted permission to the defendant identified hereafter to reproduce Fellowship literature.

5. The Basic Text has been revised on five occasions. Each revision affected a small portion of text. Certain editions were made merely to correct typographical and printing errors. The Basic Text is the subject of the following six United States Copyright registrations duly and legally issued to the WSO:

(a) United States Copyright Registration TX2 837 638, entitled "Narcotics Anonymous" (5th Edition). (Exhibit A)

(b) United States Copyright Registration TX2 254 607, entitled "Narcotics Anonymous" (4th Edition). (Exhibit B)

(c) United States Copyright Registration TX2 250 588, entitled "Narcotics Anonymous" (3rd Edition Revised). (Exhibit C)

(d) United States Copyright Registration TX2 342 402, entitled "Narcotics Anonymous" (3rd Edition). (Exhibit D)

(e) United States Copyright Registration TX2 250 589, entitled "Narcotics Anonymous" (2nd Edition). (Exhibit E)

(f) United States Copyright Registration TX2 112 598, entitled "Narcotics Anonymous" (1st Edition). (Exhibit F)

6. The sale of the aforementioned publications (including the Basic Text) by the WSO, provides the Fellowship with 95% of the resources required to fund its worldwide activities. The control of the Fellowship's copyrights by WSO further assures the consistency of the Fellowship's message.

7. Under United States Copyright Law, only WSO, as trustee of the Fellowship's copyrights, has the legal right to reproduce, translate, or prepare new versions of Narcotics Anonymous literature.

8. Defendant David Moorhead (hereinafter "Moorhead" and "defendant") is an individual residing at 1110 Palmer Street, Philadelphia, PA 19125.

COUNT I: COPYRIGHT INFRINGEMENT

Jurisdiction and Venue

9. Subject matter jurisdiction exists with respect to this count under the laws of the United States conferring original jurisdiction on the federal district courts in actions arising under any Act of Congress relating to copyrights, Title 28, United States Code, Section 1338(a).

10. The action is properly brought in this judicial district under Title 28, United States Code, Sections 1400(a) and 1391.

Statement of the Action

11. The first drafts of the unpublished Basic Text were original with the Literature Committee of the World Service

Conference, which transferred all rights in writing thereto to the WSO on September 15, 1982. Thereafter, WSO made revisions, and therefore has rights of original authorship in said revisions. This constitutes copyrightable subject matter protected under the Copyright Law of the United States, 17 U.S.C. § 101, et. seq, as amended October 31, 1988, Public Law 100-568, 102 Stat. 2857.

12. WSO, as the trustee for the Fellowship's copyrights, is and has been the sole holder of all rights in and title to the Basic Text, in all of its versions, since their creation.

13. WSO, as trustee for the Fellowship's copyrights, has complied with the requirements of the Copyright Act in all respects to protect its exclusive rights in all editions of the Basic Text, and the United States Copyright office has duly and legally issued the aforementioned Registration Certificates to WSO.

14. All authorized copies of the Basic Text, have borne a proper copyright notice in conformity with the requirements of the Copyright Act.

15. On information and belief, defendant Moorhead has reproduced and sold unauthorized and infringing copies of one or more copyrighted versions of the Narcotics Anonymous Basic Text. This unauthorized copying and selling has been carried on in this district and has been for the purpose of use, distribution, or sale by defendant and harrassment of WSO, for which defendant has unfounded and illogical distrust.

16. On information and belief, defendant has produced a version of the Basic Text in which language previously removed

from the copyrighted Second Edition by action of the World Service Conference, as being inappropriate and not consistent with the message of the Fellowship, has been added to the copyrighted Third Edition, Revised, which has been superseded. On information and belief, seven thousand copies of the infringing Basic Text have been sold by defendant at prices ranging between \$0.90 to \$1.25, depending upon the quantity of the sale. (See Exhibit H which is incorporated herein by reference as if set forth in full).

17. On information and belief, the defendant plans to produce and sell 50,000 additional infringing copies of the Basic Text at a price of \$.50 each. (Exhibit H)

18. On information and belief, in order to foster the promotion, distribution, and sale of the infringing copies, the infringing Basic Text has been accompanied by a letter authored by defendant which contains unfounded, unsubstantiated and illogical accusations of financial misfeasance by WSO and the World Service Conference. (Exhibit H)

19. Defendant's unauthorized copying, modification, and distribution of the Basic Text have been accomplished with full knowledge of, but in complete disregard for the Fellowship's copyrights, and without the authorization or permission of WSO.

