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Ptak Bros. Jewelry, Inc.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUDGE CHIN

\_\_\_\_\_  
PTAK BROS. JEWELRY, INC.,

Plaintiff,

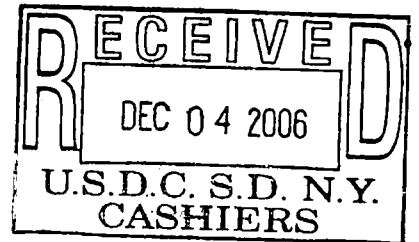
v.

GARY PTAK and  
G. PTAK, LLC

Defendants.  
\_\_\_\_\_

06 CV 13732

COMPLAINT



Plaintiff, Ptak Bros. Jewelry, Inc., for its Complaint against Defendants, Gary Ptak and G. Ptak, LLC, states the following.

Nature of the Action

1. Plaintiff Ptak Bros. Jewelry, Inc. seeks injunctive relief and damages for Defendant Gary Ptak’s cyberpiracy, federal unfair competition and false designation of origin, trademark infringement, unlawful deceptive acts and practices, and breach of contract. This action arises under the Lanham Act, Title 15 of the United States Code, and the laws of the State of New York, including the New York General Business Law §349 (Consumer Protection from Deceptive Acts and Practices), and New York common law.

## **Jurisdiction and Venue**

2. This action arises under Sections 43(a) and 43(d) of the Trademark Act of 1946, commonly referred to as the Lanham Act, 15 U.S.C. § 1051 et seq. and the laws of the State of New York. This Court has jurisdiction under Section 39 of the Lanham Act, 15 U.S.C. § 1121.

3. Plaintiff Ptak Bros. Jewelry, Inc. is a New York corporation, incorporated August 17, 2004, with its principal offices 64 W 48th St #1505, New York, NY 10036.

4. Gary Ptak is an individual with principal business address at 180 E. Prospect Ave., Mamaroneck, NY 10544.

5. G. Ptak, LLC is a New York limited liability company with its principal business address at 180 E. Prospect Ave., Mamaroneck, NY 10544.

6. This Court has supplemental jurisdiction under 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy.

7. This Court has personal jurisdiction over the Defendants in that they conduct business in the State of New York and within this District.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), because Gary Ptak works in this District, G. Ptak, LLC resides in the District, and a substantial part of the events giving rise to the claims occurred in this District.

## **The Parties**

9. Plaintiff, Ptak Bros. Jewelry, Inc., is the successor-in-interest to Ptak Bros. Inc., previously a New York corporation with principal offices at 2 W 46th St, New York, NY 10036,

within the block that Plaintiff Ptak Bros. Jewelry, Inc. now has its offices. ("Ptak Bros." shall refer to Plaintiff Ptak Bros. Jewelry, Inc. and/or its predecessor-in-interest Ptak Bros., Inc.)

10. At all times, Ptak Bros. was engaged in the jewelry business.

11. Ptak Bros. Inc. was founded in 1946 by three brothers bearing the surname Ptak. Ownership was transferred to the founders' children -- cousins Alan Ptak, Gary Ptak, and Saree Ptak.

12. Despite Gary Ptak's shareholders agreement and his fiduciary obligations to Ptak Bros. Inc., he established a separate, competing jewelry business.

13. The Ptak cousins disagreed about Gary Ptak's separate competing jewelry business and about management of Ptak Bros Inc. and in 2003 sought judicial dissolution of the corporation, *Kaye and Ptak v Ptak Brothers, Inc, Gary Ptak, Alan Ptak* (Sup. Ct. NY, Index No. 102578/03), then entered a Settlement Agreement and Release, March 31, 2004, providing nonjudicial dissolution procedures. The agreed dissolution procedures were violated by Gary Ptak, and Alan and Saree Ptak subsequently moved the Court for injunctive relief to carry out the agreed dissolution.

14. Granting Alan and Saree Ptak's motion, the Court ordered the liquidation of Ptak Brothers, Inc. and ordered that, pending completion of the liquidation of the Company, the Company's intellectual property should be preserved and protected. (Exhibit 1, New York Court Order, Aug 2, 2004.)

