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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
THE JAMES BEARD FOUNDATION, INC.,	:	No.
	:	
Plaintiff,	:	
	:	
v.	:	
	:	COMPLAINT
EPIC-CURE, INC.,	:	
	:	
Defendant.	:	
	:	
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Plaintiff The James Beard Foundation (“Plaintiff” or “JBF”), by and through its attorneys, Debevoise & Plimpton LLP, brings this action against Defendant Epic-Cure, Inc. (“Defendant”), and in support thereof alleges as follows:

INTRODUCTION

1. JBF – the nation’s leading organization dedicated to the culinary arts and advocacy related to the food industry – uses the GOOD FOOD FOR GOOD trademark in connection with charitable food-related services and initiatives, including programs devoted to the prevention of food waste and cultivation of food sustainability.

2. JBF’s mission is to support a food world that is equitable and sustainable. “Fundamentally, JBF is about GOOD FOOD FOR GOOD.”¹ Because this trademark is at the core of JBF’s identity and charitable work, JBF not only uses the mark in connection with its charitable efforts but also prominently displays it on its website and at the top of each of its various social media pages on platforms including Facebook, Instagram, Twitter, TikTok, LinkedIn, Pinterest, and YouTube.

3. JBF is the successor-in-interest of earlier usage of the GOOD FOOD FOR GOOD trademark by two other entities – Good Food For Good (“GFFG”) (a California nonprofit public benefit corporation), which also used the mark in connection with charitable services, and Good Food For Good Inc. (“GFFGI”), which used the mark in connection with ketchup and other condiments.

4. JBF, through its predecessor-in-interest, GFFG, has been using the GOOD FOOD FOR GOOD trademark in connection with charitable food-related services since October 2014.

5. JBF, through its predecessor-in-interest, GFFGI, has been using the GOOD FOOD FOR GOOD trademark in connection with ketchup and other condiments and sauces since as early as March 2018.

6. Defendant is trying to capitalize on the goodwill that JBF and its predecessors-in-interest have cultivated through nearly a decade of use of the GOOD FOOD FOR GOOD trademark. Defendant is using a nearly identical trademark that expropriates the entirety of JBF’s trademark and adds just a single word at the end – GOOD FOOD FOR GOOD PEOPLE. Defendant uses this nearly identical trademark in connection with confusingly similar charitable

¹ See *The James Beard: Good Food for Good*, YouTube at 0:43 (Nov. 9, 2018), <https://www.youtube.com/watch?v=zefV64WAAp8>.

food-related services, including programs related to food rescue and the elimination of food waste.

7. Defendant's attempts to capitalize on the goodwill of the GOOD FOOD FOR GOOD trademark, and relatedly, the renown of JBF as a reliable source of high-quality charitable work in the food space, are likely to confuse consumers into believing that Defendant's services originate from JBF or, alternatively, are affiliated with, or sponsored or approved by, JBF.

8. As a non-profit organization that devotes substantial resources to charitable food-related causes, JBF applauds Defendant's efforts to distribute rescued food and eliminate food waste. Although Defendant's charitable mission is commendable, its lack of respect for JBF's exclusive rights in the GOOD FOOD FOR GOOD trademark is not. JBF has tried to resolve this matter amicably for more than eighteen months and through an opposition proceeding at the Trademark Trial and Appeal Board ("TTAB"), all in order to avoid federal litigation between these two charities. However, Defendant has repeatedly filed frivolous pleadings and motions in the TTAB – all of which the TTAB has rejected – in order to delay the resolution of this dispute. Defendant has left JBF with no choice but to initiate this action to protect the ability of its trademark to serve as a reliable indicator of source.

9. JBF accordingly seeks injunctive relief prohibiting Defendant from continuing to offer charitable food-related services and solicit donations under the GOOD FOOD FOR GOOD PEOPLE trademark. Further, JBF also seeks a declaration stating that (1) JBF's GOOD FOOD FOR GOOD trademark is not merely descriptive and not deceptively misdescriptive; (2) JBF has not abandoned its rights to the GOOD FOOD FOR GOOD trademark, including with respect to its two federal registrations of the mark – United States Trademark Registration Nos. 5,831,912

(the “912 Registration”) and 5,784,858 (the “858 Registration”); and (3) GFFG and GFFGI properly assigned their respective rights to the GOOD FOOD FOR GOOD trademark – including rights to the goodwill of their respective marks – to JBF.

THE PARTIES

10. JBF is a national not-for-profit 501(c)(3) organization incorporated in New York, with its principal place of business at 167 West 12th Street, New York, NY 10011.

11. On information and belief, Defendant Epic-Cure, Inc. is a national not-for-profit 501(c)(3) organization incorporated in Florida, with its principal place of business at 468 High Tide Drive, St. Augustine, FL 35080.

12. According to Defendant’s application to register the GOOD FOOD FOR GOOD PEOPLE trademark before the United States Patent and Trademark Office (“USPTO”) (App. Serial No. 90/199,856), Defendant maintains a mailing address at 49 Oldox Road; Delmar, New York. Attached as Exhibit A is a true and correct copy of App. Serial No. 90/199,856.

13. Defendant has informed JBF that Defendant recently expanded its operations and now operates in Florida, New York, Vermont, and California.

14. Defendant maintains an interactive website accessible to individuals throughout the United States. This interactive website – which includes at least twelve unauthorized uses of the infringing GOOD FOOD FOR GOOD PEOPLE trademark – features active links through which users can donate to Defendant. The website also provides information regarding Defendant’s charitable food-related services.

15. At least one New York consumer has donated to Defendant. The “Supporters” sub-page of Defendant’s website, lists Jeremy Manning, Esq. as a “Director’s Circle” donor of

between \$10,000 and \$24,999.² Mr. Manning also is listed as Defendant’s counsel in connection with App. Serial No. 90/199,856 for the confusingly similar GOOD FOOD FOR GOOD PEOPLE mark. *See* Ex. A. According to that application, Mr. Manning’s address is 49 Oldox Road, Delmar, NY 12054. *Id.*

JURISDICTION AND VENUE

16. This Court has subject matter jurisdiction over Plaintiff’s claims under the Lanham Act, pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

17. This Court has supplemental jurisdiction over Plaintiff’s New York State law claim pursuant to 28 U.S.C. § 1367(a).

18. This Court has personal jurisdiction over Defendant because, on information and belief, Defendant has recently expanded its operations into and transacted business within the State of New York (including, but not limited to, through the solicitation and acceptance of charitable donations in New York).

19. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this District, and a substantial part of the property that is the subject of this action – the GOOD FOOD FOR GOOD trademark – is situated in this District, where JBF is based.

FACTUAL BACKGROUND

JBF AND ITS USE OF THE GOOD FOOD FOR GOOD TRADEMARK

20. JBF is the nation’s leading organization dedicated to the culinary arts and to advocacy related to the food industry. JBF’s mission is to celebrate, support, and elevate the people behind America’s food culture and champion a standard of good food anchored in talent,

² *Supporters*, Epic-Cure, Inc., <https://www.epic-cure.org/blank> (Last visited Apr. 29, 2022).

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