

1 PAUL ALAN LEVY, pro hac vice
ALLISON M. ZIEVE
2 Public Citizen Litigation Group
1600 20th Street, NW
3 Washington, DC 20009
(202) 588-1000
4

CHARLES A. BIRD, State Bar No. 056566
5 Luce, Forward, Hamilton & Scripps LLP
600 West Broadway, Suite 2600
6 San Diego, California 92101-3391
(619) 236-1414
7 Fax No. (619) 232-8311

8 Attorneys for Michael Kremer

9 UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
10

11 BOSLEY MEDICAL INSTITUTE,)	No. 01 CV 1752-WQH (JMA)
)	
12 Plaintiff,)	District Judge Hayes
)	
13 v.)	ANSWER
)	
14)	
)	
15 MICHAEL STEVEN KREMER,)	
)	
16 Defendant.)	

17
18
19 The caption identifying the Amended Complaint as the First Amended Complaint is denied,
20 because the complaint was amended while the case was still before the United States District Court
21 for the Northern District of Illinois, before this case was transferred to this district, and then amended
22 in the fall of 2003. Accordingly, the complaint is actually the Second Amended Complaint.

23 1. It is admitted that this paragraph accurately describes the claims that were originally
24 submitted to the Court. It is denied that any of the Counts are valid, and further denied that Counts
25 I, II and III remain in the case.

26 2. Admitted.
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1 3. The first sentence is admitted. It is admitted that Kremer committed acts in California and
2 that he has web sites at bosleymedical.com and bosleymedicalviolations.com. The allegations of this
3 paragraph are otherwise denied.

4 4. Admitted, except that it is denied that any property is the subject of this action.

5 5. Admitted.

6 6. Admitted.

7 7. Admitted.

8 8. It is admitted that Bosley Medical Institute originally registered each of the trademarks
9 identified in this paragraph, and it is further admitted that the allegations in this paragraph were true
10 at the time the amended complaint was filed. The allegations in this paragraph are otherwise denied.

11 9. It is admitted that defendant Kremer is an adult individual, and admitted that Bosley had
12 the Chestnut Street address, but denied that the address given was the last address known to Bosley
13 at the time the amended complaint was filed. In his December 2002 deposition, Kremer testified that
14 his address was 2981 Woodbury Court, Carlsbad, California, 92008.

15 10. Admitted.

16 11. Admitted.

17 12. Admitted, except that defendant lacks information sufficient to permit him to admit or
18 deny the specific numbers alleged in this paragraph, which are therefore denied..

19 13. Defendant lacks information sufficient to permit him to admit or deny the allegations in
20 this paragraph, which are therefore denied.

21 14. Admitted.

22 15. Admitted.

23 16. Admitted.

24 17. Admitted.

25 18. Admitted.

26 19. Admitted.

27 20. Admitted.

28

- 1 21. Admitted.
- 2 22. Admitted.
- 3 23. Denied.
- 4 24. Denied.
- 5 25. Denied.
- 6 26. Admitted.
- 7 27. Admitted.
- 8 28. Denied.
- 9 29. The first and second sentences of paragraph 28 are admitted. It is admitted that the letter
10 contains a two-week deadline for complying with the letter's demand for money; the third sentence
11 of paragraph 28 is otherwise denied.
- 12 30. Denied.
- 13 31. Admitted, except that the registration was accomplished on Kremer's behalf by a local
14 office and/or franchise of Quik International.
- 15 32. It is admitted that Kremer authored the letter attached as Exhibit H, that he delivered it
16 to Bosley's main office in person, and that the letter contained Kremer's statement that he was going
17 to advance various criticisms of Bosley in a variety of ways, one of which would be a web site. The
18 allegations in paragraph 32 are otherwise denied.
- 19 33. Denied.
- 20 34. Admitted. It is noted that Bosley's claims about bosleymedicalviolations.com have been
21 dismissed, and that dismissal was not appealed.
- 22 35. It is admitted that, in November 2000, Kremer mailed to several Bosley physicians the
23 letter, which speaks for itself, that is attached to this Answer as Exhibit BB. The allegations in
24 paragraph 35 are otherwise denied.
- 25 36. It is admitted that bosleymedical.com is identical to the former Bosley Medical Institute
26 trademark bosleymedical. The allegations in paragraph 36 are otherwise denied. It is noted that the
27 dismissal of Bosley's claims about bosleymedicalviolations.com was not appealed.
- 28

1 37. Denied.

2 38. It is admitted Kremer did not begin to use either of the domain names before January
3 2000. The allegations in paragraph 38 are otherwise denied.

4 39. Denied. It is admitted that Kremer's use of his domain names represents an exercise of
5 his rights under the fair use exceptions to the intellectual property laws, but that he does not own any
6 trademarks in the words that make up the contents of the domain names.

7 40. Admitted.

8 41. Admitted.

9 42. Denied.

10 43. Denied.

11 44. It is admitted that Kremer's web sites both link to Bosley's web site, that, for a period of
12 time, there were links from the bosleymedicalviolations.com web site to other web sites relating to
13 the hair care and hair restoration industry, and that, for a period of time, there were links from the
14 bosleymedicalviolations.com web site to other web sites that contained advertising including
15 advertising from concerns in the hair care and hair restoration industry. The allegations in paragraph
16 44 are otherwise denied. It is noted that the dismissal of Bosley's claims about
17 bosleymedicalviolations.com was not appealed.

