

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PROCHOICE RESOURCE CENTER, INC., :

Plaintiff, :

-against- :

THOMAS P. FITCH and MEEGAN FITCH, :
individually and d/b/a ABORTION IS :
MURDER and ABORTIONISMURDER.ORG, :

Defendants. :
-----X

01 Civ. _____ ()

COMPLAINT

JURY TRIAL REQUESTED

Plaintiff ProChoice Resource Center, Inc. ("ProChoice Resource"), by its undersigned attorneys, for its complaint against defendants Thomas P. Fitch and Meegan Fitch (the "Fitches"), doing business as Abortion Is Murder ("AIM"), which is also known as abortionismurder.org (collectively, "defendants"), upon knowledge as to itself and information and belief as to all others, alleges the following:

Nature Of The Action

1. This is a civil action for (i) defendants' false designation of origin, false and misleading descriptions and representations and unfair competition arising from defendants' willful infringement of ProChoice Resource's service marks, trademarks and trade names in violation of Section 43(a) of the United States Trademark Act of 1946 (the "Lanham Act"), as amended, 15 U.S.C. § 1125(a); (ii) defendants' dilution of ProChoice Resource's service marks, trademarks and trade names in violation of the Federal Trademark Dilution Act of 1995, as amended, 15 U.S.C. § 1125(c); (iii) defendants' "cybersquatting" pursuant to the Anticybersquatting Consumer Protection Act (the "ACPA"), 15 U.S.C. § 1125(d); and (iv) related claims under New York state law.

Summary Of The Action

2. ProChoice Resource brings this action to stop AIM's unlawful and calculated efforts to "hijack" to the AIM Website Internet users who attempt to access the ProChoice Resource Website. Like most hijackings in the "bricks and mortar" world, AIM's practice of Internet hijackings have an undeniable political component – their purpose is to capture and expose a wider audience to AIM's position on abortion and to convince young pregnant women, by any means necessary, to reject abortion. However, the gravamen of this action is not political. Instead, it is about ProChoice Resource's property rights in its service marks, trademarks and trade names. Under federal and state law, ProChoice Resource is entitled to prevent others from using ProChoice Resource's marks to benefit themselves and to harm ProChoice Resource, and to protect the public from confusion and deception as to the source, sponsorship or affiliation of goods and services.

Parties

3. Plaintiff ProChoice Resource is a registered Internal Revenue Service Code Section 501(c)(3) tax-exempt organization with its principal place of business at 16 Willett Avenue, Port Chester, New York, 10573-4326. ProChoice Resource is a leading nonprofit reproductive rights organization, famous in the reproductive rights community, which provides a wide range of information, training and technical assistance to individuals, groups and organizations in order to promote and preserve legal, comprehensive reproductive health care for all women. ProChoice Resource houses and administers the Public Education Project ("PEP"), a coalition of 47 national reproductive rights and other organizations. ProChoice Resource maintains an Internet website at www.prochoiceresource.org (the "ProChoice Resource Website").

4. Defendants Thomas P. Fitch and Meegan Fitch currently reside at 400 75th Terrace Southwest, North Lauderdale, Florida, 33068-1351. The Fitches previously resided at 465 East Prospect Avenue, Mount Vernon, New York, 10553, and at 170 Elm Street, New Rochelle, New York, 10805.

5. Defendant AIM, also known as abortionismurder.org, a purportedly privately funded unincorporated organization, has its principal place of business since July 28, 2000 at the Fitch defendants' residence, 400 75th Terrace Southwest, North Lauderdale, Florida, 33068-1351, and has also conducted business at 465 East Prospect Avenue, Mount Vernon, New York, 10553, and 170 Elm Street, New Rochelle, New York, 10805. AIM operates an Internet website (the "AIM Website"), accessible at the Internet domain name addresses www.prochoiceresource.com, www.planedparenthood.com, www.planedparenthood.org and www.abortionismurder.org.

