

continues its prestigious tradition today as a biennial golf tournament between the top U.S. and European golfers.

3. Defendant SGH currently uses The PGA of America's famous RYDER CUP® mark, without permission from The PGA of America, on its website at www.sghgolf.com, as well as in promotional materials for its own custom vacation, travel, and hospitality golf packages to the RYDER CUP® tournament ("Golf Packages"). These uses infringe and dilute The PGA of America's famous and valuable mark. Defendant is acting willfully and has caused, and will continue to cause, irreparable harm to The PGA of America.

4. Defendant also purports to offer for sale tickets to the RYDER CUP® tournament on its website, despite knowing that its resale of such tickets is unauthorized and voids these tickets.

5. Defendant has knowingly made these false and misleading statements, and in doing so has deceived, and is likely to deceive, a substantial portion of visitors to the www.sghgolf.com website as well as the recipients of its promotional materials. Defendant's willful misconduct is causing immediate and irreparable harm to The PGA of America requiring injunctive relief and monetary damages.

6. As noted above, this suit is the second such complaint brought against the Defendant in this Court. The PGA of America filed its first complaint, styled *The Professional Golfers' Association of America v. Scottish Golf Holidays, Inc.*, Case No. 1:07cv513, on July 2, 2007. The PGA of America voluntarily dismissed the suit, but only after SGH agreed to a settlement prohibiting its unauthorized use of the RYDER CUP® mark (the "Settlement Agreement"). Defendant's infringement as described above breaches the terms of the parties' settlement agreement.

7. In addition, Defendant's unauthorized use of the RYDER CUP® mark and its false suggestion that it is authorized by Plaintiff to offer packages to the RYDER CUP® tournament, significantly erode the goodwill that The PGA of America has spent considerable time and many millions of dollars throughout the better part of a century developing.

JURISDICTION AND VENUE

8. This action is based on Sections 32, 43(a) and (c) of the Lanham Act, 15 U.S.C. §§ 1114, 1125(a) and (c), Ohio Revised Code Section 4165.01 et seq., and the common law of Ohio.

9. This court has jurisdiction over the subject matter of this action pursuant to: (i) 28 U.S.C. §§ 1331, 1332, 1338(a), 1338(b) and 15 U.S.C. § 1121, and has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a). The amount in controversy exceeds \$75,000.00.

10. Venue is proper under 28 U.S.C. § 1391(b) and (c) because Defendant resides in this district and a substantial part of the events giving rise to the claims occurred in this district.

THE PARTIES

11. Plaintiff, The Professional Golfers' Association of America, is a non-profit corporation duly organized and existing under the laws of Florida with its principal place of business at 100 Avenue of the Champions, Palm Beach Gardens, Florida 33418.

12. Upon information and belief, Defendant Scottish Golf Holidays, Inc. d/b/a SGH Golf Inc. is a corporation duly organized and existing under the laws of Ohio with its principal place of business at 9403 Kenwood Road, Suite C110, Cincinnati, Ohio 45242.

BACKGROUND

A. Plaintiff's Famous RYDER CUP® Mark

13. The PGA of America was founded in 1916 and is the world's largest working sports organization, made up of more than 28,000 men and women golf professionals.

14. The RYDER CUP® tournament is a professional golf tournament hosted by The PGA of America and played biennially between the United States and Europe, with the location of that tournament rotating between the two continents. In association with the RYDER CUP® tournament, The PGA of America has developed numerous trademarks and service marks consisting of or incorporating the words “Ryder Cup” as depicted in Exhibit A, which have become increasingly famous and valuable. The public associates these marks exclusively with The PGA of America in the United States.

15. The RYDER CUP® mark has been used in connection with this unique golf tournament since its inception in 1927.

16. The PGA of America has developed substantial goodwill in its mark in the fields of organizing and conducting of tournaments, and golf-related travel, events, products and services, through longstanding, extensive use.

17. The RYDER CUP® mark is the subject of Registration Nos. 2,874,226 for use in connection with organizing and conducting golf tournaments in the United States and 1,694,491 for wearing apparel and sporting equipment, with the United States Patent and Trademark Office.

18. These registrations are in full force and effect and many have become incontestable pursuant to 15 U.S.C. § 1065.

19. The RYDER CUP® mark symbolizes the excellent reputation and prestige of The PGA of America. The PGA of America has expended substantial sums in advertising and using the RYDER CUP® mark and has made substantial investments in protecting this mark.