18 45. Denied. It is admitted that, many years ago, Kremer received occasional email that
19 appeared to be intended for Bosley.

20 46. It is admitted that, at one point in time, Kremer stopped responding to email that was sent
21 to him in connection with bosleymedical.com. The allegations in paragraph 46 are otherwise denied

22 47. Denied.

23 48. Denied.

24 49. Denied.

25 50. Denied.

26 51. Denied.

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1 52. It is admitted that Kremer hopes that persons in Bosley’s target group of customers will
2 visit his web site to learn the cons as well as the pros of being treated by Bosley. The allegations in
3 paragraph 52 are otherwise denied outright, or denied because defendant lacks information sufficient
4 to permit him to admit or deny the allegations.

5 53. It is admitted that Bosley uses its web site as a marketing channel. The allegations in
6 paragraph 53 are otherwise denied.

7 54. Denied.

8 55. Denied.

9 56. Denied.

10 57. Denied.

11 58. Denied.

12 59. Because this Court has been dismissed from the case, no answer is required to the
13 allegations in this paragraph. To the extent that an answer may be required, the allegations in this
14 paragraph are admitted or denied as specifically answered in the foregoing paragraphs of this answer.

15 60. Because this Court has been dismissed from the case, no answer is required to the
16 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
17 paragraph are denied.

18 61. Because this Court has been dismissed from the case, no answer is required to the
19 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
20 paragraph are denied.

21 62. Because this Court has been dismissed from the case, no answer is required to the
22 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
23 paragraph are denied.

24 63. Because this Court has been dismissed from the case, no answer is required to the
25 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
26 paragraph are denied

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1 64. Because this Court has been dismissed from the case, no answer is required to the
2 allegations in this paragraph. To the extent that an answer may be required, the allegations in this
3 paragraph are admitted or denied as specifically answered in the foregoing paragraphs of this answer.

4 65. Because this Court has been dismissed from the case, no answer is required to the
5 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
6 paragraph are denied.

7 66. Because this Court has been dismissed from the case, no answer is required to the
8 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
9 paragraph are denied.

10 67. Because this Court has been dismissed from the case, no answer is required to the
11 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
12 paragraph are denied.

13 68. Because this Court has been dismissed from the case, no answer is required to the
14 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
15 paragraph are denied.

16 69. Because this Court has been dismissed from the case, no answer is required to the
17 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
18 paragraph are denied.

19 70. Because this Court has been dismissed from the case, no answer is required to the
20 allegations in this paragraph. To the extent that an answer may be required, the allegations in this
21 paragraph are admitted or denied as specifically answered in the foregoing paragraphs of this answer.

22 71. Because this Court has been dismissed from the case, no answer is required to the
23 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
24 paragraph are denied.

25 72. Because this Court has been dismissed from the case, no answer is required to the
26 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
27 paragraph are denied.

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1 73. Because this Court has been dismissed from the case, no answer is required to the
2 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
3 paragraph are denied.

4 74. Because this Court has been dismissed from the case, no answer is required to the
5 allegations in this paragraph. To the extent that an answer may be required, the allegations of this
6 paragraph are denied.

7 75. The allegations in this paragraph are admitted or denied as specifically answered in the
8 foregoing paragraphs of this answer.

9 76. With respect to the introductory language of this paragraph, on line 16 of page 11 of the
10 Amended Complaint, it is admitted that Kremer has registered domain names and that he has used
11 domain names, but denied that he has ever trafficked in any domain names.

12 (a) It is admitted that bosleymedical.com is identical to the former Bosley Medical Institute
13 trademark bosleymedical. The allegations in paragraph 76(a) are otherwise denied.

14 (b) It is admitted that bosleymedical.com is identical to the former Bosley Medical Institute
15 trademark bosleymedical. The allegations in paragraph 76(b) are otherwise denied.

16 77. Denied.

17 (a) It is admitted that Kremer's use of his domain names represents an exercise of his rights
18 under the fair use exceptions to the intellectual property laws, but that he does not own any trademarks
19 in the words that make up the contents of the domain names. The allegations in paragraph 77(a) are
20 otherwise denied.

21 (b) Admitted.

22 (c) Admitted.

23 (d) Denied.

24 (e) Denied.

25 78. Denied.

26 79. Denied.

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1 80. The allegations in this paragraph are admitted or denied as specifically answered in the
2 foregoing paragraphs of this answer.

3 81. Admitted.

4 82. Denied.

5 83. Denied.

6 84. Denied.

7 85. The allegations in this paragraph are admitted or denied as specifically answered in the
8 foregoing paragraphs of this answer.

9 86. It is admitted that Bosley and Bosley Medical are distinctive. The allegations in paragraph
10 86 are otherwise denied.

11 87. Denied.

12 88. Denied.

13 89. Denied.

14 90. The allegations in this paragraph are admitted or denied as specifically answered in the
15 foregoing paragraphs of this answer.

16 91. Because this paragraph states only legal conclusions, no answer is required.

17 92. Denied.

18 93. Denied.

19 94. Denied.

20 95. It is admitted that Bosley is seeking an injunction. The allegations in paragraph 95 are
21 otherwise denied.

22 96. Denied.

23 **Prayer for Relief**

24 It is denied that Bosley is entitled to any relief on its complaint, but rather the complaint should be
25 dismissed and Bosley should be ordered to pay Kremer's reasonable costs and attorney fees.

26 **AFFIRMATIVE DEFENSES**

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