Jurisdiction And Venue

6. This Court has original jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act as amended, 15 U.S.C. § 1121(a), and pendent jurisdiction over the related claims under state law. This Court has jurisdiction over the defendants pursuant to the New York "long-arm statute," C.P.L.R. § 302(a)(3)(i) & (ii), because, among other facts, defendants registered the infringing alias Internet domain name "prochoiceresource.com" to "hijack" Internet users to the AIM Website, thereby intentionally and knowingly injuring ProChoice Resource, in New York; defendants solicited ProChoice Resource in New York via electronic mail in an attempt to sell the prochoiceresource.com domain name; defendants created and operated the AIM Website in New York; defendants resided in New York; and defendants have solicited and continue to solicit New York residents to commit acts in New York including,

but not limited to, procurement of adoption services and financial support of such services, initiation of telephonic, mail and electronic mail contact with various organizations including AIM, purchase of goods, and voter registration. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

ProChoice Resource Background

7. ProChoice Resource was founded in 1991 for the purposes of training and educating groups and individuals about how to preserve and protect the constitutional right to reproductive choice. Through its educational mission, ProChoice Resource has fostered reproductive rights activism at the local, state and national levels.

8. Since long prior to defendants' wrongful acts, ProChoice Resource has extensively used its service marks, trademarks and trade names "PROCHOICE RESOURCE CENTER" and "PROCHOICE RESOURCE" to identify its organization, products and services, and to distinguish them from those of other entities.

9. ProChoice Resource is the only independent, nonprofit reproductive rights organization that provides assistance to a broad range of groups active in the reproductive rights movement, regardless of whether such groups are part of a national organization or are totally independent.

10. ProChoice Resource is the only nationally active reproductive rights organization with "prochoice" in its name.

11. ProChoice Resource employs 11 full-time and three part-time staff and 10 consultants who serve as field trainers for on-site training workshops, and has a 12 member Board of Directors.

12. ProChoice Resource's budget has grown from \$125,000 in 1992 to \$1.9 million in 2001.

13. ProChoice Resource raised a total of more than \$7,000,000 in grants and individual contributions between 1993, when ProChoice Resource became an IRS-approved 501(c)(3) tax-exempt organization, and 1999. In 2000, ProChoice Resource raised a total of \$1,872,000.

14. ProChoice Resource is supported by grants from more than 25 foundations, including the Robert Sterling Clark Foundation, The Ford Foundation, The John Merck Fund and The George Gund Foundation.

15. ProChoice Resource relies upon donations by individuals for necessary additional support. Individual donations have increased approximately 345% since the ProChoice Resource Website was launched in 1998.

16. On the national level, under its service marks, trademarks and trade names, ProChoice Resource works with a wide range of prominent partner groups, including Planned Parenthood Federation of America, National Abortion and Reproductive Rights Action League, the National Abortion Federation, the Religious Coalition for Reproductive Choice and Catholics for a Free Choice.

17. On the state and local levels, under its service marks, trademarks and trade names, ProChoice Resource has worked with more than 350 grassroots reproductive rights groups in 48 states and Puerto Rico.

18. The service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and PROCHOICE RESOURCE are widely recognized in the reproductive rights community and are a means by which ProChoice Resource is known.

ProChoice Resource's Role In The Reproductive Rights Community

19. Providing educational information is one of the most critical roles of ProChoice Resource because it is central to the purpose of ProChoice Resource's formation.

20. ProChoice Resource's four main methods of educational information delivery are its: (1) numerous service programs with one-on-one training; (2) extensive clearinghouse services for third party information and publications; (3) authoritative ProChoice Resource specialty and regular print publications; and (4) the ProChoice Resource Website.

21. These methods of information delivery are offered under the service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE.

22. ProChoice Resource provides three synergistic forms of educational information: interactive personal training, print publications and electronic website publications.

23. These forms of information are offered under the service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE.

24. The ProChoice Resource Website is the linchpin of ProChoice Resource's educational information delivery because it details ProChoice Resource's service programs, clearinghouse services and publications, and it provides the most direct and rapid means available for the public to obtain this information.