B. Plaintiff's Ticket Procedures

20. RYDER CUP® tournament tickets are coveted items. The PGA of America does not authorize the resale or repackaging of its tickets. All tickets sold for the RYDER CUP®

tournament in the United States are sold through The PGA Tournament Corporation, Inc., a licensed subsidiary of The PGA of America, or through Premier Golf, LLC (“Premier Golf”), a licensee in the United States that sells RYDER CUP® tournament Golf Packages including tickets to the RYDER CUP® tournament.

21. To ensure optimal customer service, to protect its substantial investment and resultant goodwill in the RYDER CUP® mark, and to minimize instances of fraud and price escalation, The PGA of America maintains a high level of control over ticket sales to the RYDER CUP® tournament.

22. The tickets constitute revocable licenses. The PGA of America reserves the right to revoke such licenses, in its sole discretion, at any time and for any reason, including violation of the terms upon which the licenses are granted.

23. Specifically, The PGA of America does not sell tickets to resellers or repackagers. The tickets themselves, as well as the notification letters sent to winners of the RYDER CUP® tournament ticket lottery, contain express restrictions against resale, redistribution, and repackaging, providing: “any resale, redistribution or repackaging of tickets is expressly prohibited, inclusive of but not limited to including tickets in travel or hospitality packages.” Any further resale of a ticket constitutes a violation of that express restriction and can result in denial of entry to the event.

24. Tickets to the RYDER CUP® tournament are generally not printed until approximately three (3) weeks prior to the event.

C. **Defendant’s Unlawful Use of the RYDER CUP® Trademarks and Service Marks**

25. Long after The PGA of America’s adoption, use and federal registration of the famous RYDER CUP® mark, Defendant commenced using the RYDER CUP® mark on its

website at www.sghgolf.com, as well as in promotional emails for its own Golf Packages to the RYDER CUP® tournament.

26. Defendant prominently displays the RYDER CUP® mark in conjunction with its offering of Golf Packages throughout its website. There, Defendant offers sample itineraries and price estimates for golf trips to the 2008 RYDER CUP® tournament. These itineraries purport to include tickets and admission to the 2008 RYDER CUP® tournament. Representative examples of Defendant's uses of the RYDER CUP® mark throughout its website are attached hereto as Exhibit B.

27. Moreover, Defendant sends out mass, unsolicited emails advertising "Ryder Cup Packages." These emails invite recipients to visit Defendant's website to view sample itineraries, and provide a number to call and inquire further about the Defendant's Golf Packages. These emails have already resulted in confusion among sophisticated executives of at least one FORTUNE 500® company as to whether The PGA of America sponsors, endorses, or otherwise is affiliated with Defendant or its Golf Packages, or as to whether Defendant is an official sponsor of the RYDER CUP® tournament. A representative copy of such an email is attached hereto as Exhibit C.

28. Defendant is clearly selling, or offering to sell, tickets to the RYDER CUP® tournament at prices well in excess of those that The PGA of America itself charges. Defendant's site warns customers that ticket prices will be higher than face value as "prices reflect the difficulty and cost involved when obtaining tickets to popular events." *See* Exhibit B. Defendant's site provides a telephone number to call and purchase Golf Packages to the RYDER CUP® tournament. These packages purport to provide tickets and admission to the 2008 RYDER CUP® tournament. *See* Exhibits B and C.

29. Defendant's packages to the RYDER CUP® tournament have proven extremely popular. As of the date of this suit, Defendant's website advertised that it has already sold out of Golf Packages costing up to \$3,987.00 and over 65 miles from the event, notwithstanding the fact that the tournament is still several months away.

30. At no time has Defendant ever had a license or permission from The PGA of America to sell tickets to the RYDER CUP® tournament or to any other event hosted by The PGA of America.

31. Defendant purports to offer tickets to the RYDER CUP® tournament as part of its Golf Packages when the tickets themselves have not yet been printed or distributed.

32. Defendant further makes the misrepresentation that tickets it provides will gain the bearers thereof admission to the RYDER CUP® tournament. As noted above, however, all tickets contain a notice that "any resale, redistribution or repackaging of tickets is expressly prohibited, inclusive of but not limited to including tickets in travel or hospitality packages." Defendant's actions in reselling and repackaging the tickets thus void the tickets, and, at The PGA of America's sole discretion, the bearers thereof could be denied admission to the RYDER CUP® tournament.

33. On information and belief, Defendant's actions surrounding the marketing and sale of RYDER CUP® tickets are knowing, willful and intentional.