20. Defendant's aforesaid actions of engaging in the unauthorized copying, modification and distribution of the Basic Text have damaged WSO and the Fellowship irreparably, and such damage will continue unless defendant is restrained and enjoined by the Court.

6.

21. WSO and the Fellowship have been harmed by the aforesaid acts of copyright infringement and are entitled to the remedies provided under the 1976 Copyright Act, 17 U.S.C. § 502 and following, as amended October 31, 1988, Public Law 100-568.

COUNT II: FEDERAL TRADEMARK AND SERVICE MARK INFRINGEMENT

Parties and Background

22. Plaintiff repeats, and incorporates herein, the averments of paragraphs 1-21 of this complaint.

Jurisdiction and Venue

23. Subject matter jurisdiction exists under the laws of the United States conferring original jurisdiction on the federal district courts in actions arising under the trademark laws, Title 15, United States Code, Section 1121 and Title 28, United States Code, Section 1338(a). Venue is proper in this district under 28 United States Code, Section 1391.

Statement of the Action

24. At least as early as October 5, 1953, the Fellowship adopted and began using the original and fanciful trademark and service mark "Narcotics Anonymous" in interstate commerce to denote and distinguish its services and publications for treating and counseling drug abuse from those of other groups and organizations.

25. Since the first introduction of the Basic Text, WSO has continuously and prominently affixed the "Narcotics Anonymous" trademark and service mark to its books and literature, and has continuously sold them in interstate commerce.

26. Since 1953, WSO has spent many hundreds of thousands of dollars communicating with members of the Fellowship in developing, advertising and otherwise promoting the Fellowship's Basic Text and the Fellowship's trade and service marks.

27. By virtue of the foregoing, the Fellowship's trademark and service mark "Narcotics Anonymous" have acquired a secondary meaning such that the public recognizes said marks as identifying and originating exclusively with Narcotics Anonymous and WSO, and so as to distinguish the Fellowship's literature and services from the literature and services of all other groups and organizations.

28. On October 7, 1986, WSO, as trustee for the Fellowship's trademarks and service marks, applied to the United States Patent and Trademark Office for registration of the Fellowship's "Narcotics Anonymous" trademark and service mark. Registration No. 1,476,774, a copy of which is attached as Exhibit G, and included herein by reference as though fully set forth herein, was duly and legally issued to WSO on February 16, 1988. The Fellowship books and pamphlets, including the Basic Text, which have been published since February 16, 1988, have, on information and belief, included proper notice of federal trademark and service mark registration.

29. On information and belief, defendant has, within this district, distributed and sold unauthorized copies of all or part of the Basic Text bearing unauthorized copies of the Fellowship's federally registered trademark and service mark

8,
"Narcotics Anonymous".

30. Defendant's reproduction of the registered trademark and service marks "Narcotics Anonymous" has been accomplished with full knowledge of, but in complete disregard for, the Fellowship's rights and without the authorization or permission of WSO.

31. Defendant's aforesaid uses of and sales under the mark "Narcotics Anonymous" are reproductions, counterfeits, copies and colorable imitations of the Fellowship's trademark and service mark "Narcotics Anonymous" which are likely to cause, and have caused, confusion and mistake as to the origin of the copies, and to deceive others as to the source of the copies by leading them to believe that they originate with, or are sponsored or authorized by WSO, and thereby infringe the Fellowship's registered service mark and trademark "Narcotics Anonymous" in violation of 15 U.S.C. § 1114.

32. Defendant's aforesaid acts have damaged WSO and the Fellowship irreparably and such damage will continue unless and until restrained and enjoined by this Court.

33. WSO and the Fellowship have been harmed by defendants' actions and are entitled to the remedies provided under the Lanham Act, 15 U.S.C. § 1114 and following.

COUNT III: COMMON LAW UNFAIR COMPETITION

34. Plaintiff repeats, and incorporates herein, the averments of paragraphs 1-21 and 24-33 of this complaint.

Jurisdiction

35. Subject matter jurisdiction exists under the laws of the United States conferring original jurisdiction on the federal district courts in actions asserting a claim of unfair competition when joined with a substantial and related claim under the trademark laws, Title 28, United States Code, Section 1338(b), and the doctrines of pendent and ancillary jurisdiction. Venue is proper in this district under 28 United States Code, Section 1391.

Statement of the Action

36. Defendant's aforesaid uses of the term "Narcotics Anonymous" are likely to cause confusion with the Fellowship's trademark and service mark "Narcotics Anonymous" and to cause mistake and to deceive and to lead prospective purchasers, users and others among the public to believe that the unauthorized copies of the Basic Text come from or are sponsored by the Fellowship, or that defendant is affiliated with WSO or that proceeds of the sales of these books benefit the Fellowship, all to the detriment of the Fellowship and its good will symbolized by the Fellowship's "Narcotics Anonymous" trademark and service mark.

