

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**RUCKUS SPORTS, LLC, a** )  
**Delaware Limited Liability Company** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**THE NATIONAL MULTIPLE** )  
**SCLEROSIS SOCIETY, a** )  
**New York Corporation** )  
 )  
**Defendant.** )

**Civil Action No.: 12-12009**

**JURY TRIAL DEMANDED**

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**COMPLAINT**

Plaintiff Ruckus Sports, LLC (“Plaintiff”) brings this action against Defendant the National Multiple Sclerosis Society (“Defendant”) and for its Complaint alleges as follows:

**THE PARTIES**

1. Plaintiff is a Delaware limited liability company having its principal place of business at One Smith Place, Cohasset, MA 02025. Plaintiff owns and operates a series of adventure races and obstacle courses under its RUCKUS trademark.

2. Upon information and belief, Defendant is a New York corporation with a place of business at 205 East 42nd St., New York, NY 10017. In violation of Plaintiff’s trademark rights, Defendant promotes, advertises and administers a series of adventure races and obstacle courses under the mark “MUCKRUCKUS MS.”

**JURISDICTION AND VENUE**

3. This action arises under the Lanham Act, 15 U.S.C. § 1051, *et seq.* and Massachusetts law. This Court has subject matter jurisdiction over Plaintiffs’ claims under 28 U.S.C. § 1331, 28 U.S.C. § 1338(a), and 28 U.S.C. § 1332. This Court has supplemental

jurisdiction over Plaintiffs' Massachusetts law claims under 28 U.S.C. § 1367, because those claims are substantially related to Plaintiffs' federal claims.

4. The Court has personal jurisdiction over Defendant because Defendant operates a place of business in this district. Specifically, Plaintiff operates the Greater New England Chapter of the National Multiple Sclerosis Society out of 101A First Ave, Ste. 6, Waltham, MA 02451. Additionally, a portion of the illegal conduct that is the subject of this action occurred in this District. Venue is proper pursuant to 28 U.S.C. § 1391.

**FACTS GIVING RISE TO PLAINTIFF'S CLAIMS**

5. Plaintiff has engaged in substantial advertising and promotion of its RUCKUS brand since at least September of 2010. Plaintiff has expended substantial sums of money to advertise and promote its services under its RUCKUS trademark.

6. Plaintiff provides in commerce, inter alia, services related to promoting, advertising, and administering adventure racing, as demonstrated by Plaintiff's website. A true and accurate screenshot of Plaintiff's which, <www.runruckus.com>, is attached hereto as Exhibit A.

7. Despite Plaintiff's established rights in Plaintiff's trademark and after Plaintiff established those rights, Defendant commenced use of the mark "MUCKRUCKUS MS" in connection with its own adventure race and obstacle course.

8. On November 21, 2011, Defendant filed trademark application Serial No. 85/477,477 to register the plain word mark "MUCKRUCKUS MS" in International Class 36 for "charitable fundraising services." A copy of application Serial No. 85/477,477 is attached hereto as Exhibit B.

9. On December 28, 2011, Defendant filed trademark application Serial No. 85/504,773 to register the design mark “MUCKRUCKUS MS” for “charitable fundraising services” in International Class 36. A true and accurate copy of application Serial No. 85/504,773 is attached hereto as Exhibit C.

10. The “MUCKRUCKUS MS” mark is used by Defendant in connection with an adventure race and obstacle course, as demonstrated by Defendant’s website, a true and accurate copy of which is attached hereto as Exhibit D.

11. Defendant’s use of “MUCKRUCKUS MS” in connection with adventure races and obstacle courses is likely to cause and has caused confusion, mistake or deception as to the source of Defendant’s services and as to the affiliation, connection, and association between Defendant and Defendant’s services, on the one hand, and Plaintiff, Plaintiff’s trademark and Plaintiff’s services, on the other hand.

**COUNT I**  
**Federal Trademark Infringement Under 15 U.S.C. § 1125**

12. Plaintiff incorporates the allegations contained in Paragraphs 1-11 of the Complaint as though fully set forth herein.

13. Plaintiff owns a common law (unregistered) trademark for RUCKUS.

14. Plaintiff’s trademark is distinctive and was so prior to Defendant’s acts complained of in this Complaint.

15. Defendant’s unauthorized use of “MUCKRUCKUS MS” constitutes trademark infringement and unfair competition because such conduct is likely to cause and has caused confusion, mistake and deception as to the source of Defendant’s services and the affiliation, connection and association between Defendant and Defendant’s services, on the one hand, and Plaintiff and Plaintiff’s services, on the other hand.

16. As a direct and proximate result of Defendant's wrongful conduct, Defendant has caused Plaintiff irreparable harm and injury.

**COUNT II**  
**Federal Unfair Competition**

17. Plaintiff incorporates the allegations contained in Paragraphs 1-16 of the Complaint as though fully set forth herein.

18. Defendant has used, and continues to use, its MUCKRUCKUS MS marks in interstate commerce which are likely to cause and have caused confusion, mistake, and/or to deceive as to the affiliation, connection, and association of Defendant with Plaintiff, the origin of Defendant's services, and the endorsement, sponsorship, or approval of Defendant's services by Plaintiff in violation of 15 U.S.C. § 1125(a).

