



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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For Immediate Release

CITY FILES SUIT AGAINST ILLEGAL SELLER OF MERCHANDISE BEARING POLICE AND FIRE DEPARTMENT LOGOS

PRIVATE WEB SITE INFRINGES ON CITY'S NYPD AND FDNY TRADEMARKS

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New York, April 13, 2004 – New York City has filed suit against Albert Elovitz, Inc., an online seller of goods that bear the logos of the Police and Fire Departments without City authorization. The merchandise includes shorts, caps, other clothing, towels, toys, magnets, key chains, jewelry, plates and glasses. Elovitz places the letters “NYPD” and “FDNY” and replicas of the Police Department shield on this merchandise.

The complaint alleges that Elovitz is improperly selling merchandise in violation of Federal trademark law, New York common law and New York statutes protecting trademarks and prohibiting the sale of infringing and counterfeit goods. Both damages for lost royalties and injunctive relief to stop the improper sales are sought in the lawsuit, which was filed late yesterday in Federal court in Manhattan.

The City has licensed the Fire Department shield and the letters “FDNY” to the FDNY Fire Safety Education Fund. In turn, FDNY Fire Safety Education Fund authorizes selected merchants to sell goods bearing the shield and the letters “FDNY.” Royalties from these arrangements and proceeds from sales at the Funds’ Fire Zone store at Rockefeller Center in Manhattan are used by the Fund to conduct fire safety education and provide benefits to firefighters and their families. The New York City Fire Museum, which maintains and displays the FDNY’s collection of historical firefighting equipment and documents related to the FDNY, also sells authorized merchandise. As part of its mission, the Museum provides educational programs and research materials related to the FDNY and the history of firefighting in New York City. The Museum’s sale of goods with the “FDNY” insignia benefits the FDNY and supports the Museum’s mission.

The City has also licensed the Police Department Shield and the letters “NYPD” to the New York City Police Foundation. In turn, the Foundation authorizes selected merchants to sell goods bearing the shield and the letters “NYPD.” Royalties from these arrangements are used by the Foundation to fund programs, conduct studies and provide equipment to improve the effectiveness of police activities and to strengthen the partnership between the police and the public. The Police Museum also sells goods with the “NYPD” insignia, and revenue from its sales helps support NYPD law enforcement efforts.

Unauthorized sales by Elovitz of goods bearing the “NYPD” and “FDNY” trademarks infringe Federal, State and overseas registered and common law trademarks, and deprive the FDNY Fund and the NYPD Foundation of funds to carry on their charitable work.

Corporation Counsel Michael A. Cardozo of the New York City Law Department said, “Because Elovitz is violating New York City trademarks, it was essential that the City enforce its rights and vigorously defend its trademarks in Federal court. It is especially important that commercial enterprises not benefit unfairly

from the esteemed recognition earned by New York City's firefighters and police officers for their heroic responses on Sept. 11th – and for the bravery they display day in and day out.”

New York City's Chief Marketing Officer, Joseph Perello, whose office is building an intellectual property and licensing program to develop and protect ownership of all New York City's marks and brands and, to develop new ones, said: “This lawsuit is a perfect example of why NYC Marketing is working around the clock to develop a licensing program which protects the image and brand associated with New York City. The FDNY and NYPD are ahead of the curve in recognizing that our City is a valuable brand which needs legal protection in order to prevent others from profiting from what are rightfully the City's assets. This lawsuit sends the message that these insignia, like other logos that represent this great city, are part of the City and any revenue generated from the sell of products should go back into the City coffers to benefit the people of New York City.”

The City is represented by Nicholas Cannella, Pasquale Razzano, Timothy Kelly and Tila Duhaime of the law firm Fitzpatrick, Cella, Harper & Scinto in Manhattan. The firm, which has over 150 lawyers, is representing the City without charge as part of the Corporation Counsel Public Service Program. The program, which was launched in May 2002 as part of the Corporation Counsel's efforts to recruit private lawyers, enables firms to lend their expertise without fee to assist the City with its wide-ranging legal and public affairs work. Fitzpatrick's web site is www.fitzpatrickcella.com.

“This outreach is especially important in areas such as trademark law, a specialized field that is not a usual part of the City Law Department's municipal practice,” noted Michael Cardozo. “We appreciate the extensive efforts and expertise offered by Fitzpatrick, Cella.”

Nicholas Cannella of Fitzpatrick, added: “We are pleased to be aiding the City in this complex trademark case. The Corporation Counsel Public Service Program is an excellent opportunity for our firm to honor its commitment to the public good and to help strengthen the City's rights to several of its most important public images. It also affords our lawyers the chance to be involved in an unusually interesting case.”

Alan H. Kleinman, a Senior Counsel in the Affirmative Litigation Division, and Katherine Winningham, a Senior Counsel in the Legal Counsel Division, are also working on the case for the New York City Law Department.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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