37. Defendant has further placed a notation of "Fellowship Approved" on the infringing copies of the Fellowship's Basic Text. This designation means that a piece of literature has undergone an extensive and thorough review by the appropriate sections of the World Service Conference, a process which typically encompasses years of work, and has been approved and is therefore particularly valuable to members of the Fellowship. This notation

is false, as defendant's copies have undergone no review by the World Service Conference whatsoever.

38. By virtue of their aforesaid acts, defendant has infringed the Fellowship's trademark and service mark and has competed unfairly with the Fellowship and WSO.

39. Defendant's aforesaid acts have damaged the Fellowship and WSO irreparably and such damage will continue unless and until restrained and enjoined by this Court.

40. The Fellowship and WSO have been financially injured by defendant's actions, the message of the Fellowship to the addicts that are recovering and are still suffering has been distorted and diluted thereby injuring the Fellowship as a whole, and they are entitled to be compensated for that injury.

COUNT IV: LANHAM ACT, SECTION 43(a)

Parties and Background

41. Plaintiff repeats, and incorporates herein, the averments of paragraphs 1-21, 23-33 and 36-40 of this complaint.

Jurisdiction

42. Subject matter jurisdiction exists under the laws of the United States conferring original jurisdiction on the federal district courts in actions arising under the trademark laws, Title 15, United States Code, Section 1121 and Title 28, United States Code, Section 1338(a). Venue is proper in this district under 28 United States Code, Section 1391.

Statement of the Action

43. By the unauthorized reproduction and distribution of copies of the Narcotics Anonymous Basic Text, the illicit use of the trademark and service mark "Narcotics Anonymous", and the false representation that said copies were "Fellowship Approved", all in this district, as specifically alleged in paragraphs 29-31, 36-37 and hereafter, defendant has engaged in acts which constitute false designations of origin, false representations, and unfair competition in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

44. The Fellowship and WSO have been harmed by defendant's actions through damage to its reputation, unauthorized distortion of the message of the Fellowship, the diversion of trade, and loss of income and is entitled to the remedies provided under the Lanham Act, 15 U.S.C. § 1114 and following.

45. Defendant's aforesaid acts have damaged the Fellowship and WSO irreparably and such damage will continue unless and until restrained and enjoined by this Court.

COUNT V: COMMON LAW TRADEMARK AND SERVICE MARK INFRINGEMENT

Parties and Background

46. Plaintiff repeats, and incorporates herein, the averments of paragraphs 1-21, 24-33, 36-40, and 43-45 of this complaint.

Jurisdiction and Venue

47. Subject matter jurisdiction exists under the laws of the United States conferring original jurisdiction on the federal district courts in actions asserting a claim of unfair competition when joined with a substantial and related claim under the trademark laws, Title 28, United States Code, Section 1338(b), and the doctrines of pendent and ancillary jurisdiction. In addition, because this is a civil action wherein the amount in controversy exceeds the value of \$50,000, exclusive of interest and costs, and is between citizens of two states, jurisdiction is conferred upon this court in accordance with 28 United States Code, Section 1332. Venue is proper in this district under 28 United States Code, Section 1391.

Statement of the Action

48. On October 5, 1953, the Fellowship adopted and began using the original and fanciful trademark and service mark "Narcotics Anonymous" in commerce to denote and distinguish its services and publications for treating and counseling drug abuse from those of other groups and organizations.

49. Since the first introduction of the Basic Text, WSO has continuously and prominently affixed the "Narcotics Anonymous" trademark and service mark to its books and literature, and has continuously sold them in commerce.

50. WSO has made substantial expenditures in developing, advertising and otherwise promoting the common law trademark and service mark and communicating with members of the Fellowship.

51. By virtue of the foregoing, the common law trademark and service mark "Narcotics Anonymous" have acquired a secondary meaning such that the public recognizes said marks as identifying items as originating exclusively with WSO and authorized by the Fellowship of Narcotics Anonymous, and so as to distinguish WSO's Fellowship literature and services from the literature and services of all other groups and organizations.

52. Defendant's reproduction of the common law trademark and service marks "Narcotics Anonymous" has been accomplished with full knowledge of, but in complete disregard for, WSO's rights and without the authorization or permission of WSO.

