

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

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GALLERIA, INC.,

ENTERED

OCT 14 1999

Plaintiff,

versus

Michael N. Milby, Clerk

Civil Action No. H-99-620

GALLERIA DIPLOMAT ASSOCIATION, INC.,
dba GALLERIA DIPLOMAT HOMEOWNERS
ASSOCIATION,
Defendant.

Agreed Final Judgment And Permanent Injunction

1. Defendant's use of the name "GALLERIA" as part of the trade name and service mark for its business is likely to cause confusion as to defendant's affiliation with plaintiff or with plaintiff's famous real estate developments.

2. Defendant is ordered, pursuant to 15 U.S.C. § 1118, to deliver up for destruction to plaintiff's General Counsel, at Galleria, Inc., 2800 Post Oak Boulevard, Suite 5000, Houston, Texas, 77056-6110, within one hundred and twenty (120) days after entry of this judgment, all literature, signs, labels, prints, packages, wrappers, containers, advertising materials, stationery, any other items in its possession or control which contain the infringing designation "GALLERIA", either alone or in combination with other words or symbols, and all plates, molds, matrices, masters, and other means of making any of the infringing items, save and except the original and governing documents of defendant's condominium development.

3. Within one hundred and twenty (120) days after entry of this judgment defendant shall take the following actions. If defendant uses "GALLERIA" in a d/b/a, defendant shall (a) file a withdrawal certificate withdrawing the assumed name which has "GALLERIA" as part of the name, and (b) file a new assumed name certificate which does not have "GALLERIA" as part of the name. If defendant uses "GALLERIA" in a corporate name, defendant shall (a) change the name of the corporation to delete the term "GALLERIA", and (b) file amended articles of incorporation with the Texas Secretary of State, indicating the name change. For any telephone directory in which defendant has a listing which uses the name "Galleria", defendant shall request the telephone directory company to change the name of defendant's business to a name that does not use the name "Galleria". For any Internet domain name owned by defendant, which domain name includes the name "Galleria", defendant shall request the Internet domain name registrar to change the name of defendant's domain name to a name that does not use the name "Galleria". Defendant shall provide plaintiff's General Counsel and plaintiff's Attorney-in-Charge with a copy of all paperwork associated with the withdrawal certificate, the new assumed name, amended articles of incorporation, the filing of those articles with the Texas Secretary of State, and the requests to the telephone directory companies, and to the Internet domain name registrars.

4. Defendant and its agents, servants, and employees, and all others in concert or participation with them, are enjoined from using (a) "Galleria Area"; or (b) the name "GALLERIA" as a part of defendant's trade name, or in any other manner, except as part of a truthful informational statement regarding the location of defendant's

business with respect to the GALLERIA multi-use development, in which statement the word "Galleria" shall appear in the same size, format, color, and type style as the other words in the statement. Defendant shall be in compliance with these provisions no later than one hundred and twenty (120) days after entry of this judgment.


5. Defendant shall change its equipment and materials used for printing its invoices, so that one hundred and twenty (120) days after entry of this judgment, its invoices will be in conformance with this judgment.

6. Effective immediately, defendant shall not create, order, or contract for any invoices, literature, posters, cards, labels, prints, packages, wrappers, containers, advertising materials, or other items which contain the term "GALLERIA" in any form, except as specifically permitted in this judgment. Defendant shall deliver a written certification to plaintiff's General Counsel and to plaintiff's Attorney-in-Charge, one hundred and twenty (120) days after entry of this judgment, that defendant has changed all invoices, listings, advertisements, and signs to be in conformance with this judgment.

7. Plaintiff is allowed all such writs and processes as may be necessary to enforce this judgment. Further, in the event plaintiff brings contempt proceedings to enforce this judgment, plaintiff shall be entitled to recover all reasonable attorney's fees incurred in any such proceedings.