19. Plaintiff has suffered damages as a direct and proximate result of Defendant's conduct in advertising, promoting, and administering its MUCKRUCKUS MS adventure races and obstacle courses in a manner which has created the impression that it is affiliated with or a variation of Plaintiff's RUCKUS adventure race and obstacle course. Such damages include lost sales, confusion, and deception of the trade and purchasing public, incalculable injury to Plaintiff's goodwill and business reputation for which Plaintiff has no adequate remedy at law, and the expenditure of attorneys' fees.

**COUNT III**  
**State Common Law Trademark Infringement**

20. Plaintiff incorporates the allegations contained in Paragraphs 1-19 of the Complaint as though fully stated herein.

21. The acts of Defendant complained of herein constitute common law trademark infringement and unfair competition in violation of the laws in the states in which Defendant is conducting business, including the Commonwealth of Massachusetts.

22. The acts of Defendant have cause and will continue to cause irreparable injury to Plaintiff.

**COUNT IV**  
**Unfair and Deceptive Trade Practices and**  
**Unfair Methods of Competition in Violation of M.G.L. c. 93A**

23. Plaintiff incorporates the allegations contained in Paragraphs 1-22 of the Complaint as though fully stated herein.

24. Defendant is engaged in trade or commerce for the purposes of M.G.L. c. 93A §§ 2 and 11.

25. Defendant's actions complained of herein constitute unfair and deceptive trade practices in violation of M.G.L. c. 93A §§ 2 and 11. Upon information and belief, Defendant's actions have caused consumer confusion as to the source and sponsorship of Defendant's goods.

26. As a direct result of the foregoing acts, Defendant has unlawfully derived and will continue to derive income, profits, and ever-increasing goodwill from its activities, causing Plaintiff irreparable injury.

27. Defendant's unfair and deceptive acts occurred primarily and substantially in the Commonwealth of Massachusetts because its wrongful conduct was primarily directed toward Plaintiff, a resident of Massachusetts. The substantial harm its actions have caused to Plaintiff occurred in Massachusetts. Defendant's continuing actions have also allowed it to unfairly profit from consumers in Massachusetts.

**COUNT V**  
**Unfair Competition in Violation of the Common Law**

28. Plaintiff incorporates the allegations contained in Paragraphs 1-27 of the Complaint as though fully stated herein.

29. Defendant's unfair competition, including acts of infringement, dilution, and replication of the likeness and appearance of Plaintiff's mark, as alleged herein, violate its common law duty not to engage in unfair competition. These actions were willful and intentional and have caused Plaintiff irreparable harm.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following:

(a) An order granting judgment for Plaintiff against Defendant on the foregoing claims, including that Defendant has engaged in unfair competition under § 43 of the Lanham Act; infringed Plaintiff's trademarks under 43 of the Lanham Act; engaged in unfair and deceptive trade practices under M.G.L. c. 93A and Massachusetts common law; and infringed Plaintiff's trademarks under common law.

(b) That Defendant, its partners, agents, servants, employees, attorneys, successors, assigns, related companies, and those acting in concert with them and/or any of them, be preliminarily and permanently enjoined and restrained from using in connection with the promotion, advertising, offering or rendering of online retail services, any name or mark including Defendant's "MUCKRUCKUS MS" mark, or any mark confusingly similar to Plaintiff's RUCKUS or related marks;

(c) That Defendant, its partners, agents, servants, employees, attorneys, successors, assigns, related companies, and those acting in concert with them and/or any of them, be required to deliver to the Court for destruction, or to show proof of said destruction, of any and all

displays, signs, circulars, promotional materials, advertisements, directories, pamphlets, and other materials in Defendant's possession, custody, or control which bear or depict Defendant's "MUCKRUCKUS MS" mark, or any mark confusingly similar to Plaintiff's RUCKUS mark which is used in connection with the offering of adventure races and obstacle courses, as well as all plates, molds, casts, and other means of reproducing, counterfeiting, copying, or otherwise imitating Plaintiff's RUCKUS mark, or any mark confusingly similar thereto in association with the offering of such goods/services;

(d) That Defendant be ordered to surrender of the United States Patent and Trademark Office be ordered to abandon Defendant's Trademark Application Serial Nos. 85/477,477 and 85/504,773 for the plain character mark "MUCKRUCKUS MS" and the design mark "MUCKRUCKUS MS," respectively;

(d) That Defendant be ordered to file with this Court and to serve upon Plaintiff, within thirty days after the entry of an injunction, a report in writing and under oath setting forth in detail the manner in which Defendant has complied with the injunction;

(e) That, pursuant to 15 U.S.C. § 1117(a), Plaintiff be awarded its damages and that the award of those damages be increased three times;

(f) That, pursuant to 15 U.S.C. § 1117(a), Plaintiff be awarded an accounting of Defendant's profits and that the award of those profits be increased at least three times;

(g) That, pursuant to 15 U.S.C. § 1117(a), Plaintiff be awarded its reasonable attorney fees; and

(h) That Plaintiff be awarded such other and further relief as the Court may deem appropriate pursuant to the facts and the principles of equity.

**DEMAND FOR JURY TRIAL**


Plaintiff hereby demands a jury trial on all the issues so triable in this action.

Respectfully submitted,

RUCKUS SPORTS, LLC

By its attorneys:

Dated: October 26, 2012



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