34. These actions attempt to mislead and deceive consumers in an effort to capitalize on The PGA of America's goodwill and prestigious reputation. Defendant's actions have deceived, and are likely to deceive, the public.

D. The PGA of America's Previous Suit Against Defendant and Its Attempts To Resolve Defendant's Resumed Infringement

35. As noted above, this is the second suit that The PGA of America has brought against Defendant in this Court.

36. As part of the Settlement Agreement reached in the first such suit, the Defendant agreed to undertake the following actions detailed in Sections 1, 2, and 3 of the Settlement

Agreement:

1. Removal of RYDER CUP® Marks. SGH shall immediately and permanently remove all confusing uses of the RYDER CUP® Marks (including the word mark and the trophy) from its website located at www.sghgolf.com, from any other website, and in any promotional, marketing or informational materials. "Confusing uses" include any depiction of the RYDER CUP trophy on SGH's website, any heading inclusive of "RYDER CUP," and other uses of the words RYDER CUP standing alone and not utilized in a sentence.
2. Ticket Sales. SGH shall not offer tickets for the RYDER CUP® Tournament for sale. The PGA of America does not authorize resale or repackaging of its tickets. It will not sell its tickets to those who repackage or resell them. The tickets have express restrictions about resale and repackaging. Tickets for the RYDER CUP® Tournament are only sold through a PGA of America subsidiary and one authorized third-party licensee, Premier Golf, LLC.
3. Removal of Ticket Sales Information. In light of paragraph 2, SGH must remove any language on its website and on[/]in any of its other promotional, marketing or informational materials that sells, or offers to sell, or suggests that SGH is in possession of RYDER CUP® Tournament tickets. SGH's itinerary packages cannot include tickets to the RYDER CUP® Tournament event. SGH's website, or any other company advertisement or literature cannot suggest that SGH sells or offers to sell or is in possession of tickets to the RYDER CUP® Tournament.

A copy of the executed Settlement Agreement is attached hereto as Exhibit D.

37. Through Defendant's continuing or resumed infringement and purported ticket offerings and suspected sales described above, Defendant has breached the terms of the Settlement Agreement.

38. The Settlement Agreement fully preserves The PGA of America's rights to sue Defendant for any alleged violations of the Lanham Act and all other applicable laws.

39. On or about May 22, 2008, The PGA of America learned of Defendant's resumed or continuing infringement when it received an inquiry from an executive at a FORTUNE® 500 company asking about an email sent by Defendant promoting its Golf Packages to the RYDER CUP® tournament.

40. On May 28, 2008, outside counsel for The PGA of America sent a letter to Defendant demanding immediate compliance with the terms of the Settlement Agreement.

41. Plaintiff's counsel subsequently called Defendant's President, Mr. Ian Jack, in an effort to resolve this matter. Mr. Jack indicated that he was purchasing Golf Packages and tickets to the RYDER CUP® tournament from Premier Golf and from Ryder Cup Travel Services. These entities are the only companies licensed by The PGA of America and The PGA European Tour, respectively, to provide Golf Packages to the RYDER CUP® tournament.

42. Upon information and belief, however, Defendant has not purchased any such Golf Packages from either Premier Golf or Ryder Cup Travel Services. Moreover, Defendant characterizes every Golf Package on its site that actually corresponds to those offered by legitimate licensees as "sold out." The remaining Golf Packages offered by Defendant, namely, those involving lodging at the Staybridge Suites, the Jameson Inn, or in private housing, are simply not offered by any authorized licensee.

43. Upon information and belief, Defendant advertises genuine Golf Packages offered by authorized licensees (that are already fully booked) in order to funnel consumers to the unauthorized Golf Packages actually offered by Defendant.

44. Regardless of whether Defendant is able to obtain Golf Packages and tickets through authorized channels, the Settlement Agreement nonetheless explicitly forbids Defendant from selling tickets to the RYDER CUP® tournament, or from including any “language on its website and on[/]in any of its other promotional, marketing or informational materials that sells, or offers to sell, or suggests that [Defendant] is in possession of RYDER CUP® Tournament tickets.” Despite its most recent assertions, Defendant’s Golf Packages to the RYDER CUP® tournament have not been purchased through authorized channels. In view of the foregoing, Defendant is clearly in breach of the Settlement Agreement.

**COUNT ONE - BREACH OF CONTRACT
UNDER OHIO COMMON LAW**

45. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

46. As stated above, the parties entered into a Settlement Agreement to resolve the previous lawsuit initiated by The PGA of America against Defendant, styled *The Professional Golfers’ Association of America v. Scottish Golf Holidays, Inc.*, Case No. 1:07cv513. This agreement was duly executed in writing by both parties.