15. The assets of Ptak Brothers, Inc. were auctioned by Ozer Group in August 2004. A new corporation, Ptak Bros. Jewelry, Inc., was formed, was assigned the assets, and is Plaintiff in the instant case before this Court. (Exhibit 2, Bill of Sale, Aug 2004.)

16. G. Ptak, LLC, is a jewelry business principally controlled by Gary Ptak. The New York Secretary of State reports the entity name as “G. Ptak, LLC”; Gary Ptak’s website asserts the entity is “Gary Ptak, LLC”; the New York Secretary of State reports no corporate or LLC entity named “Gary Ptak, LLC.”

17. On information and belief, Gary Ptak is at least a majority owner of G. Ptak, LLC, is the principal officer of G. Ptak, LLC, controls the actions of G. Ptak, LLC, is fully knowledgeable of the activities of G. Ptak, LLC, and is responsible for the conduct of G. Ptak, LLC.

### **The Court Orders and Party Agreements**

18. In addition to corporate liquidation, the New York Court also ordered “that Gary Ptak divulge and turn over to the Company’s officers and directors any passwords and access codes to the Company’s telephones, computers, and web/internet systems that he may know or have in his possession” and “that Gary Ptak is enjoined from using the Company’s telephones, computers, and web/internet systems or other Company assets for his personal gain.” (Exhibit 1.)

19. Ptak Brothers, Inc. sold to Plaintiff, Ptak Bros. Jewelry, Inc. its assets, including “its brand names, trademark and copyright rights, if any, to its assets and other intellectual property.” Ptak Brothers, Inc. and its principals (Alan, Gary, and Saree Ptak) agreed “not to re-establish, re-open, be engaged in, nor in any manner whatsoever become interested, directly or indirectly, either as employee, as owner, as partner, as agent, as member, or as stockholder, director or officer of a corporation, limited liability company, or otherwise, in any business, trade, or occupation using the name Ptak Bros. in any manner similar to the one sold.” (Exhibit 2.) (*See also*, Restrictive Covenant (Exhibit 3).)

20. Ptak Bros, Inc. assigned to Plaintiff Ptak Bros. Jewelry, Inc. the assignee's assets, including (i) the trade name "Ptak Bros., Inc." and any and all derivatives thereof and any and all claims, demands, and causes of action for infringement of the name, past, present and future; (ii) the Telephone Numbers; (iii) the URL <http://www.ptakbros.com>; (iv) any and all right title and interest in and to all creative and photographic materials relating to the most recent Ptak Bros., Inc. catalogs; and (v) all rights, title and interest in and to the customer lists and information; the foregoing assignment including, without limitation, all internet registration rights, internet domain rights, email addresses, federal and state trademarks, service marks, copyrights, common law rights, and any and all other intellectual property rights associated with or arising therefrom.

### **PTAK Trademarks and Goodwill**

21. Plaintiff Ptak Bros. owns the trademarks PTAK and PTAK BROS. for jewelry and jewelry related goods and services (collectively Ptak Trademarks).

22. PTAK is prominently displayed on Plaintiff's catalogs and on other marketing materials.

23. PTAK is marked on many of the jewelry items sold by Ptak Bros. (Exhibit 4, PTAK Trademark engraved in ring.)

24. The Ptak Trademarks have been known nationwide for several decades as indicating the source of high quality jewelry, especially precious metal jewelry, typically of gold, silver, and platinum.

25. The Ptak Trademarks have been known since before 1997 to both the wholesale and retail markets.

26. Since at least 1997, the Ptak Trademarks have been famous for jewelry goods and services.

27. Since at least 1997, the Ptak Trademarks have been distinctive for jewelry goods and services.

### **PTAK Copyrights and Goodwill**

28. Over the years, Ptak Bros. has published high-quality, multi-page, color catalogs displaying hundreds of the jewelry items, primarily gold and platinum, they sell.

29. Ptak Bros. has used its skill and expertise in selecting the jewelry items to market, and especially those to feature in its catalogs.