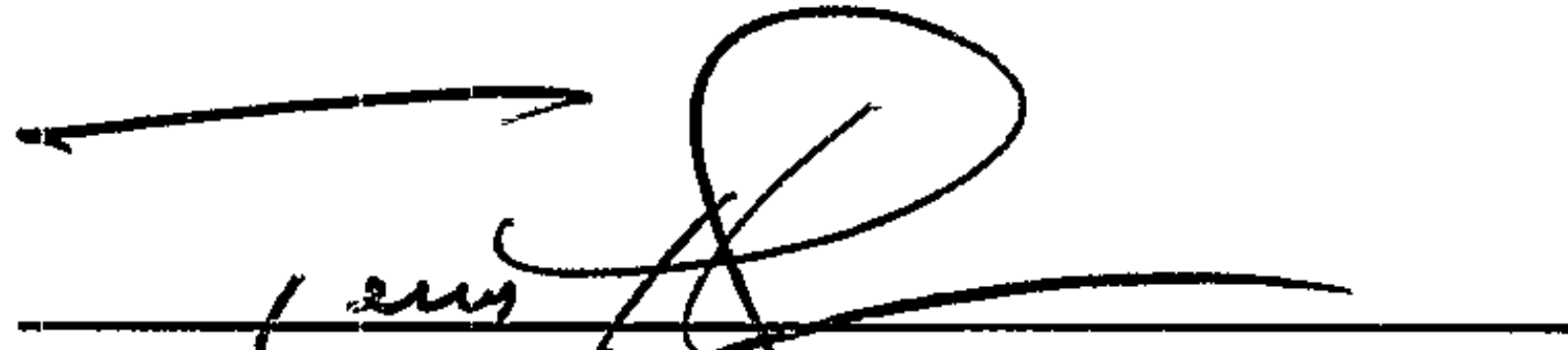
8. All relief not expressly granted is denied.

Signed this 13th day of October, 1999.



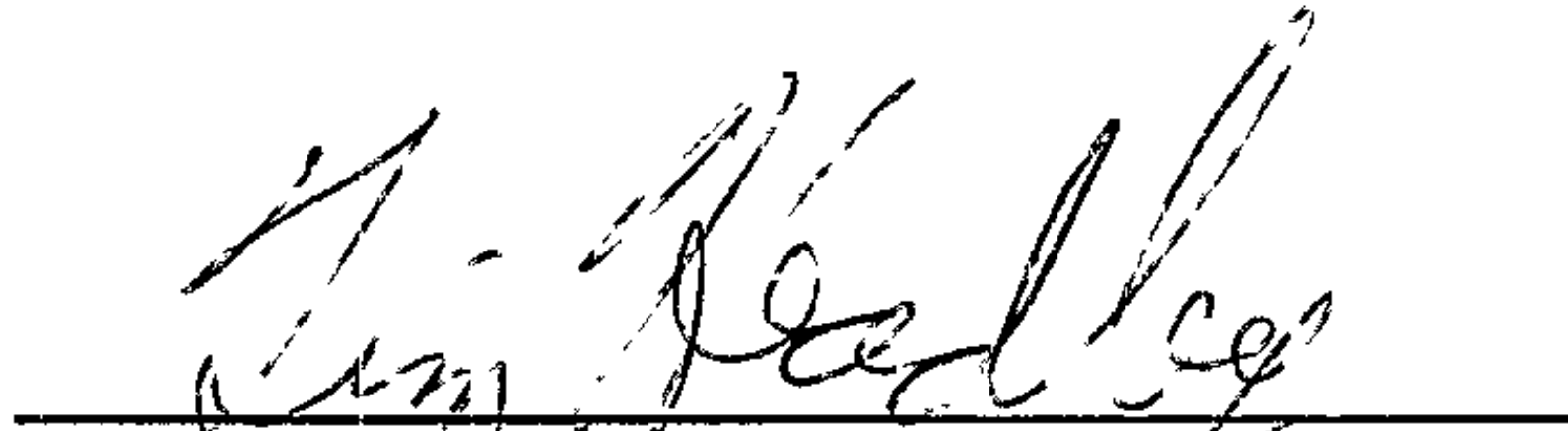
Kenneth M. Hoyt
United States District Judge

Approved as to form and substance:



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