

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

RURAL ROUTE 3 HOLDINGS, L.P.,

Plaintiff,

v.

PATRICK A.P. DE MAN,

Defendant.

Case No.: 3:17-cv-01948

**RURAL ROUTE 3 HOLDINGS, LP'S MOTION IN COMPLIANCE WITH  
ORDER (Docket No. 14)**

TO THE HONORABLE COURT:

COMES NOW Plaintiff Rural Route 3 Holdings, LP ("RR3") and, in compliance with the Court's Order at Docket No. 14, respectfully informs and prays:

1. This Honorable Court entered an Order yesterday requiring Plaintiff to provide further information in order to put the Court in position of considering and ruling upon Plaintiff's request for the entry of a temporary restraining order in the present case. In compliance with the Court's order and Fed. R. Civ. P. 65(b)(1)(B), Plaintiff respectfully describes the efforts made to give notice to Defendant and the reasons why Plaintiff should not be required to give further notice to Plaintiff prior to the entry of the temporary restraining order requested in this case. Also, Plaintiff expands on the issue of the proposed security pursuant to Fed. R. Civ. P. 65(d).

2. A day after filing the Complaint, the undersigned notified a courtesy copy of the Complaint and its Exhibits to Mr. de Man's counsel of record in a case that Mr. de Man

brought against various entities and Mr. Adam Sinn in the Court of First Instance, Bayamón Superior Court. See, copy of the email dated July 12, 2017 sent by Ana Margarita Rodríguez Rivera to Roberto Cámara and Jaime Torrens, copy of which is included as Exhibit A. Notwithstanding the courtesy notice, as of this date, the undersigned have received no response from counsel for Mr. de Man other than their acknowledgment of receipt of the email. Neither has Mr. de Man given any indication of voluntarily withdrawing his registration of the Infringing Domain Name.

3. Further, Plaintiff also attempted to serve process upon Defendant in various occasions. Specifically, on the following dates: July 24, 2017; July 25, 2017, and July 28, 2017. See, Sworn Statement of Christopher Knapp, included as Exhibit B. The process server, Mr. Christopher Knapp (“Mr. Knapp”), also called Mr. de Man in order to coordinate the service of summons upon him. Nevertheless, Mr. de Man told Mr. Knapp that he was not authorized to call him and that any attempt to do so would constitute an act of harassment. See, Exhibit B, at ¶ 5.

4. Similarly, upon filing the First Amended Complaint (Docket No. 11) and Rural Route 3 Holdings, LP’s Application for Temporary Restraining Order and Preliminary Injunction (the “Application for TRO”) (Docket No. 13), the undersigned notified a courtesy copy to Defendant’s counsel in the State Court case. However, there has been no response from Mr. de Man or his counsel of record in the State Court case other than the acknowledgement of receipt of the communication. See, copy of the email dated August 7, 2017 sent by Arturo L.B. Hernández-González to Roberto Cámara and Jaime Torrens, copy of which is included as Exhibit C.

5. In addition, Plaintiff conducted additional efforts to serve process on the person of Mr. de Man but to no avail. Specifically, on this same date the process server visited again Mr. de Man's residence located at the Urbanización Sabanera and, although there was someone present in the residence, no one answered the door. The process server confirmed with the community's administrator that the residence he visited is indeed Mr. de Man's residence. *See*, Exhibit B at ¶¶10-15.

6. The process server also tried to contact Mr. de Man by phone which led to an exchange of text messages that essentially confirm that Mr. de Man is not available to receive the summons prior to 5:00pm today. *See*, copy of the text messages exchanged by the process server with Mr. de Man, copy of which are included as Exhibit D. *See* also, Exhibit B at ¶13.

7. In sum, Plaintiff has conducted multiple efforts to give notice to Mr. de Man of the Complaint, the First Amended Complaint and the Application for TRO through various means to no avail. Therefore, the circumstances justify that, for the reasons discussed in more detail in the Application for TRO, this Honorable Court enter the temporary restraining order without prior notice to the opposing party and schedule a hearing on the request for preliminary injunction pursuant to Fed. R. Civ. P. 65.

8. With regards to the security amount, it is Plaintiff's position that Defendant would not suffer any harm arising from the entry of a temporary restraining order in this case because Mr. de Man has no legitimate interest in using the RR3 Mark (as defined in the First Amended Complaint). Neither does Mr. de Man conduct any business using the RR3 Mark. Further, Mr. de Man registered and began using the Infringing Domain Name (as defined in the First Amended Complaint) merely a month ago. Thus, no security

should be necessary to cover potential damages to be suffered by Mr. de Man as a result of the entry of the temporary restraining order. Alternatively, and for the same reasons, any harm to which Mr. de Man could be exposed would be *de minimis*.