30. Over the past decade, Ptak Bros. has published at least six of these high-quality, multi-page, color catalogs displaying Ptak Bros. selected jewelry.

31. Plaintiff Ptak Bros. owns the copyrights to its jewelry catalogs, including the selection of items displayed.

32. Ptak Bros., Inc and Ptak Bros. Jewelry, Inc. identify their jewelry items by distinctive product (style) numbers.

33. Ptak Bros., Inc. developed significant good will from its skilled selection of items for its catalogs, and in its jewelry product (style) numbers.

34. Wholesale customers of Ptak Bros recognize many Ptak product (style) numbers as distinctively and uniquely coming from Ptak Bros.

## **Defendants' Breaches and Bad Faith**

35. On information and belief, after the asset assignment to Plaintiff and/or in anticipation of such assignment, and/or in breach of his fiduciary duties to Ptak Bros. Inc, Gary Ptak and G. Ptak, LLC misappropriated the customer list and other proprietary information of Ptak Bros., and used that information for the benefit of the Defendants.

36. On information and belief, after the asset assignment to Plaintiff and/or in anticipation of such assignment, and/or in breach of his fiduciary duties to Ptak Bros. Inc., Gary Ptak transferred Ptak Brothers proprietary digital information to his and/or his business's computers.

37. On information and belief, after the asset assignment to Plaintiff, Gary Ptak used Ptak Bros Inc. proprietary information—including the more frequent customers and the more popular jewelry styles—acquired while working for Ptak Bros. Inc.—for his own jewelry business.

38. Knowingly violating the Bill of Sale (Exhibit 2), his Restrictive Covenant (Exhibit 3) and the court orders, after the asset assignment to Plaintiff, Gary Ptak instructed Verizon to redirect the Ptak Bros. facsimile number to Gary Ptak's business location.

39. Only after Plaintiff received complaints from its customers that their faxes were not getting through to Ptak Bros, alerting Plaintiff to its purloined facsimile number, and Plaintiff demanded that Gary Ptak return the telephone number, did Gary Ptak do so.

40. After the assignment of Ptak intellectual property, including telephone numbers, and after the restrictive covenant, Gary Ptak promoted his personal jewelry business with one of his telephone numbers (800) PTAK-112, or in numbers (800) 7825-112, again violating the

restrictive covenant and court order. As of November 2006, Gary Ptak continues to use this improper telephone number for his personal jewelry business.

41. After learning a partially-letter-based telephone number, such as (800) PTAK-112, prospective purchasers and repeat purchasers are likely to remember the mnemonic phone number. After initial exposure to a trademark-based telephone number, such as PTAK-112, prospective purchasers and repeat purchasers have the trademark-based mnemonic reinforced in their memory by both further exposure to the mnemonic and further exposure to the full digital version.

42. Plaintiff's corporate counsel notified defendant Gary Ptak, February 7, 2006, that any use of PTAK, by itself, including in a telephone number, on a web page, or elsewhere, violated the Bill of Sale (Exhibit 2) and Restrictive Covenant (Exhibit 3).

43. Gary Ptak continues to market his goods by displaying the phone number on his website homepage, continuing to reinforce and reap rewards from his misappropriation of the PTAK trademark.

### Cyberpiracy

44. Ptak Bros has recently discovered that Gary Ptak is using the Internet address (URL or Uniform Resource Locator) of [www.ptak.com](http://www.ptak.com) to promote Gary Ptak's jewelry business.

45. A computer user entering <http://www.ptak.com> is automatically redirected to the website of defendant Gary Ptak, <http://www.garyptak.com>.

46. The ptak.com Internet domain is registered to Gary Ptak.

47. The ptak.com Internet domain was created on or about September 28, 1998.



48. The ptak.com Internet domain was known to Gary Ptak during Ptak Bros. Inc liquidation.

49. Despite the fiduciary duty of Gary Ptak to Ptak Bros. Inc, despite Gary Ptak's restrictive covenant, despite the Bill of Sale, and despite the explicit order of the New York court, Gary Ptak did not disclose his ownership of the ptak.com domain registration.

