

DOOBIE BROTHERS CORPORATION, Pl., vs. PAUL
CURCIO, et al., Defs.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA, ORLANDO DIVISION

PRELIMINARY INJUNCTION

On August 25, 1999, the Court conducted a hearing on Plaintiffs Emergency Motion for Temporary Restraining Order (Dkt. 4) and Motion for Preliminary Injunction (Dkt. 6), both filed on August 24, 1999. Upon considering the parties' arguments and submissions, the Court makes the following findings of fact:

Plaintiff Doobie Brothers Corporation is the holder of rights in and to the federally-registered trademarks THE DOOBIE BROTHERS (serial number 73-270979) and DOOBIES (serial number 73-274395).

Plaintiff has established a substantial likelihood of success on the merits of its claim that the Defendants have infringed its registered trademarks by promoting Defendants/performers Cornelius Bumpus, Chet McCracken and David Shogren as "Original Doobie Brothers" in connection with upcoming musical performances. Further, Plaintiff has established that it will suffer irreparable injury if an injunction is not issued. Specifically, in the absence of an injunction, the Defendants' use of Plaintiff's registered mark in connection with musical performances will continue to create a likelihood of consumer confusion as to the source of origin of the performers' services. Additionally, Plaintiff has demonstrated that the threatened injury to Plaintiff outweighs the threatened harm the injunction may cause the Defendants, and that issuance of an injunction will not disserve the public interest.

Based on the foregoing, it is ORDERED as follows:

1. Defendants Paul Curcio, Autumn Management, Inc., d/b/a Autumn Group; Cornelius Bumpus; Chet McCracken; David Shogren; Ticketmaster - Florida, Inc.; and Ticketmaster Online -

Citysearch, Inc., and their officers, agents, employees, servants, attorneys, and all persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, are hereby RESTRAINED, ENJOINED AND PROHIBITED from advertising, promoting, or referring to the musical performance group composed of Cornelius Bumpus, Chet McCracken and David Shogren as "Original Doobie Brothers," "Doobie Brothers," "Doobies," or any confusingly similar variation, in connection with any performances by the group composed of Cornelius Bumpus, Chet McCracken and David Shogren. However, in future advertisements or promotions, the Defendants may refer to the fact that Cornelius Bumpus, Chet McCracken and David Shogren are former Doobie Brothers.

2. Defendants Ticketmaster - Florida, Inc. and Ticketmaster Online - Citysearch, Inc. shall promptly issue full refunds to consumers who have purchased tickets for concerts in Volusia and Pinellas Counties at which the musical performance group composed of Cornelius Bumpus, Chet McCracken and David Shogren was scheduled to perform.

3. Any notices of cancellation of such concerts shall state that the musical performance group composed of Cornelius Bumpus, Chet McCracken, and David Shogren is not the "Original Doobie Brothers."

4. Defendants Paul Curcio; Autumn Management, Inc., d/b/a Autumn Group; Cornelius Bumpus; Chet McCracken; and David Shogren are hereby RESTRAINED, ENJOINED AND PROHIBITED from selling any merchandise, products or goods bearing the trademarks "Doobie Brothers" or "Doobies," or any confusingly similar variation, without prior permission of the Court.

5. This Preliminary Injunction is conditioned on Plaintiff posting a bond in the sum of \$20,000 with the Clerk of Court on or before 4:00 p.m. on Monday, August 30, 1999.

DONE and ORDERED in Orlando, Florida this 25th day of August, 1999.

ANNE C. CONWAY

UNITED STATES DISTRICT JUDGE