9. Notwithstanding, Plaintiff is in position to deposit with this Court a reasonable amount (not exceeding \$2,500.00), as proposed security pursuant to Rule 65(d) in case this Honorable Court considers it necessary.

WHEREFORE, Rural Route 3 Holdings L.P. respectfully requests: (i) that this Court take notice of the above and deem its Order at Docket No. 14 complied with; and (ii) issue a temporary restraining order and a preliminary injunction enjoining Defendant Patrick de Man from directly or indirectly using the domain name “ruralroute3.holdings” or the trademark Rural Route 3 Holdings (“RR3 Mark”) or any other trademark, tradename, or domain name that is confusingly similar to the RR3 Mark, in any business or other activity as there is no legitimate purpose for any such use. See, Revised Draft Proposed Order, copy of which is included as Exhibit E.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 10th day of August, 2017.

**BARNES & THORNBURG LLP**

*Attorneys for Plaintiff*

11 South Meridian Street

Indianapolis, IN 46204-3535

Tel: (317) 231-7748

Fax: (317) 231-7433

By: s/ T. Joseph Wendt

T. Joseph Wendt

E-mail: Joseph.Wendt@btlaw.com

**O'NEILL & BORGES LLC**

*Attorneys for Plaintiff*

250 Muñoz Rivera Avenue, Suite 800

San Juan, PR 00918-1813

Tel: (787) 764-8181

Fax: (787) 753-8944

By: s/ Alfredo F. Ramírez-Macdonald

Alfredo F. Ramírez-Macdonald

USDC No. 205208

E-mail: alfredo.ramirez@oneillborges.com

By: s/ Ana Margarita Rodríguez-Rivera

Ana Margarita Rodríguez-Rivera

USDC No. 227503

E-mail: ana.rodriguez@oneillborges.com

By: s/ Arturo L.B. Hernández-González

Arturo L.B. Hernández-González

USDC No. 304601

E-mail: arturo.hernandez@oneillborges.com

**From:** Ana Margarita Rodríguez Rivera  
**Sent:** Wednesday, July 12, 2017 7:22 PM  
**To:** Roberto Cámara Fuertes; Jaime Torrens Dávila  
**Cc:** Alfredo F. Ramirez Macdonald; Arturo L. Hernández González  
**Subject:** Rural Route 3 Holdings LP v. Patrick de Man

Estimados licenciados-

Adjunto encontrarán copia de cortesía de una Demanda y sus exhibits presentada ante el Tribunal Federal de Distrito para el Distrito de Puerto Rico en contra del Sr. de Man.

Cordialmente,

Ana Margarita Rodríguez Rivera  
**O'NEILL & BORGES LLC** | 250 Ave. Muñoz Rivera, Ste. 800 | San Juan, P.R. 00918-1813  
D. 787-282-5798 | T. 787-764-8181 | F. 787-753-8944 | [www.oneillborges.com](http://www.oneillborges.com)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

RURAL ROUTE 3 HOLDINGS, L.P.,

Plaintiff,

v.

PATRICK A.P. DE MAN,

Defendant.

Case No. 17-01948

RE: Sections 1125(a) and (d) of the Lanham Act, 15 U.S.C. §§1125(a) and (d); Articles 26 and 29 of the Puerto Rico Trademark Act, P.R. Laws Ann. Tit. 10, §§223w and 223z; Damages pursuant to Article 1802 of the Puerto Rico Civil Code, P.R. Laws Ann. Tit. 31, §5141

**SWORN STATEMENT**

I, Christopher John Knapp-Romero, process server, of legal age, single and resident of San Juan, Puerto Rico, do hereby declare as follows:

1. My name and personal circumstances are as stated above.
2. I know how to read and write, and I am not a lawyer or part of this lawsuit, nor do I have any interest in it.
3. I received the summons and the pleadings, including the *Complaint* and the *First Amended Complaint*, of the above captioned case in order to serve process upon the defendant Patrick A.P. de Man ("Mr. de Man").
4. Mr. de Man last known address is Urb. Sabanera Dorado ("Sabanera"), 544 Corredor del Bosque, Dorado, Puerto Rico 00646.
5. On July 24, 2017, at 11:11am, I called Mr. de Man at (939) 240-3510. Mr. de Man answered and informed me that I was not authorized to call him and that any attempt to call him constituted an act of harassment. Also, Mr. de Man informed me that he would not receive

the summons willingly and that in any case he would receive them only if I was able to find him.

6. On July 25, 2017, at 8:48am, I went to Sabanera in order to inquire about Mr. de Man' whereabouts. There, I spoke with Officer Delgado, who works as a security guard in said gated community. Officer Delgado confirmed that Mr. de Man lives in Sabanera and granted me access to the gated community. Once inside Sabanera, I went to Mr. de Man's house where I saw a Toyota Highlander parked outside. Nevertheless, nobody answered when I called Mr. de Man's name in front of his house.