50. Despite the fiduciary duty of Gary Ptak to Ptak Bros. Inc, despite Gary Ptak's restrictive covenant, despite the Bill of Sale, and despite the explicit order of the New York court, Defendants have used for their own benefit the ptak.com domain registration.

51. In maintaining his ptak.com Internet domain, Gary Ptak provided material false contact information; on information and belief he provided material false contact information when applying for registration of the ptak.com domain name.

52. Gary Ptak obtained an Internet domain registration for garyptak.com about February 14, 2004.

53. On information and belief, Gary Ptak has intentionally caused Internet browser inquiries for [www.ptak.com](http://www.ptak.com) to be automatically redirected to his website, [www.garyptak.com](http://www.garyptak.com).

### **Defendants' Deceptive Website**

54. Prospective wholesale and retail buyers entering [www.ptak.com](http://www.ptak.com) into an Internet web browser are automatically and without notice redirected to Gary Ptak's website, [www.garyptak.com](http://www.garyptak.com).

55. Gary Ptak's home page displays a large prominent PTAK at the top left of his home page; PTAK makes a separate and distinct commercial impression. PTAK is in silver, his first name, GARY, is in a separate color.

56. The Lanham Act defines a trademark as “any word, name, symbol or device, or any combination thereof used by a person... to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source [of] the goods, even if that source is unknown.” 15 U.S.C. § 1127.

57. The United States Patent and Trademark Office recognizes as a trademark an element of a composite that makes *a distinct commercial* and satisfies the other trademark requirements. (15 U.S.C. § 1052 (Lanham Act §2); Trademark Manual of Examining Procedure (TMEP) ¶ 807.)

58. Gary Ptak displays a distinctive, prominent “PTAK” on his website homepage and on all the pages of his website, top left corner.

59. On the website pages of Gary Ptak’s website, PTAK is distinctive, prominent, and makes a distinct commercial impression; PTAK functions as and is a trademark for the goods and services offered on Gary Ptak’s website.

### **Contributory Infringement**

60. On information and belief, Gary Ptak disseminated to others for their use on others’ websites, proprietary collections of Ptak jewelry images. identified by the PTAK trademark and by proprietary Ptak product (style) numbers.

61. On information and belief, in violation of the Court orders to preserve and protect the Company’s intellectual property and/or in violation of the intellectual property sale to Ptak Bros. Jewelry, Inc. and the Restrictive Covenant,, Gary Ptak permitted such use by others to continue past the assignment of intellectual property and goodwill to Plaintiff.

62. Competitors to Ptak Bros., Inc. and to Ptak Bros. Jewelry, Inc. have used proprietary collections of Ptak jewelry items, have used the PTAK trademark, and have salted their web pages with PTAK metatags and metadata, diverting Internet searches and sales from the rightful recipient, Ptak Bros. Inc and thereafter Ptak Bros. Jewelry, Inc.

63. Many wholesale customers of Ptak Bros. retain several of the past Ptak Bros. catalogs.

64. Wholesale customers of Ptak Bros. order from current and past Ptak Bros. catalogs.

65. On information and belief, after the intellectual property assignment to Ptak Bros. Jewelry, Inc., Defendants have received and taken orders from the Ptak Bros. catalogs.

66. On information and belief, after the intellectual property assignment to Ptak Bros. Jewelry, Inc., Gary Ptak has received inquiries and orders based on distinctive Ptak Bros. product (style) numbers.

67. On information and belief, after the intellectual property assignment to Ptak Bros. Jewelry, Inc., Gary Ptak has sold jewelry based on orders using distinctive Ptak Bros. product (style) numbers.

### **Gary Ptak's Infringing November 2006 Catalog**

68. About November 2006 Defendants published a catalog. The catalog continues, augments, and accelerates his earlier infringements and breaches of contract.

69. The special family section of the catalog stresses Gary's and his company's continuity with the Ptak Brothers, the Ptak Bros., Inc. company, and Gary Ptak's work with the Ptak Bros., Inc. company (Exhibit 6).