47. The Settlement Agreement between the parties is a valid contract, supported by adequate consideration. The PGA of America at all times has performed its obligations under the Settlement Agreement.

48. Through infringing the RYDER CUP® mark and offering tickets to the RYDER CUP® tournament as recounted above, Defendant has breached the Settlement Agreement under Ohio common law, thereby injuring The PGA of America. Defendant is therefore liable for injunctive relief and The PGA of America is entitled to damages in an amount not yet determined.

**COUNT TWO - TRADEMARK AND SERVICE MARK INFRINGEMENT
UNDER SECTION 32 OF THE LANHAM ACT**

49. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

50. Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)(a), prohibits any person from using in commerce, without the consent of the registrant,

any reproduction, counterfeit, copy or colorable imitation of a registered trademark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive. . . .

51. The RYDER CUP® mark is federally registered. This mark is highly distinctive and is associated in the minds of the public solely with The PGA of America.

52. Based on The PGA of America's extensive advertising, sales, membership and popularity, the RYDER CUP® mark has also acquired secondary meaning so that the public associates this mark exclusively with The PGA of America.

53. Defendant uses the RYDER CUP® mark in commerce by displaying this mark, on its website and in promotional materials in connection with the advertising and offering for sale of Golf Packages to the 2008 RYDER CUP® tournament.

54. Defendant has intentionally used The PGA of America's registered marks without The PGA of America's consent or authorization. Defendant's use of the RYDER CUP® mark in connection with the sale of its Golf Packages is likely to cause confusion and mistake in the minds of the public, leading the public to believe that Defendant's Golf Packages emanate from or originate with The PGA of America, or that The PGA of America approves of or sponsors, or otherwise associates itself, with Defendant or its Golf Packages.

55. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT THREE - FALSE DESIGNATION OF ORIGIN
AND UNFAIR COMPETITION UNDER SECTION 43(A) OF THE LANHAM ACT**

56. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

57. Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) provides that:

Any person who, on or in connection with any goods or services, . . . uses in commerce any word, term, name, symbol or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which

(1) is likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities, . . .

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

58. By making unauthorized use, in interstate commerce, of the RYDER CUP® mark, Defendant has used a "false designation of origin" that is likely to cause confusion, mistake, or deception as to the affiliation or connection of Defendant with The PGA of America and as to the sponsorship or approval of Defendant's services by The PGA of America, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

59. Defendant's wrongful acts will continue unless enjoined by this Court.

60. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT FOUR - FALSE DESCRIPTION AND REPRESENTATION
UNDER SECTION 43(A) OF THE LANHAM ACT, 15 U.S.C. § 1125(A)**

61. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

62. Defendant has made false and/or misleading statements of fact, both expressly and implicitly representing that Defendant currently has and will have for sale RYDER CUP® tournament tickets, that these tickets will be sold as part of its Golf Packages, and that these tickets will provide purchasers admission to the RYDER CUP® tournament. Such statements also falsely imply that Defendant is an authorized seller of tickets for events hosted by The PGA of America.

63. Defendant has disseminated the statements described above into interstate commerce.

64. Defendant's statements have actually deceived a substantial segment of the audience exposed to them or have the capacity for such deception. Such statements are material in that they have affected or will likely affect consumers' purchasing decisions.

65. By the acts described above, Defendant has made a "false or misleading description or representation of fact" in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

66. Defendant's wrongful acts will continue unless enjoined by this Court.

67. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT FIVE - DILUTION UNDER
SECTION 43(C) OF THE LANHAM ACT**

68. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

69. The PGA of America is the exclusive owner of RYDER CUP® mark nationwide.

70. The PGA of America's RYDER CUP® mark is famous and distinctive within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(a).

71. The RYDER CUP® mark is an inherently distinctive mark that has been in use for many years nationwide and plays a prominent role in The PGA of America's advertising across many different media. This mark was famous long before Defendant misappropriated RYDER CUP® for use on its website and in its promotional materials. The RYDER CUP® mark has garnered widespread publicity and public recognition nationwide.

72. Defendant's use of the RYDER CUP® mark on its website and in promotional materials constitutes commercial use, in commerce of such mark. The PGA of America has not authorized or licensed this use.