7. Also, on July 25, 2017, at 11:00am, I tried once again to call Mr. de Man at (939) 240-3510 to no avail.

8. On July 28, 2017, I went again to Sabanera, where I spoke with Officer Calderín, who works as a security guard in said gated community. Officer Calederín confirmed that Mr. de Man lives in Sabanera. Also, Officer Calderín granted me access to Sabanera. Once inside, I went again to Mr. de Man's house, where nobody answered the door. I tried to call Mr. de Man at the number (939) 240-3510, but nobody answered.

9. On August 9, 2017, this Honorable Court entered an *Order* directing the Plaintiff, among other things, to inform the efforts made to give Mr. de Man prior notice as to *Rural Route 3 Holdings, LP's Application for Temporary Restraining Order and Preliminary Injunction* ("*TRO Application*"). See, Docket No. 14.

10. Accordingly, on August 10, 2017, I received copy of the aforementioned *TRO Application*, as well as copies of the *First Amended Complaint* filed on August 7, 2017, and related pleadings.

11. On August 10, 2017, at 10:58am, I went to Sabanera, where I spoke with Officer Mojica, who works as a security guard in said gated community. Officer Mojica confirmed that



Mr. de Man lives there and granted me access to Sabanera. Once inside Sabanera, I spoke with Mrs. Kenia Colón (“Mrs. Colón”), who works as administrator of Sabanera. Mrs. Colón further confirmed where Mr. de Man lives.

12. Furthermore, on August 10, 2017, at 11:18am, I went once again to Mr. de Man’s house and tried to locate him, but nobody answered. It should be noted that I did see a black haired man inside the property who, nevertheless, refused to answer the door.

13. On August 10, 2017, at 11:20am I called Mr. de Man yet again at the number (939) 240-3510 and he did not answered. Afterwards, we exchanged some text messages. See Exhibit I. Mr. de Man did not make himself available to receive the summons and the *TRO Application* at issue.

14. On August 10, 2017, around 11:35am, I went to the town hall of the Municipality of Dorado and spoke with a certain Mrs. Vega, who told me that she did not know nor has any information about Mr. de Man’s whereabouts. Also, on that same date, I went to the Police Department of the Municipality of Dorado and spoke with Agent Ortiz, who also told me he did not know nor has any information regarding Mr. de Man’s whereabouts.

15. Thus, to this day, Mr. de Man has not been located, notwithstanding the efforts made, as described above.

*(Signatures on next page)*

AND SO AS TO MAKE IT KNOWN, I hereby swear and sign this statement in San Juan, Puerto Rico on this 10<sup>th</sup> day of August of 2017.

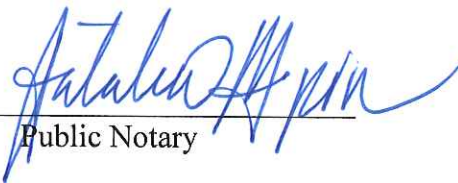
  
\_\_\_\_\_  
Christopher John Knapp-Romero

Affidavit No. 9

Sworn to and subscribed before me by Christopher John Knapp-Romero, of the personal circumstances described above, who, because I do not know him personally, I have identified through the means provided by Article 17(c) of the Notarial Act of the Commonwealth of Puerto Rico, through his driver's license No. 4572474, issued by the Commonwealth of Puerto Rico.

In San Juan, Puerto Rico, today, August 10, 2017.



  
\_\_\_\_\_  
Public Notary



+1 (939) 240-3510

Text Message  
Today 11:20 AM

Driving...

Hello Mr Patrick, is Christopher Knapp, the server(emplazador), is it possible I can see you?

We can meet at Mi Casa and have dinner with my family. Your client pays the bill if course. He is a regular there living at the Ritz so he can set it up.

Patrick, are you available to receive the summons before 4:00pm today?

No, I won't be able to. I usually have dinner around 6pm. After the weekend I have more time to make an appointment. If Adam Sinn can prepay about \$500 with Mi Casa, I will see you there.



Text Message



**From:** Arturo L. Hernández González  
**Sent:** Monday, August 07, 2017 7:31 PM  
**To:** Roberto Cámara Fuertes; Jaime Torrens Dávila  
**Cc:** Ana Margarita Rodríguez Rivera; Alfredo F. Ramirez Macdonald  
**Subject:** Rural Route 3 Holdings, L.P. v. Patrick A.P. de Man, Case No. 17-1948

Estimados Lcdo. Roberto Cámara Fuertes y Lcdo. Jaime Torrens Dávila:

Adjunto una copia de cortesía de los documentos radicados durante el día de hoy en el caso de referencia.

