

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOP HOP PRODUCTIONS, INC. and
FALEENA HOPKINS,

18-cv-4670-AKH

Plaintiff,

-against-

KEVIN KNEUPPER, JENNIFER WATSON,
and TARA CRESCENT,

Defendants.

DECLARATION OF TARA CRESCENT

TARA CRESCENT declares as follows:

1. I am a defendant in the above-captioned action. I submit this declaration in support of my opposition to plaintiff Hop Hop Productions, Inc. (“HHP”) and Faleena Hopkins’ (“Hopkins”); collectively with HHP, “Plaintiffs”) motion for a preliminary injunction.
2. Tara Crescent is my pen name; I submit this declaration under my professional name and would appreciate the Court’s understanding of my submission in this format because I believe disclosure of my actual name would cause competitive and personal harm. My readers know me as Tara Crescent, I have built my reputation, business, and brand based on that name, and therefore have kept my true name confidential. Also, my family is conservative and would be discomfited to find out that I write romance novels.
3. I am a professional author of romance novels. To date I have published 45 books. I have been writing professionally for nearly 5 years and have sold the equivalent of over 300,000 copies of my works in that time.

4. I have been using the term “cocky” in my novel titles since August 22, 2017, when my book “Her Cocky Doctors” was released. My next book was “Her Cocky Firefighters,” which was released on November 12, 2017. A true and correct printout of the amazon.com page featuring these books is attached as Exhibit A.

5. By virtue of my writing career, I am aware that the term “cocky” has been used in the title of romance novels since at least 2012. For instance, author Lucee Joie published a romance novel entitled “Bite Me, Cocky” on May 8, 2012; author J.T. Riggs published a romance novel entitled “Cocky Cowboys” on December 13, 2014; author Claire Sutcliffe published a romance novel entitled “My Cocky Stepbrother” on May 16, 2015; author Kaylee Kazarian published a romance novel entitled “Cocky: A Cowboy Stepbrother Romance” on August 12, 2015; authors Penelope Ward and Vi Keeland published a romance novel entitled “Cocky Bastard” on August 15, 2015; and author Emily Guzman published a romance novel entitled “Cocky Stepbrother: A Billionaire Romance” on December 28, 2015. True and correct copies of printouts of the amazon.com pages for these books are attached as Exhibit B. These titles are used simply as examples; there are many more romance novels with “cocky” in the title that exist prior to Ms. Hopkins’ use of the term.

6. I am also aware that there is at least one existing romance novel series using “cocky” in the series name. In particular, Author Lane Hart published a book called “Jax (A Cocky Cage Fighter Novel Book 1)” on July 7, 2015, which is one in a series of 11 books that all use the phrase “Cocky Cage Fighter” in the title. A true and correct copy of a printout of the amazon.com page for Lane Hart’s series is attached as Exhibit C.

7. The extensive use of the term “cocky” in the romance novel field is not something that would surprise fans of the genre. Based on my experience as a professional romance novel

author, I am aware that the word “cocky” is a commonly used term in the titles of romance novels, including because of its double entendre as a sexual innuendo that references a part of the male anatomy and a synonym for being arrogant or a “bad boy” – both of which are relevant themes in these types of stories.

8. Hopkins contacted me once, over nine months ago, regarding the use of the word “cocky” in book titles. She contacted me online through Ryver, a business communication software application, on August 18, 2017. During that conversation, in response to her query, I mentioned (a) that romance writers were using the word “cocky” long before she started using it, including the prior use of the term “Cocky Bastard” in 2015 as mentioned above; (b) that the presence of the word “cocky” on a romance novel cover is not unique; and (c) that Hopkins’ series title was “The Cocker Brothers of Atlanta,” which does not, itself, use the word “cocky”. Hopkins did not correct me on any of these points. True and correct copies of screenshots of this conversation are attached as Exhibit D.

9. I also mentioned to Hopkins during that conversation that a cursory search of amazon.com pulled 761 results of books with “cocky” in the title. *See id.*

10. In response, Hopkins admitted that readers “won’t think that [she] wrote” my books despite my use of the word “cocky.” *See id.* She appeared to just be concerned that readers “will write to [her], and they will be upset.”

11. The conversation ended, and it seemed to me that Hopkins had backed off. I did not hear from her again after that, and I never received a written demand to cease and desist using the word “cocky” let alone any claim that Hopkins owned a registered trademark in the word. However, I become aware of Hopkins’ trademark registration on or about May 3, 2018, and on or about May 4, 2018 I learned that Hopkins had sent cease-and-desist letters to other authors

(including Ms. Jamila Jasper). I discovered on May 7, 2018, that Hopkins had sent takedown notices to Amazon regarding my books containing the word “cocky” in the titles.

