

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**FREEMANTLE MEDIA, NORTH
AMERICA, INC.,
Plaintiff**

vs.

**BENELUX CORPORATION and
ATHANASES STAMATOPOULOS,
Defendant.**

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CIVIL ACTION NO. A08CA-908LY

Jury Trial Demanded

DEFENDANTS' ORIGINAL ANSWER

COME NOW, Benelux Corporation and Athanases Stamatopoulos, Defendants herein, file this their Original Answer, and would show unto this Honorable Court the following:

**I.
Motion To Dismiss**

1. Defendant Athanases Stamatopoulos avers that at all times relevant to Plaintiff's stated cause of action, he acted solely in his capacity as an officer and representative of Benelux Corporation and conducted no acts or omissions with respect to Plaintiff in his individual capacity. Therefore, Plaintiff has no justiciable cause of action against Defendant Athanases Stamatopoulos personally or in his individual capacity and he moves to dismiss Plaintiff's causes of action against him pursuant to Rule 12(b)(2) and (6) of the Federal Rules of Civil Procedure.

Pleading further, if Plaintiff avers that it has any legal reason to sue Defendant Athanases Stamatopoulos in his individual capacity, Defendant Stamatopoulos moves for a more definite statement of Plaintiff's grounds for his inclusion as an individual Defendant pursuant to Rule 12(e) of the Federal Rules of Civil Procedure.

2. Defendants also assert a Motion To Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and aver that no reasonable patron of Palazzo Men's Club would believe that American Idol sponsored stripping contests at Defendant's venue or had anything to do with Palazzo's stripper idol contests. As the result there has been, as a matter of law, no confusion between the activities of Defendants and any goods or services promulgated by Plaintiff, and Plaintiff's reputation or business has not been damaged or diluted by any of Defendants actions or omissions.

II. **Parties**

3. Subject to the above presented Motion To Dismiss, Defendants admit the allegations stated in paragraphs 1 - 3 of Plaintiff's Original Petition.

III. **Jurisdiction And Venue**

4. Defendants admit the allegations stated in Paragraphs 4 - 5 of the Plaintiff's Original Petition, except Defendants deny that any of their acts and conduct gave rise to any cause of action alleged by Plaintiff.

IV. **Factual Background**

5. Defendants admit the allegations stated in Paragraphs 6 - 7 of Plaintiff's Original Petition, but do not have enough information to either confirm or deny the allegations stated by Plaintiff in Paragraphs 8 - 9 of Plaintiff's Original Petition.

6. Defendants admit the allegations stated in Paragraph 10 of Plaintiff's Original Petition, except they deny that Defendant Stamatopoulos is the "sole owner" of Defendant Benelux and deny

that “all decisions regarding the operation of Palazzo Men’s Club including decisions regarding advertisements and promotions of events held at Palazzo Men’s Club are made....solely by Defendant Athanases Stamatopoulos.”

7. Defendants admit that they have stripper idol contests; however, they deny the remaining allegations stated in Paragraph 11 of Plaintiff’s Original Petition and affirmatively state that the alleged American Idol logo has been removed from any web-site, publication or advertisement associated with Palazzo Men’s Club.

8. Defendants deny the allegations stated in Paragraphs 12 - 14 of Plaintiff’s Original Petition and say that there is no likelihood of confusion between Defendants’ activities and any mark, goodwill, reputation services or products of Plaintiff. No reasonable patron of Palazzo Men’s Club would believe that Palazzo had anything to do with American Idol, nor would any reasonable patron of Palazzo believe that American Idol was sponsoring or participating in stripper contests at Defendants’ venue. And contrary to Plaintiff’s representations, Defendants have stopped using any logo or mark that may be interpreted as confusingly similar to Plaintiff’s mark or logo.

V.
Causes of Action

9. Defendants deny in their entirety the allegations stated in Paragraphs 15 - 18 of Plaintiff’s Original Petition and say that Plaintiff has suffered no injury by reason of any of Defendants’ actions, nor is Plaintiff entitled to any injunctive relief.

VI.
Allegations of Violation Of Trademark Infringement
And Unfair Competition Under Texas Law

10. General Denial - Defendants generally deny each and every, all and singular, of Plaintiff's allegations that they violated any Texas law and demand strict proof of any violation by the preponderance of the evidence. Subject to their general denial, Defendants specifically deny that they have committed any act in violation of Texas law which has injured Plaintiff in any manner and deny that they have obtained any unjust profits or unjust enrichments as the result of their activities; therefore, Defendants categorically deny the allegations stated in Paragraphs 19 - 25 of Plaintiff's Original Petition and deny Plaintiff is entitled to any accounting, any injunctive relief, or any damages, whether they be punitive or actual.

VII.
Request For Monetary Relief

11. Defendants specifically deny all the allegations stated in Paragraphs 26 - 29 of their Original Petition and deny they owe any sum of money to Plaintiff.

12. Defendants admit that a jury trial herein is appropriate.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that Plaintiff's causes of action be dismissed, that Defendant Stamatopoulos be dismissed as a party hereto and pray that Plaintiff take nothing by its claims and that they go hence with their costs without day. Defendants also pray for all such other and further relief to which they may be justly entitled, both at law and in equity.

Respectfully submitted,

/S/ James W. George

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on the 26th day of January, 2009, I electronically filed the foregoing Defendants' Original Answer with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below-identified counsel:

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/S/ James W. George

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