Sin más, saludos cordiales,

Arturo L. Hernández González  
**O'NEILL & BORGES LLC** | 250 Ave. Muñoz Rivera, Ste. 800 | San Juan, P.R. 00918-1813  
D. 787-764-8181 | T. 787-764-8181 | F. 787-753-8944 | [www.oneillborges.com](http://www.oneillborges.com)

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+1 (939) 240-3510

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Text Message



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

RURAL ROUTE 3 HOLDINGS, L.P.,

Plaintiff,

v.

PATRICK A.P. DE MAN,

Defendant.

Case No. 17-01948 (JAG)

RE: Sections 1125(a) and (d) of the Lanham Act, 15 U.S.C. §§1125(a) and (d); Articles 26 and 29 of the Puerto Rico Trademark Act, P.R. Laws Ann. Tit. 10, §§223w and 223z; Damages pursuant to Article 1802 of the Puerto Rico Civil Code, P.R. Laws Ann. Tit. 31, §5141

**[REVISED PROPOSED] TEMPORARY RESTRAINING ORDER**

On July 11, 2017, Rural Route 3 Holdings, L.P. commenced the instant case by filing a Complaint (Docket No. 1), which was subsequently amended on August 7, 2017 by means of the First Amended Complaint (Docket No. 11), averring causes of action pursuant to sections 1125(a) and (d) of the Lanham Act and Articles 26 and 29 of the Puerto Rico Trademark Act. Plaintiff also alleged damages pursuant to Article 1802 of the Puerto Rico Civil Code.

Plaintiff's claims arise from Defendant Patrick A.P. De Man's alleged intentional, bad faith use of the domain name "ruralroute3.holdings". Plaintiff also alleges that Defendant's actions amount to unfair competition and have caused, and will continue to cause, Plaintiff damages to its business, reputation and good name sanctionable pursuant to Article 1802 of the Civil Code. Plaintiff thus asks that Defendant's actions, as described in the First Amended Complaint, be stopped immediately. Specifically, Plaintiff requests the entry of a temporary restraining order against Defendant as well as a

preliminary injunction preventing Defendant from directly or indirectly using the name “ruralroute3.holdings” or any substantially similar name.

Together with the First Amended Complaint, Plaintiff filed an Application for a Temporary Restraining Order and Preliminary Injunction (Docket No. 13) (the “Application for Injunctive Relief”) in further support of its request for the entry of such injunctive relief, including statements under penalty of perjury by Mr. Adam Sinn and Ms. Amy Odom. Also, on August 10, 2017, in compliance with an order of this Court, Plaintiff expounded on the reasons why it should not be required to give further notice to Defendant of its Application for Injunctive Relief. Plaintiff included a Sworn Statement in support of its description of the efforts made to give notice to Defendant of its request.

After a careful review of the documents, statements and other evidence, as well as the supporting arguments submitted by Plaintiff with its Application for Injunctive Relief, it is evident that Plaintiff satisfies all the elements for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b), as the specific facts included in the First Amended Complaint “clearly show that immediate and irreparable injury, loss, or damage will result to the movant [Rural Route 3 Holdings L.P.] before the adverse party [Defendant] can be heard in opposition”. RR3 has produced evidence that Defendant has attempted to confuse the market in which RR3 conducts its operations into thinking he is associated with RR3 when he is not. Further, Plaintiff has demonstrated to the satisfaction of this Court that Defendant’s actions, consisting of Mr. de Man’s intentional, bad faith use of the name “ruralroute3.holdings”, have already caused damages and will continue to cause damages to RR3’s reputation and good name. The irreparable nature of the damages caused by Defendant’s actions lies in the fact that these actions have resulted

in the potential association of Defendant's name with the operations of Plaintiff within a particular market and the confusion arising therefrom. In addition, Plaintiff has demonstrated that it gave sufficient notice to opposing counsel of the existence of this case but that, nonetheless, Defendant has failed to take any action to cease and desist the use of the name "ruralroute3.holdings".

Defendant's actions move this Court to enter a temporary restraining order so as to ensure that Mr. Patrick A.P. de Man immediately refrains from using the domain name "ruralroute3.holdings" or any other substantially similar name.

For the above stated reasons, this Court hereby GRANTS Plaintiff's request for a temporary restraining order. Consequently, Defendant is immediately enjoined from directly or indirectly using the name "ruralroute3.holdings" or any substantially similar name. Plaintiff is required to deposit with this Court the amount \$\_\_\_\_\_ as security pursuant to Fed. R. Civ. 65(d).

This Order shall be in effect for fourteen (14) days from its entry unless extended by this Court or by consent of the parties in this case. The parties are further ordered to appear before this Court on August \_\_, 2017 for a hearing pursuant to Fed. R. Civ. P. 65(b).

SO ORDERED.

In San Juan, Puerto Rico, this \_\_\_ of August, 2017 at \_\_\_\_\_.

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United States District Judge