70. Defendants' November 2006 catalog states that Gary Ptak is "proudly continuing the greater than 60 year Family [capital lettering in original] tradition."

71. The cover of Defendant's November 2006 catalog presents PTAK as a distinct trademark, and adds a TM symbol. On the cover, as on Defendants' website, the word PTAK is separated from the word GARY by being a contrasting and different color. The TM symbol matches the color of the term PTAK, creating the commercial impression that Defendants claim trademark rights in the PTAK mark.

72. Defendants deceptively and misleadingly convey the impression that there was no successor to Ptak Bros., Inc. The catalog states, "Upon information and belief, Gary Ptak, LLC remains the only Ptak-owned and operated jewelry manufacturing firm in existence today."; "Shortly after Gary's departure from the family company, the business is shut down and dissolved. Later, the Company's assets, including the name cultivated by Paul Ptak and his brothers. are liquidated and purchased at auction by ASCO Casting, Inc., of NYC, NY."; "The Company's Book #24 was to be the final catalog produced by the Ptak Family [capital lettering in original] under the original name."

73. On information and belief, Gary Ptak remained an owner of Ptak Bros., Inc. at least until its assets were sold and transferred to Plaintiff.

74. Gary Ptak and his two cousins sold all assets of Ptak Bros., Inc. for one million dollars (1,000,000.00). The assets included the intellectual property, trademarks, and goodwill.

75. Defendants' November 2006 catalog intentionally and willfully trades on the very goodwill that Gary and his cousins sold, through Ptak Bros., Inc., to Plaintiff Ptak Bros. Jewelry, Inc.

76. Defendants' November 2006 catalog misleading and deceptively causes confusion as to the affiliation, connection, or association of Gary Ptak and his company, which he identifies as Gary Ptak LLC. as the rightful successor to the PTAK trademark and goodwill.

**Count I**  
**Cyberpiracy**  
**(15 U.S.C. § 1125 (d))**

77. Plaintiff realleges the above Paragraphs of this Complaint.

78. This Count for cyberpiracy arises under Section 43(d) of the Trademark Act, 15 U.S.C. § 1125 (d).

79. Defendants use a domain name, ptak.com, the non-generic part of which is identical to plaintiff's PTAK trademark.

80. Defendants use a domain name, ptak.com, which is confusingly similar to plaintiff's PTAK BROS trademark.

81. Defendants use a domain name and Internet web address, ptak.com, which is confusingly similar to plaintiff's ptakbros.com website.

82. On information and belief, on or about September 28, 1998, Gary Ptak caused PTAK.com to be registered to him, personally, as an Internet domain.

83. Defendants' use of the ptak.com domain name, at least since August 2004, has been in bad faith.

84. Gary Ptak has had the intent to divert consumers from Plaintiff's website to Defendants' website, and the intent to divert business from Plaintiff to Defendants, all for the commercial profit of Defendants.

85. Defendants' diverting use of the ptak.com domain name creates a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of his website.

**Count II**  
**Unfair Competition and False Designation of Origin**  
**(15 U.S.C. § 1125 (a))**

86. Plaintiff realleges the above Paragraphs of this Complaint.

87. This Count for unfair competition arises under Section 43(a) of the Trademark Act, 15 U.S.C. § 1125 (a).

88. Continually, since before 1950, Ptak Bros. Jewelry, Inc. and its predecessors in interest have used the distinctive PTAK, PTAK BROS., and PTAK BROTHERS trademarks to identify its goods and services, and to distinguish them from those offered by others, by, among other things, prominently displaying the mark on the goods, on catalogs, and in advertising and promotional materials.

89. Ptak Bros.' trademarks have come to indicate to the wholesale and retail jewelry trade jewelry and related goods and services coming from Ptak Bros. As a result of these associations by retail and wholesale purchasers and prospective purchasers and users, Defendants' use of Ptak Trademarks is likely to cause confusion, mistake, and deception within the market.