25. Another important role of ProChoice Resource is supporting other reproductive rights organizations. In addition to the support provided by maintaining its clearinghouse services and fulfilling its role as an educational information provider, ProChoice Resource presents annual Leadership Challenge awards to provide "seed money" to launch projects

proposed by other deserving, often fledgling, reproductive rights groups. To date, ProChoice Resource has given Leadership Challenge awards to 19 groups.

26. By virtue of the widespread presence of ProChoice Resource's highly regarded service programs, comprehensive clearinghouse services, extensive promotion and quality of its publications, and its close and long-standing relationships with numerous other organizations in the reproductive rights community, the ProChoice Resource marks and trade name have acquired distinctiveness and fame in the reproductive rights community.

27. In the reproductive rights community, the ProChoice Resource marks are recognized and relied upon as identifying ProChoice Resource as the source of the high-quality goods and services bearing or offered under the marks, and as distinguishing such goods and services from the goods and services of other entities.

(A) *ProChoice Resource Educational Service Programs*

28. ProChoice Resource has conducted more than 500 on-site, one-on-one training workshops in 48 states and Puerto Rico under its service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE.

29. ProChoice Resource offers three major national educational service programs under its service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE: *IdEA*; *CUR_eS*; and *EC Does It*.

30. Under the *IdEA* program, ProChoice Resource currently works with groups in 22 states to inform and train their leaders to implement ProChoice Resource's strategy to "Identify, Educate and Activate" more prochoice supporters for their groups. The *IdEA* program was launched in 1993 and is ongoing.

31. Under the CUR_eS project (Communities United for Reproductive Safety), ProChoice Resource works with community leaders in six cities targeted by anti-abortion groups to inform community leaders how to build long-term community support, and thereby safety, for clinic patients and abortion providers. The CUR_eS project cities are Little Rock, Arkansas; Bangor, Maine; Jackson, Mississippi; Kalispell, Montana; Albuquerque, New Mexico; and Allentown, Pennsylvania. The CUR_eS project was launched in 1995 and is ongoing.

32. Under ProChoice Resource's EC (emergency contraception) Does It project, ProChoice Resource works in nine states to inform state and community leaders how to organize and build coalitions to eliminate widespread ignorance about and increase access to emergency contraception, which has the potential to prevent half of the United States' annual 3.5 million unintended pregnancies. The EC Does It states are Alaska, California, Kentucky, New Jersey, Oregon, Pennsylvania, Rhode Island, South Dakota and Texas. The EC Does It project was launched in 1999 and is ongoing.

33. Additional ProChoice Resource "how to" educational service programs tailored to meet the needs of individual grassroots groups are offered under the service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE. These programs address effective and beneficial dealings with the media, fundraising, organization development and technical training, such as capacity building.

34. Through its service programs, in the past five years ProChoice Resource has trained groups to achieve results including the successful defense of women's health clinics and the opening of new clinics, the defeat of ballot initiatives designed to restrict reproductive rights, the election of candidates favoring the reproductive rights perspective, the preservation of full-range reproductive health care following hospital mergers and more balanced discourse about

reproductive rights issues in the print and electronic media. ProChoice Resource also provides information services by responding to the many individuals and groups, often in crisis, who telephone with concerns and questions.

(B) *ProChoice Resource Clearinghouse Services*

35. At the national level, under the service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE, ProChoice Resource serves as a clearinghouse of educational information from other organizations, think tanks and the media about and for the reproductive rights community, policymakers and the media. This information is maintained in, and is available from, ProChoice Resource's in-house library.

36. As administrators of PEP, a coalition of 47 national reproductive rights and other organizations, ProChoice Resource is in a unique position to provide public access to the complete and current publication catalogs of these organizations.

37. An adjunct of the ProChoice Resource clearinghouse services is the access it can afford to an extensive and up-to-date list of reproductive rights speakers around the country.

38. The public's most accessible gateway to ProChoice Resource's clearinghouse services is the ProChoice Resource Website.