73. Such use actually dilutes, or is likely to dilute, the distinctive quality of the RYDER CUP® mark and lessens the capacity of this mark to identify and distinguish The PGA of America's goods and services. Defendant's unlawful use of the RYDER CUP® mark causes blurring in the minds of the consumers between The PGA of America and Defendant, thereby lessening the value of the RYDER CUP® mark as a unique identifier of RYDER CUP® goods and services.

74. By the acts described above, Defendant has intentionally and willfully diluted the distinctive quality of the famous RYDER CUP® mark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

75. Defendant's wrongful acts will continue unless enjoined by this Court.

76. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT SIX - UNFAIR COMPETITION AND
DECEPTIVE TRADE PRACTICES
UNDER OHIO REVISED CODE SECTION 4165.01 ET SEQ.**

77. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

78. Based on The PGA of America's extensive advertising, sales, membership and popularity, the RYDER CUP® mark has acquired secondary meaning so that the public associates this mark exclusively with The PGA of America.

79. Defendant, through use of the RYDER CUP® mark on its commercial website and throughout promotional materials, is causing a likelihood of confusion as to the source, sponsorship, affiliation, connection, association or approval of Defendant by or with The PGA of America.

80. Defendant's wrongful acts will continue unless enjoined by this Court.

81. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT SEVEN - FALSE ADVERTISING
UNDER OHIO REVISED CODE SECTION 4165.01 ET SEQ.**

82. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

83. Defendant has made false and/or misleading statements of fact, both expressly and implicitly representing that Defendant currently has and will have for sale RYDER CUP® tournament tickets, that these tickets will be sold as part of its Golf Packages, and that these tickets will provide purchasers admission to the RYDER CUP® tournament. Such statements also falsely imply that Defendant is an authorized seller of tickets for events hosted by The PGA of America.

84. Defendant has disseminated the statements described above into commerce within the State of Ohio.

85. Defendant's statements described above have actually deceived a substantial segment of the audience exposed to them, or have the capacity for such deception. Such statements are material in that they have affected or will likely affect the purchasing decisions of consumers.

86. Defendant's wrongful acts will continue unless enjoined by this Court.

87. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT EIGHT - TRADEMARK AND SERVICE MARK INFRINGEMENT
UNDER OHIO COMMON LAW**

88. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

89. The RYDER CUP® mark is distinctive. Based on The PGA of America's extensive advertising, sales, membership and popularity, the RYDER CUP® mark has also acquired secondary meaning so that the public associates this mark exclusively with The PGA of America.

90. The PGA of America has made continuous use of its RYDER CUP® mark since introducing this mark into U.S. commerce, including in the State of Ohio, decades ago.

91. Defendant has intentionally used The PGA of America's registered marks without The PGA of America's consent or authorization. Defendant's use of the RYDER CUP® mark in connection with the sale of its Golf Packages is likely to cause confusion and mistake in the minds of the public, leading the public to believe that Defendant's Golf Packages emanate from or originate with The PGA of America, or that The PGA of America approves of or sponsors, or otherwise associates itself with, Defendant or its Golf Packages.

92. Defendant's wrongful acts will continue unless enjoined by this Court.

93. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

**COUNT NINE - UNFAIR COMPETITION
UNDER OHIO COMMON LAW**

94. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

95. By making unauthorized use, in commerce, of the RYDER CUP® mark, Defendant is likely to cause confusion, mistake, or deception as to the affiliation or connection of Defendant with The PGA of America and as to the sponsorship or approval of Defendant's services by The PGA of America.

96. Defendant's use of the RYDER CUP® mark on its website, www.sghgolf.com, and in its promotional materials, causes confusion and mistake, deceives and misleads the purchasing public, trades upon The PGA of America's high quality reputation, and improperly appropriates to Defendant the valuable mark of The PGA of America.

97. Defendant's wrongful acts are intentional and will continue unless enjoined by this Court.

98. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

COUNT TEN - DILUTION
UNDER OHIO COMMON LAW

99. The PGA of America hereby incorporates by reference and realleges each and every allegation contained in each of the foregoing paragraphs.

100. The PGA of AMERICA is the exclusive owner of the RYDER CUP® mark. The PGA of America's RYDER CUP® mark is famous and distinctive.

101. The RYDER CUP® mark is an inherently distinctive mark that has been in use for many years nationwide and plays a prominent role in The PGA of America's advertising across many different media. This mark was famous long before Defendant began using RYDER CUP® on its website. The RYDER CUP® mark has garnered widespread publicity and public recognition in Ohio and elsewhere nationwide.

