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TRADEMARK INFRINGERS CANNOT HIDE IN CANADA

FORT LAUDERDALE, FL (April 11, 2008) - Florida-based Internet company Punch Clock, Inc. ("PCI") was awarded a judgment of nearly 1.2 million dollars against a Canadian company, Smart Software Development ("SSD"), for willful trademark infringement and cybersquatting. Attorneys Robert C. Kain, Jr. and Darren J. Spielman successfully obtained the million dollar judgment for their client PCI. Fort Lauderdale company PCI markets and sells computer timekeeping software to employers that track employee work hours.

On April 4, 2008, federal court Judge James I. Cohn of the U.S. District Court, Southern District of Florida, Broward Division, awarded PCI money damages and issued a permanent injunction in the case of *Punch Clock, Inc. v. Smart Software Development*, Case No. 07-61684-CIV-COHN, against SSD for willful trademark infringement of PCI's federally registered trademark "PUNCH CLOCK" and for violations of the federal Anticybersquatting Consumer Protection Act ("ACPA"). Judge Cohn found that SSD had deliberately infringed PCI's rights by using PUNCH-CLOCK, a hyphenated version of PCI's federally registered trademark, to sell identical timekeeping software and also violated the ACPA by using the hyphenated version of PCI's domain www.PunchClock.com.

Since the mid 1990s, PCI had sold its timekeeping software on the Internet at its website www.PunchClock.com. In 2001, newcomer SSD launched a competing site at www.Punch-Clock.com and began selling the same type of software. SSD's owner claimed "I am not in violation of your trademark simply because I operate my company in Canada" in an email dated September 3, 2001. Notwithstanding SSD's statement that its business was Canadian-based, over the next eight years, SSD aggressively promoted its timekeeping software in the U.S. and captured almost 10,000 customers, including such local companies as Burger King Corporation and Florida Atlantic University. As the court documents reveal, SSD willfully used a confusingly similar trademark "Punch-Clock" and an infringing website www.punch-clock.com to deceive U.S. customers. Judge Cohn ruled that the "willful and blatant nature of the infringement in this case, as well as the duration of the infringement and level of harm caused to" PCI was one of the justifications for the award of the damages.

"This should serve as a lesson for business owners who operate outside the U.S. but sell goods or services to U.S. customers," said Kain. "You can't sell products to U.S. customers and commercially benefit from our laws while, at the same time, infringe another's legitimate U.S. trademark rights, and then, when convenient, hide behind a foreign border."

“This case reminds us how valuable and important U.S. intellectual property rights remain in the eyes of the courts,” said Spielman

“The mission of Punch Clock is to deliver a quality product at an affordable price. We need to make sure that no one interferes with that mission by improperly using the Punch Clock trademark. We are very pleased with the result,” said PCI’s general counsel, Clifford A. Wolff.

Ultimately, the judge awarded PCI \$1,174,251.00 in damages and attorney’s fees and issued a permanent injunction commanding SSD to stop the infringing activity and relinquish the domain.

Kain handles complex I.P. matters locally and throughout the U.S. and is a specialist in intellectual property law. This Florida Bar member is certified by the Bar in Intellectual Property Law. He is also a registered patent attorney with the U.S. Patent and Trademark Office, a member of the New York and the Washington D.C. Bars and has been appointed by the President of the Florida Bar to sit on the Bar’s Certification Committee for Intellectual Property Law.