(C) *ProChoice Resource Publications*

39. ProChoice Resource publishes, and in many instances offers for sale, a wide range of materials designed to provide a reliable, accessible and constant stream of information about all facets of the reproductive rights issue and its relation to other issues. Each of ProChoice Resource's publications is researched and written by leaders in the field and reviewed by a panel of outside experts. Each of ProChoice Resource's publications bear the service marks,

trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE.

40. ProChoice Resource has devoted substantial resources to the production of its publications, many of which are discussed below. In 1999, ProChoice Resource spent \$256,000 for these publications. In 2000, ProChoice Resource spent \$395,000. The 2001 budget for publications is \$323,000.

41. The ProChoice Resource free newsletter, ProChoice ideas!, published biannually with a circulation of over 20,000, contains field reports from individual states, organizing tips, policy analysis and legal analysis.

42. The ProChoice Resource policy paper series, ProChoice Matters, to be published semiannually in 2001, presents an in-depth discussion of a cutting-edge reproductive rights topic. For example, the January 1999 issue, subtitled Co-opting Conscience: The Dangerous Evolution of Conscience Clauses in American Health Care Policy, examined the trend of health care facilities' exercise of conscience clauses, asserting moral or religious grounds to end their provision of comprehensive reproductive health care.

43. The ProChoice Resource Opposition Primer is a comprehensive reference guide that provides a detailed point/counterpoint examination of domestic issues from both opposition and reproductive rights perspectives. Stand-alone chapters of the Opposition Primer cover education, tax reform, lesbian and gay rights, censorship, welfare reform, immigration, and the environment. Each chapter discusses how its issue bears upon women's rights and reproductive health. The Opposition Primer will be available in its entirety on the ProChoice Resource Website in 2001.

44. ProChoice Resource's (C)(3)s, (C)(4)s & PACs: A Primer on Political Activities and Tax-Exempt Organizations, a guide for understanding and effective use of these organizational laws, was first published in 1995 and completely revised in 2000.

45. ProChoice Resource's Money Talk\$: A Guide to Successful Fundrai\$ing Strategies is a selection of the best sources of information on fundraising, from preparing a plan to identifying and soliciting donors. This publication is offered free of charge on the ProChoice Resource Website.

46. Conscientious Exemptions and Reproductive Rights is a free report summarizing the presentations, discussions and strategy sessions of a national meeting convened by ProChoice Resource, in cooperation with The George Gund Foundation and the American Civil Liberties Union Reproductive Freedom Project, in Washington, D.C. on December 9, 1999. The national meeting and its workshops were attended by 60 representatives of reproductive rights groups, the majority of which were national organizations. The national meeting was the catalyst for the Spotlight Campaign, an outreach effort coordinated with the Education Fund of the Family Planning Advocates of New York State to raise awareness about exemption clauses, which allow institutions and healthcare professionals to refuse to provide, pay for and/or refer for certain services such as contraception, assisted reproduction, sterilization and abortion.

47. ProChoice Resource also publishes several how-to guides on various aspects of grassroots organization and political action, such as Reaching Out! How to Organize a Successful House Meeting Campaign and Strategies for Action: A Grassroots Organizing Manual.

48. The public's most accessible gateway to these publications of ProChoice Resource's Communicating Choice program is the ProChoice Resource Website, where all of these publications can be ordered online.

(D) ProChoice Resource Website

49. ProChoice Resource registered the ProChoice Resource Website Internet domain name, prochoiceresource.org, on January 20, 1998, via the Internet registrar Interland.net. ProChoice Resource is the registrant of record.

50. The ProChoice Resource Website went live on or about April 20, 1998.

51. ProChoice Resource has devoted substantial resources to the development, maintenance and operation of its Website.

52. The ProChoice Resource Website is currently updated every one to two weeks.

53. The individual webpages contained in the ProChoice Resource Website bear the service marks, trademarks and trade names PROCHOICE RESOURCE CENTER and/or PROCHOICE RESOURCE.