102. Defendant's use of the RYDER CUP® mark on its website and in promotional materials constitutes commercial use, in commerce, of the RYDER CUP® mark. The PGA of America has not authorized or licensed this use.

103. Defendant's use of the RYDER CUP® mark on its website and in promotional materials actually dilutes, or is likely to dilute, the distinctive quality of that mark and to lessen the capacity of that mark to identify and distinguish The PGA of America's goods and services. Defendant's unlawful use of the RYDER CUP® mark causes blurring in the minds of the

consumers between The PGA of America and Defendant, thereby lessening the value of the RYDER CUP® mark as a unique identifier of RYDER CUP® goods and services.

104. By the acts described above, Defendant has intentionally and willfully diluted the distinctive quality of the famous RYDER CUP® mark in violation of Ohio common law.

105. Defendant's wrongful acts will continue unless enjoined by this Court.

106. Defendant's acts have caused, and will continue to cause, irreparable injury to The PGA of America. The PGA of America has no adequate remedy at law and is thus damaged in an amount not yet determined.

WHEREFORE, The PGA of America prays:

(A) For judgment that:

- (i) Defendant has breached the Settlement Agreement in violation of the common law of Ohio;
- (ii) Defendant has violated Section 32(a) of the Lanham Act, 15 U.S.C. § 1114(a);
- (iii) Defendant has violated Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
- (iv) Defendant has violated Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c);
- (v) Defendant has engaged in unfair competition and deceptive trade practices under Ohio Revised Code Section 4165.01 et seq.;
- (vi) Defendant has engaged in false advertising under Ohio Revised Code Section 4165.01 et seq.;
- (vii) Defendant has engaged in trademark and service mark infringement under the common law of Ohio;
- (viii) Defendant has engaged in unfair competition in violation of the common law of Ohio; and
- (ix) Defendant has caused dilution to The PGA of America's marks in violation of the common law of Ohio.

(B) That a preliminary and permanent injunction be issued enjoining and restraining Defendant and its officers, agents, servants, employees and attorneys and all those in active concert or participation with them, from:

- (i) Using any reproduction, counterfeit, copy or colorable imitation of the RYDER CUP® mark to identify any goods or services not authorized by The PGA of America;
- (ii) Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure The PGA of America's business reputation or dilute the distinctive quality of the RYDER CUP® mark or any other marks owned by The PGA of America;
- (iii) Using a false description or representation tending falsely to describe or represent that Defendant has for sale, will have for sale, or may permissibly distribute tickets to the 2008 RYDER CUP® tournament or any other golf event sponsored by The PGA of America, or that any such tickets provided by Defendant will afford purchasers admission to the RYDER CUP® tournament.
- (iv) Making any statement or representation, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, to believe that any products or services distributed, offered or sold by Defendant are in any manner associated or connected with The PGA of America, or are sold, manufactured, licensed, sponsored, approved or authorized by The PGA of America.

(C) That an order be issued directing Defendant to remove from its website as well as from its promotional materials any RYDER CUP® mark or any simulation, reproduction, counterfeit, copy or colorable imitation thereof pursuant to 15 U.S.C. § 1118, and prohibiting Defendant from printing, creating or distributing any tickets or promotional materials containing any RYDER CUP® mark or any mark confusingly similar thereto, and directing Defendant to remove from its website, www.sghgolf.com, any reference, advertisement or claim to Defendant's having or offering tickets for the RYDER CUP® tournament.

(D) That an order be issued directing such other relief as the Court may deem appropriate to prevent the trade and public from deriving any erroneous impression that any

products or services provided, manufactured, sold or otherwise circulated or promoted by Defendant are authorized by The PGA of America or related in any way to The PGA of America's products or services.

(E) For an assessment of the following profits, damages and fees: (i) damages suffered by The PGA of America, trebled, including an award for all profits that Defendant has derived from use of the RYDER CUP® mark, trebled, as well as costs and attorney's fees to the full extent provided for by Section 35 of the Lanham Act, 15 U.S.C. § 1117; (ii) damages and reasonable attorney's fees available pursuant to Ohio Revised Code Section 4154.03; and (iii) actual and punitive damages to the full extent available under the common law.

(F) For an order requiring Defendant to disseminate corrective advertisements, including on its website, www.sghgolf.com, as well as to the recipients of Defendant's electronic mail messages and any other promotional materials, in a form approved by the Court, to acknowledge its violations of the law hereunder, and to ameliorate the false and deceptive impressions produced by such violations.

(G) For attorney's fees and the costs of suit, and for such other and further relief as the Court shall deem appropriate.

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