

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

AOL LLC and PLATFORM-A, INC.,

Plaintiffs,

v.

ADVERTISE.COM, INC. f/k/a INTERNEXT
MEDIA CORP.,

Defendant.

Civil Action No. 1:09CV910-LMB/TCB

AOL'S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65(a), Plaintiffs AOL LLC and Platform-A, Inc. (together with their predecessors, "AOL"), owners of the trademarks ADVERTISING.COM and AD.COM, move for a preliminary injunction enjoining defendant Advertise.com, Inc. ("Advertise.com"), all entities under its control, its parents, subsidiaries, licensees, owners, directors, officers, partners, assigns, related entities, predecessors, successors, employees, representatives, trustees, receivers, and agents, and any other persons or entities who are in active concert or participation with any of the foregoing, from:

1. using, selling, offering for sale, holding for sale, advertising or promoting any goods or services under or in connection with any trade name, trademark, service mark, or other designation of origin that is comprised in whole or in part of the ADVERTISE.COM Designation; or

2. doing any other act or thing that is likely to induce the belief that Advertise.com's services, or activities are in some way connected with AOL or AOL's business, or that is likely to injure or damage AOL or its ADVERTISING.COM and AD.COM Marks.

AOL has satisfied the requirements for a preliminary injunction, as set forth in *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365, 374 (2008) and *The Real Truth About Obama, Inc. v. FEC*, 2009 U.S. App. LEXIS 17437, at *6 (4th Cir. Aug. 5, 2009), namely:

1. AOL is likely to succeed on the merits in its claims
2. AOL is likely to suffer irreparable harm absent preliminary injunctive relief;
3. The balance of equities tips in AOL's favor; and
4. An injunction favors the public interest.

AOL's Motion is based on Federal Rule of Civil Procedure 65(a), the attached memorandum, the Affidavits of Eric Bosco, Robert Tyler, Anna Hitchins, Marni Kleiman, Robert Sopkic, Diane Harding and Austin Davis, the other pleadings, records and papers on file in this action, and such further evidence and argument as may be properly presented in this matter.

DATED: September 11, 2009

Respectfully submitted,

AOL LLC and PLATFORM-A, INC.

By Counsel

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CERTIFICATE OF SERVICE

I certify that on September 11, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a Notification of Electronic Filing (NEF) to the following:

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