54. The ProChoice Resource Website layout consists of a homepage with eight tabs in one vertical row running down the left side. When clicked, the tabs are direct links to separate webpages of the ProChoice Resource Website, with the title of each webpage corresponding to that webpage's respective tab. Like the homepage, most of these eight webpages have their own unique subset of tabs running vertically down the left side. From top to bottom, the eight homepage tabs read: About the ProChoice Resource Center; What's New; How to Get Involved; ProChoice Resource Best Sellers; ProChoice Resource in the Field; How to Donate; Join the Mailing List; and Contact ProChoice Resource. Of these eight webpages, those that contain their own unique subset of tabs are as follows:

- About the ProChoice Resource Center: Who we are—What we do; Internships and Jobs; Contact ProChoice Resource; How to Donate; and Join the Mailing List.
- What’s New: Alert!; New Resources; What’s Happening; Issues & Commentary; and Op-Eds & Letters.
- How to Get Involved: Find a Grassroots Group; Fax/Global E-mail Network; Send a ProChoice Message; and ProChoice Web Links.
- ProChoice Resource Best Sellers: ProChoice Resource Newsletter; Conscientious Exemptions-Report; ProChoice Matters; Opposition Primer; Money Talk\$: A Guide to Successful Fundrai\$ing Strategies; How-To Guides; and Publication Order Form.
- ProChoice Resource in the Field: EC Does It; A Great *Idea!*; Other Trainings; Technical Assistance; CUR_eS Project; Leadership Challenge; Clearinghouse; and Training Request Form.

55. ProChoice Resource’s Website contains selected links to dozens of reputable organizations and high-quality third-party publications, including: Planned Parenthood Federation of America; People for the American Way; Religious Coalition for Reproductive Choice; Political Research Associates; MergerWatch; The Teen Pregnancy Prevention Initiative; National Adolescent AIDS and HIV Prevention Initiative; Women of Color Partnership; Chardon Press Online and Body Politic Magazine.

56. The ProChoice Resource Website is the public’s only gateway to ProChoice Resource’s regularly updated, carefully chosen compilation of information and publications, posted or linked at the “What’s New” webpage located at <http://www.prochoiceresource.org/html/news/issues>. A sampling of recently linked or posted material is: Stenberg v. Carhart, 530 U.S. 914 (2000); National Public Radio, “Talk of the

Nation” radio program on the subject of RU-486 (audio); “Abortion and Autonomy” by Wendy Kaminer, from The American Prospect Online; “The silence of the Pill” by Leah Kohlenberg, from Salon.com; and “Abortion a Major Issue, but Not Critical to Presidential Vote of Most Americans” by Jeffrey M. Jones, from Gallup News Service.

57. All of the ProChoice Resource publications discussed in paragraphs 41 through 47, whether offered for sale or free of charge, can be instantly ordered on the ProChoice Resource Website. Conscientious Exemptions and Reproductive Rights is available in its entirety on the ProChoice Resource Website, where it also can be ordered free of charge in hard copy form.

58. ProChoice Resource’s Website is a vital portal of information that has enjoyed exponential growth. In 1999, the ProChoice Resource Website averaged 5,000 “hits” (instances of a website being accessed) per month. In 2000, that average more than doubled. In the first two months of 2001, the Website was visited 150,000 times, on course for a 2001 monthly hit average of 75,000.

AIM Background

59. Defendants maintain the AIM Website, which is accessible at these Internet domain addresses: www.prochoiceresource.com, www.planedparenthood.com, www.planedparenthood.org and www.abortionsmurder.org. The AIM Website promotes the view that abortion constitutes murder under any circumstances and should be banned worldwide.

60. The AIM Website is accessible in New York, and has been accessed by New York residents.

61. According to information posted on the AIM Website, “Abortionsmurder.org is currently 100% privately funded. We do not seek funds or donations of any kind. We are Not

registered with the IRS as a Non-Profit organization, we seek no profit nor personal gain in any way.”

62. According to information posted on the AIM Website, “We are physically located in North Lauderdale FL and formerly of NYC, and travel as needed.”

63. According to information posted on the AIM Website, “Abortionismurder.org plainly believes that abortion must be banned worldwide.”

