

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DELTA HEALTH CENTER, INC.

PLAINTIFF

VS.

CIVIL ACTION NO. 4:21-CV-077-DMB-JMV

DELTA REGIONAL MEDICAL CENTER

DEFENDANT

COMPLAINT

Delta Health Center, Inc. (“Delta Health”) files this Complaint against Delta Regional Medical Center dba Delta Health System (“DRMC”), alleging as follows:

INTRODUCTION

1. This action is for trademark infringement, dilution, and unfair competition under the Federal Trademark Act of 1946, 15 U.S.C. § 1051 *et seq.* (the “Lanham Act”), the trademark and anti-dilution laws of Mississippi, and common law, arising from DRMC’s use and/or planned use of **Delta Health System, Delta Health – The Medical Center, Delta Health**, and any other variant of “Delta Health” (“DRMC Marks”).

2. Delta Health seeks equitable and any other relief from DRMC’s violations of Delta Health’s trademark rights in the following marks: **Delta Health Center** (U.S. Appl. No. 90732683; Miss. Registration No. 86992; common law); **Delta Health Center** (logo) (U.S. Appl. No. 90735647; common law); and **Delta Health** (common law) (the “Delta Health Marks”). Long before DRMC’s use and/or planned use of the DRMC Marks, Delta Health extensively used and promoted the Delta Health Marks in various ways through various advertising mediums.

3. DRMC’s use of the DRMC Marks is likely to cause, and has caused, customer confusion, dilution, and other irreparable injury to Delta Health’s established trademark rights in the Delta Health Marks, absent relief from this Court.

4. Delta Health demands a trial by jury on all issues so triable.

PARTIES

5. Delta Health is a non-profit corporation organized under the laws of the State of Mississippi, with its principal place of business at 702 Martin Luther King Road, in Mound Bayou, Mississippi.

6. DRMC is a community hospital organized under the laws of the State of Mississippi, with its principal place of business at 1400 East Union Street, in Greenville, Mississippi.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction under Section 39 of the Lanham Act, 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338. The Court also has subject matter jurisdiction over Delta Health's related state and common law claims pursuant to 28 U.S.C. §§ 1338 and 1367.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 based on DRMC's residence and a substantial part of the events giving rise to the claim occurred in this judicial district.

FACTS

9. Delta Health was established in 1965 and has been doing business under one or more of the Delta Health Marks since 1985. Delta Health was the first Federally Qualified Community Health Center in America and was designed to provide low or no cost health care to impoverished individuals in the Mississippi Delta. Delta Health offers a variety of health care services without regard for a patient's ability to pay for services rendered.

10. DRMC's website provides that it is "a full service hospital dedicated to serving the Delta since 1953." In late 2020, over Delta Health's objections, DRMC rebranded and began using the name "Delta Health System," and "Delta Health" as a trade names.

11. Delta Health has spent decades establishing itself as a quality low or no cost health care provider in the Mississippi Delta. Delta Health has built a strong reputation for high quality services offered under the Delta Health Marks. Through continuous and exclusive use in commerce, and as a result of marketing, promotion, and advertising, Delta Health's Marks have acquired significant value and have achieved widespread recognition and fame within the community that Delta Health serves. The Delta Health Marks symbolize Delta Health's goodwill and reputation as a quality health care provider in the Mississippi Delta. Individuals have come to know, rely upon, and recognize the Delta Health Marks as a strong indicator of the various services provided in connection with the marks incorporating Delta Health. As a result of Delta Health's efforts, Delta Health Marks are famous, and they became famous prior to the DRMC's rebranding or any other date on which DRMC can rely.

12. Delta Health has spent considerable time and money advertising and promoting its services under the Delta Health Marks.

13. DRMC's marks are substantially and confusingly similar to Delta Health's marks. The services provided by both Delta Health and DRMC are similar. For example, both offer primary care, lab work, x-rays, gynecology, and pediatrics, to name a few. Additionally, Delta Health and DRMC serve the same geographic area - the Mississippi Delta. In fact, both Delta Health and DRMC operate clinics in Greenville and Cleveland, Mississippi. Although both Delta Health and DRMC offer "low cost" medical care, only Delta Health provides services regardless of a patient's ability to pay.

14. On information and belief, the services provided by DRMC under the DRMC Marks would be offered to the same, substantially similar, and/or overlapping classes of people as those to which Delta Health serves and would be offered through the same, substantially similar, and/or overlapping channels of trade as those through which Delta Health offers its services.

15. Delta Health has superior rights in and to the Delta Health Marks because, on information and belief, its usage and/or registration of the marks in connection with the aforementioned services pre-dates DRMC's use of the DRMC Marks.

16. Moreover, Delta Health's registration for **Delta Health Center** (Miss. Registration No. 86992) is valid, subsisting, and in full force and effect, and constitutes *prima facie* evidence of the validity of the mark and of Delta Health's exclusive right to use it in relation to the services identified in the registrations. A copy of the state registration information is attached as Exhibit A. Delta Health has also applied to register **Delta Health Center** (the word mark and the logo) with the United States Patent and Trademark Office (U.S. Appl. Nos. 90732683, 90735647). Copies of the pending applications are attached as Exhibit B.

17. Based on Delta Health's use and registration of Delta Health Marks, DRMC had constructive and actual notice of Delta Health's rights in the marks.

18. DRMC's use of the DRMC Marks for the services identified is likely to cause confusion, mistake, or deception by having the public erroneously assume or believe that such services emanate from the same source or origin as Delta Health's services, or are in some other way associated, endorsed, licensed, authorized, sponsored by or connected with Delta Health, all to Delta Health's damage.

19. DRMC's use of the DRMC Marks would and/or does disparage and falsely suggest a connection with Delta Health and/or Delta Health's services, thereby causing loss, damage, and

injury to Delta Health. The DRMC Marks are the same or a close approximation of the identity of Delta Health, which has done business as Delta Health and Delta Health Center since 1985. Delta Health and Delta Health Center functioned as Delta Health's name, identity, and persona long before DRMC rebranded itself as "Delta Health System" and began using DRMC Marks, including "Delta Health – The Medical Center." DRMC is not connected with Delta Health or the services Delta Health provides under the Delta Health Marks. Because the DRMC Marks are nearly identical to the Delta Health Marks, they falsely suggest a connection with Delta Health.

20. In January 2021, in an effort to prevent infringement or dilution of the Delta Health Marks, Delta Health made demand on DRMC to cease and desist its use or intent to use the DRMC Marks. DRMC refused to comply with Delta Health's demands and continued to use the DRMC Marks.

21. Because DRMC refused to comply with Delta Health's demands, Delta Health asks this Court to protect its goodwill and name. By reason of the similarity between the Delta Health Marks and the DRMC Marks, the fame of the Delta Health Marks, and the exclusive association between the Delta Health Marks and Delta Health, the DRMC Marks dilute and or/are likely to dilute Delta Health's marks by impairing the distinctiveness of the Delta Health Marks to identify services exclusively from Delta Health. Accordingly, the DRMC Marks violate federal law, Mississippi law, and common law.

CAUSES OF ACTION

COUNT I – Federal Trademark Infringement

22. Delta Health repeats and incorporates the allegations contained above.

23. Delta Health owns trademark rights in the following marks: **Delta Health Center** (U.S. Appl. No. 90732683; Miss. Registration No. 86992; common law); **Delta Health Center**

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.