53. Defendant's aforesaid uses of and sales under the mark "Narcotics Anonymous" are reproductions, counterfeits, copies and colorable imitations of the common law trademark and service mark "Narcotics Anonymous" which are likely to cause confusion or mistake as to the origin of the copies, and to deceive others as to the source of the copies by leading them to believe that they originate with, or are sponsored or authorized by WSO, and thereby infringe the common law service mark and trademark "Narcotics Anonymous".

54. Defendant's aforesaid acts have damaged WSO and the Fellowship irreparably and such damage will continue unless and until restrained and enjoined by this Court.

55. WSO has been harmed by defendant's actions and are entitled to be compensated for that harm.

COUNT VI. DILUTION

Parties and Background

56. Plaintiff repeats, and incorporates herein, the averments of paragraphs 1-21, 24-33, 36-40, 43-45 and 48-55 of this complaint.

Jurisdiction and Venue

57. Subject matter jurisdiction exists under the laws of the United States conferring original jurisdiction on the federal district courts in actions asserting a claim of unfair competition when joined with a substantial and related claim under the trademark laws, Title 28, United States Code, Section 1338(b), and the doctrines of pendent and ancillary jurisdiction. In addition, because this is a civil action wherein the amount in controversy exceeds the value of \$50,000, exclusive of interest and costs, and is between citizens of two states, jurisdiction is conferred upon this court in accordance with 28 United States Code, Section 1332. Venue is proper in this district under 28 United States Code, Section 1391.

Statement of the Action

58. Defendant's aforesaid acts dilute the distinctive quality of plaintiff's trademark and service mark in violation of the anti-dilution statute of the applicable jurisdiction.

59. Defendant's aforesaid acts have damaged WSO irreparably and such damage will continue unless and until restrained and enjoined by this Court.

60. WSO has been harmed by defendant's actions and is

entitled to compensation and injunctive relief for that harm as provided by the anti-dilution statute of the applicable jurisdiction.

PRAYER

FOR THE ABOVE REASONS, WSO, as trustee of the copyrights and trademarks and service marks for the Fellowship of Narcotics Anonymous, prays this Court to enter a judgment:

(1) Preliminarily and permanently enjoining defendant, his agents, servants, employees and attorneys, and all persons in active concert or participation with him, who receive actual notice of the orders entered in this action, from infringing, directly or indirectly, any of the Fellowship's copyrights, held in trust by WSO, and from aiding, abetting, causing, or materially contributing to, any such infringement;

(2) Preliminarily and permanently enjoining defendant, his agents, servants, employees and attorneys, and all persons in active concert or participation with him, who receive actual notice of the orders entered in this action, from infringing, directly or indirectly, any of the Fellowship trademark and service mark rights, held in trust by WSO, including but not limited to the trademark and service mark "Narcotics Anonymous", and from inducing, aiding, causing, or materially contributing to, any such infringement;

(3) Preliminarily and permanently enjoining defendant,

his agents, servants, employees and attorneys, and all persons in active concert or participation with him, who receive actual notice of the orders entered in this action, from engaging in any activity which is likely to injure the Fellowship's business reputation or likely to dilute the distinctive quality of the Fellowship trademark and service mark "Narcotics Anonymous", to improperly claim sponsorship by Narcotics Anonymous and from otherwise competing unfairly with the Fellowship and/or WSO as trustee of the Fellowship;

(4) Requiring defendant to surrender for inventory and destruction any infringing copies or modified copies of the Fellowship's Basic Text;

(5) Requiring defendant to pay the Fellowship through its trustee WSO: (a) the actual damages suffered by the Fellowship as a result of defendant's copyright infringements; (b) all profits of defendant earned directly or indirectly by his infringements of the Fellowship's copyrighted Basic Text or, as plaintiff shall elect, statutory damages in the amount of \$100,000 as provided by the Copyright Act for each infringement;

(6) Requiring defendant to pay to WSO as trustee for the Fellowship (a) all profits, if any, earned directly or indirectly by his infringements of the Fellowship's trademark and service mark rights, and (b) the actual damages, trebled according to the circumstances of this case, suffered by the Fellowship as a result of defendant's federal and common law trademark and service mark infringements, false designations of origin, false representations,

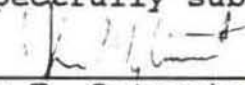
trademark and service mark dilution, and acts of unfair competition;

(7) Requiring defendant to pay exemplary and/or punitive damages in an amount to be determined by the Court;

(8) Requiring defendant to pay WSO, as trustee of the Fellowship, the costs of this action, including its reasonable attorneys' fees, as allowed by law; and

(9) Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,



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