90. Defendants' use in commerce of the Ptak Trademarks is likely to cause confusion, to cause mistake, and to deceive.

91. Defendants' use in Commerce of the infringing trademarks and deceptive Internet website are likely to cause confusion, or to cause mistake, or to deceive as to the present (post October 2004) affiliation, connection, or association of Defendants with Plaintiff.

92. The unfair competitive acts of Defendants alleged in this Count have been committed with the intent to cause confusion, mistake, and deception.

93. Despite Court order, actual notice, and demand, Defendants refuses to stop the infringements and deceptions.

94. Defendants' infringement has been willful, knowing, and purposeful.

**Count III**  
**New York Common Law Trademark Infringement**  
**(N.Y.G.B.L. § 368-e)**

95. Plaintiff realleges the above Paragraphs of this Complaint.

96. This Count arises under the common law of New York and N.Y. Gen. Bus. Law §368-e.

97. Defendants' use of the Ptak Trademarks is likely to cause confusion, to cause mistake, and to deceive.

98. The infringing acts of Defendants alleged in this Count have been committed with the intent to cause confusion, mistake, and deception and to trade on the good will of Ptak Bros.

99. Defendants' infringements have been willful, knowing, and purposeful.

**Count IV**  
**Unlawful Deceptive Acts and Practices**  
**(N.Y.G.B.L. § 349)**

100. Plaintiff realleges the above Paragraphs of this Complaint.

101. This Count arises under the Consumer Protection From Deceptive Acts and Practices Act. N.Y. Gen. Bus. Law, § 349.

102. Defendants have engaged in deceptive acts and practices in the conduct of their jewelry business.

103. Defendants' deceptive acts and practices have harmed the jewelry purchasing public within New York and throughout the United States.

104. Defendants' deceptive acts and practices have repeatedly, and for many months, harmed the jewelry purchasing public within New York and throughout the United States and have caused harm to the Plaintiff.

105. Defendants' deceptive acts and practices have been with the intent to deceive.

### **Count V** **Breach of Contract**

106. Plaintiff realleges the above Paragraphs of this Complaint.

107. For valuable consideration received, Gary Ptak agreed not to use, in the jewelry business, the Ptak Company name on his own behalf or on behalf of any entity directly or indirectly owned or controlled by him.

108. For valuable consideration received, Gary Ptak agreed not to use, in the jewelry business, the phrase, "Gary Ptak, formerly of Ptak Bros." and like phrases.

109. In violation of the Restrictive Covenant of October 2004, Gary Ptak has used the Ptak Company name on his own behalf and on behalf of his controlled entity, G. Ptak, LLC.

110. In violation of the Restrictive Covenant of October 2004, Gary Ptak has used in the jewelry business on his own behalf or on behalf of G. Ptak, LLC. phrases associating himself



with the former Ptak Bros., such as on his website home page, “Gary spent 14 years honing his craft at Ptak Bros Inc.”

### **Allegation of Damage**

111. Plaintiff has been damaged by the above actions of Defendants, and continues to be damaged, in a sum presently unascertainable by Plaintiff. The damage is to Plaintiff’s business, reputation, and goodwill, and the loss of sales and profits it would have made but for Defendants’ acts. Plaintiff will seek leave of this Honorable Court to amend this allegation when Plaintiff’s damages have been ascertained with certainty, or will request judgment in accord with proof at trial.

112. Defendants continue marketing with infringing trademarks and deceptive business practices, and unless restrained and enjoined, may continue to do the acts complained of, all to Plaintiff’s irreparable damage. Defendants’ acts continue to damage Plaintiff and, unless restrained and enjoined, Defendants may continue to do the acts complained of, all to Plaintiff’s irreparable damage. It would be difficult to ascertain the amount of compensation which could afford Plaintiff adequate relief for such continuing acts, and a multiplicity of judicial proceedings would be required. Plaintiff’s remedy at law is not adequate to compensate it for such future injuries.

## **Prayer for Relief**

WHEREFORE, plaintiff Ptak Bros. Jewelry, Inc. prays for judgment against defendants Gary Ptak and G. Ptak, LLC as follows.