**Defendants’ Employment Of Multiple Internet Domain Names,
Including One Using The ProChoice Resource Mark,
To Hijack Internet Users To The AIM Website**

64. The AIM Website Internet domain name “abortionismurder.org” was registered on January 1, 2000, via the Internet registrar Register.com. The name, address and telephone number of the registrant of record is Abortionismurder.org, 400 SW 75th Terrace; North Lauderdale, Florida; 33068; telephone (954) 726-8978.

65. Register.com, an Internet Domain Name Registrar which administers the registration of “second level” Internet domain names in the “top level” COM, ORG, GOV, EDU, and NET domains, is located at 575 8th Avenue, 11th Floor; New York, New York; 10018.

66. The AIM Website Internet domain name “prochoiceresource.com” was registered on October 19, 2000, via the Internet registrar Register.com. The name, address and telephone number of the registrant of record is Abortionismurder.org, 400 SW 75th Terrace; North Lauderdale, Florida; 33068; telephone (954) 726-8978.

67. This registration of the “prochoiceresource.com” domain name and the use of this domain name on the Internet has been and is without the consent, license, authorization, approval or permission of ProChoice Resource.

68. The AIM Website Internet domain name “planedparenthood.com” was registered on October 5, 2000, via the Internet registrar Register.com. The name, address and telephone number of the registrant of record is Abortionismurder.org, 400 SW 75th Terrace; North Lauderdale, Florida; 33068; telephone (954) 726-8978.

69. This registration of the “planedparenthood.com” domain name and the use of this domain name on the Internet has been and is without the consent, license, authorization, approval or permission of the Planned Parenthood Federation of America.

70. The AIM Website Internet domain name “planedparenthood.org” was registered on October 5, 2000, via the Internet registrar Register.com. The name, address and telephone number of the registrant of record is Abortionismurder.org, 400 SW 75th Terrace; North Lauderdale, Florida; 33068; telephone (954) 726-8978.

71. This registration of the “planedparenthood.org” domain name and the use of this domain name on the Internet has been and is without the consent, license, authorization, approval or permission of the Planned Parenthood Federation of America.

72. In Internet terminology, these types of alternate website domain names that lead to the same “host” (the website) are known as “aliases,” “canonical names” or “Cnames.”

The AIM Website

73. The AIM Website layout consists of a homepage with eighteen tabs in three horizontal rows of eight, five and five tabs, respectively, running across the top. When clicked, the tabs are direct links to separate webpages of the AIM Website, with the title of each webpage corresponding to that webpage's respective tab. From left to right, the tabs read as follows:

- activities
- politics
- what can i do?
- songs
- about us
- religion
- rape/incest
- roe switched
- nazi correlation
- evidence
- must read letters
- email us
- partial birth murder
- murder vs. adoption
- videos
- not convinced?
- pregnant?
- former abortion doctors speak

Directly below the three rows of tabs is a blinking link which reads, “pregnant?” alternating with, “We care” with the stationary words, “click here” appearing immediately to the right of the blinking words.

AIM’s Role In The Reproductive Rights Community

74. According to information posted on the AIM Website at <http://www.prochoiceresource.com/activities.htm>, <http://www.planedparenthood.com/activities.htm>, <http://www.planedparenthood.org/activities.htm> and <http://www.abortionismurder.org/activities.htm>, the activities of AIM in the reproductive rights community include: “[a]ttending demonstrations and prayer vigils; [w]riting letters and emails to various organizations, corporations, politicians and entities urging them to promote the Pro-Life message and cause and admonishing them when they do not and pretend to be a force for God but their actions show otherwise; [n]etworking with various Pro-Life & Crisis Pregnancy organizations and assisting however we can, this includes financially and any other skills and resources we can provide to further their goals; and [p]urchasing and distributing (for free) Pro-life bumper stickers and other items.”

75. According to information posted on the AIM Website at <http://www.prochoiceresource.com/activities.htm>, <http://www.planedparenthood.com/activities.htm>, <http://www.planedparenthood.org/activities.htm> and <http://www.abortionismurder.org/activities.htm>, AIM “[does] not boast about our accomplishments nor take any public credit, hence we do not list here who we are or have been working with and what we have done.”