12. Hopkins claims to have used the word “cocky” in her book titles since June 16, 2016, but my understanding is that her series of novels, until very recently, were referred to as “The Cocker Brothers of Atlanta.” Attached as Exhibit E are true and correct screen shots from websites showing Hopkins’ clear use of the “Cocker Brothers” branding, including a screen capture from archive.org showing that Hopkins was selling her books through amazon.com as of March 7, 2017 using the “Cocker Brothers of Atlanta” series name, and a post to Twitter by Hopkins referencing her “Cocker Bros. of ATL Series.”

13. The “Cocker Brothers of Atlanta” branding can also be seen on websites including: <https://99designs.ca/other-design/contests/create-hip-stylish-family-tree-cocker-brothers-atl-698658>; <https://twitter.com/kpoet1395/status/1000829957935792128>; <https://twitter.com/kpoet1395/status/1000829022870298624>.

14. At the time my book “Her Cocky Doctors” was published on August 22, 2017, Hopkins’ book series was still called “The Cocker Brothers of Atlanta.” Accordingly, I had earlier use of the series title, *i.e.*, the “The Cocky Series.” In fact, I understand that Hopkins did not even file her application to register “COCKY” as a trademark until September 12, 2017, after my book was published and well after our conversation on Ryver. (*See* Exh. A to Cplt. at 2).

15. Hopkins states that I was aware of her use of the “Cocky Series” as of March 9, 2017 because I helped promote her book. (*See* Cplt. Exh. M.) However, she fails to mention that the linked-to book I had agreed to help her promote, at that time, still fell under the “Cocker Brothers” series title.

16. I was not even aware that Hopkins was calling her books the “Cocky Series” until May 3, 2018, when I learned about her trademark.

17. In the August 14, 2017 print book release of “Cocky Quarterback,” Hopkins refers to her series as “The Cocker Brothers of Atlanta”; in her October 12, 2017 print book release of “Cocky Rebel,” Hopkins again refers to her series as “Cocker Brothers”; and only in her November 18, 2017 print book release of “Cocky by Association” does Hopkins refer to her series as “The Cocky Series,” and even then, her series is referred to as “Cocker Brothers, The Cocky Series.” Hopkins released 19 books between June 16, 2016 and May 12, 2018, and “Cocky by Association” was book 14. Attached as Exhibit F are true and correct screen shots from amazon.com showing Hopkins’ using the “Cocker Brothers of Atlanta,” and “Cocker Brothers” series name in her print books published in August and October 2017 respectively.

18. In Hopkins’ email to her newsletter subscribers announcing the release of the e-book of “Cocky Quarterback” on August 15, 2017, the series is referred to as the “Cocker Brothers”; in her email to newsletter subscribers announcing the release of “Cocky Rebel,” on October 14, 2017, the series is once again referred to as the “Cocker Brothers”; it is only in her October 23, 2017 newsletter that Hopkins refers to her series as “Cocker Brothers, The Cocky Series.” Attached as Exhibit G are true and correct screen shots of Hopkins’ newsletters.

19. To my knowledge, Hopkins only started changing her series name to “The Cocky Series” on social book recommendation sites such as Goodreads as of April 8, 2018. Attached as Exhibit H is a true and correct screen shot of a post by a Goodreads librarian who indicates that the website was able to track the metadata of Hopkins’ ebooks and pinpoint this date as the date she first changed her title to include “The Cocky Series.”

20. Nobody has expressed to me that they thought my books were written by Hopkins or otherwise connected to Hopkins, or that Hopkins' books were written by me or otherwise connected to me. This is despite the fact that on or around May 17, 2018, Hopkins asked the readers on her Facebook fan group to send her "a story or paragraph or sentence on a time when you accidentally thought another Cocky Book was mine." A true and correct screen capture of this post is attached as Exhibit I.

21. Hopkins has also admitted, in a video she posted on Twitter, that her sales have not declined and that she has "enough book sales." *See* <https://twitter.com/KmHalandras/status/1000362364984684544>. It seems apparent to me, as a professional author, that Hopkins has not been harmed if she has not suffered any decline in sales; book sales are an author's primary livelihood.

22. I, on the other hand, would be significantly harmed if the Court were to block future sales of my books. Specifically, I would stand to lose approximately \$10,000 in direct sales from these books, as well as be prevented from writing further books in my series.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: Toronto, Ontario, Canada
May 31, 2018


TARA CRESCENT