A. For orders preliminarily and permanently enjoining Gary Ptak, G. Ptak LLC, any associated jewelry businesses of Gary Ptak, and their officers, agents, servants, employees, members, attorneys and those persons, firms or corporations, acting in concert and participation with them, successors, and assigns, from:

- i) using names, trademarks, and Internet domains confusingly similar to Plaintiff's trademarks, including PTAK, PTAK BROS., PTAK BROTHERS, PTAK.COM, or PTAK.[any first level domain], except they may use "Gary Ptak" provided that use of "Ptak" is consistent with provision A (vii);
- ii) from infringing any of Plaintiff's rights in its trademarks and copyrights;
- iii) identifying itself, himself or his jewelry-related businesses as formerly associated with Ptak Bros., Inc or with a Ptak-named entity, except for "G. Ptak, LLC."
- iv) using any telephone number a component of which spells PTAK when the numbers are translated into standard telephone letters;
- v) using the phrase "Ptak Bros" in association with marketing jewelry and related goods and services;
- vi) from employing deceptive business practices;
- vii) using in marketing jewelry or the jewelry business the term "Ptak" unless as part of the name "Gary Ptak" or "Gary Ptak LLC" and then when used the "Gary" and

the “Ptak” parts of the phrase shall be in similar size, style, color, prominence, and the like, so that “PTAK” does not make a distinct commercial impression.

B. For an order directing the transfer of the Internet domain PTAK.COM registration to Plaintiff.

C. For an order directing the recall and destruction of Defendants’ November 2006 catalog.

D. For an award of damages sufficient to pay for corrective advertising to remedy, in part, the damage to Plaintiff and its goodwill caused by Defendant’s publication and dissemination of the November 2006 catalog.

E. For payment to Plaintiff by Defendants, jointly and severally, of an amount of money to compensate Plaintiff for its damages.

F. For an accounting and payment to Plaintiff by Defendants, jointly and severally, of all profits made and all benefits received by defendants through their infringements of Plaintiff’s intellectual property, their cyberpiracy, their unfair and deceptive acts, and Gary Ptak’s breach of contract, and the award be the maximum allowable under the law by reason of the willfulness of Defendants’ conduct.

G. For an accounting and disgorgement to Plaintiff by Defendants of Defendants’ unjust enrichment.

H. For a finding that Defendants have engaged in cyberpiracy, federal unfair competition and false designation of origin, trademark infringement, unlawful deceptive acts and practices, and breach of contract.

I. For a finding that Defendants’ cyberpiracy, federal unfair competition and false designation of origin, trademark infringement, unlawful deceptive acts and practices, and breach of contract have been willful.

J. For an order that Defendants be required to revise their website to remove its confusingly similar trademarks and prohibited content from all materials to be distributed to the public, or alternatively that any such material intended to be so distributed be destroyed.

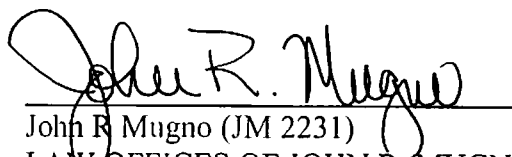
K. For payment to Plaintiff by Defendants, jointly and severally, of Plaintiff's costs in the action.

L. For the Court's finding that this is an exceptional case and an award to Plaintiff against Defendants, joint and severally, of Plaintiff's reasonable attorneys' and legal assistants' fees, expenses, and court costs in this action.

M. For such other relief as the Court shall deem just and proper.

December 4, 2006

Respectfully submitted,



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## List of Exhibits

PX01	New York Court Order	2 Aug 2004
PX02	Bill of Sale. Ptak Brothers, Inc. to Ptak Bros. Jewelry, Inc.	Aug 2004
PX03	Restrictive Covenant	5 Oct 2004
PX04	PTAK Trademark marked in ring	
PX05	Gary Ptak website reached from <a href="http://www.ptak.com">www.ptak.com</a>	Nov 2006
PX06	Gary Ptak catalog Family section and cover)	Nov 2006