**Defendants' Infringement Renders
The AIM Website A "Bogus Abortion Clinic"**

76. The AIM Website is the Internet equivalent of a "bogus abortion clinic," which is intended, through misleading tactics and deception, to induce women who are considering or seeking education about abortion to oppose and reject abortion. The phenomenon of bogus clinics is long and well established in the reproductive rights community, including in publications of the Feminist Women's Health Center, the Institute for First Amendment Studies and NARAL. According to the September 1991 hearings of the Congressional Subcommittee on Regulation, Business Opportunities, and Energy, a bogus clinic is "a facility which typically is not staffed by professional health-care providers. Abortion or abortion referral services are neither given nor contemplated by the operator. Instead, these facilities are by design venues for hard sell, and often abusive, anti-abortion arguments and tactics aimed at unsuspecting and vulnerable consumers."

77. The recognized authoritative text for bogus clinics is How to Start and Operate a Pro-life Outreach Pregnancy Service Center, published in 1984 by the Pearson Foundation. This 84 page handbook suggests that bogus clinics should be placed in close proximity to abortion clinics and that the bogus clinic should use a name similar to the abortion clinic's, so as to cause confusion and lead persons who intend to go to the abortion clinic instead to enter the bogus clinic, where they encounter the "hard sell."

78. The so-called "hard sell" often consists of confronting these persons with graphic, traumatizing images of mutilated aborted fetuses and stillborn babies and providing frightening misinformation about fetal development and abortion. The AIM Website employs each of these tactics and—in the Internet context, by virtue of the use of the <http://www.prochoiceresource.com> domain name—it does so in close proximity to the ProChoice Resource Website, which is accessible at the practically identical <http://www.prochoiceresource.org> domain name.

79. Defendants have employed bogus clinic tactics by using infringing and misleading Internet domain names that incorporate the marks of bona fide reproductive rights organizations including ProChoice Resource, seizing the opportunity improperly to “hijack” Internet users who intended to access a different website, and who but for a typographical error or a reflexive “.com” instead of “.org,” would have achieved their true objective.

80. Defendants’ deliberate design of the AIM Website “traps” hijacked Internet users who attempt to correct their typographical error—or even to close their web browser—and confronts them with the “Not Convinced?” webpage which displays 22 gruesome color photographs of mutilated fetuses and stillborn infants, severed limbs and heads, and what purports to be hundreds of stockpiled aborted fetuses. Whether hijacked Internet users on the AIM homepage click on the “location” section of their web browser and replace “com” with “org” and hit enter; use the “drop down” list of recently visited websites to select another address; use the “back” button on the web browser; select a different website from their bookmarks; click on the X in the upper right corner of the web browser (which normally closes the browser entirely); select “file” then “close” or “exit”—no matter what the trapped users do to try to escape the AIM Website—they are confronted with the “Not Convinced?” photographs.

81. Defendants’ use of ProChoice Resource’s PROCHOICE RESOURCE mark through the “prochoiceresource.com” domain name registration has caused Internet users who intended to access the ProChoice Resource Website to be “hijacked” to the AIM Website. This constitutes an intentional and calculated deception of the public as to ProChoice Resource’s sponsorship, approval or affiliation with defendants that is likely to cause, and has likely caused Internet users who were attempting to access the ProChoice Resource Website to believe that

ProChoice Resource is itself the Internet equivalent of a bogus clinic, instead of a leading reproductive rights organization.

(A) *Adoption Solicitation on the AIM Website*

82. In furtherance of AIM's expressed purpose of "[n]etworking with various Pro-Life & Crisis Pregnancy organizations and assisting however we can, . . . includ[ing] financially and [by means of] any other skills and resources we can provide to further their goals," the AIM Website is engineered to cause pregnant women, particularly underage pregnant women, to carry their pregnancies to term and give up their children for adoption to a local chapter of one of the "crisis pregnancy organizations" promoted on the AIM Website. This end is accomplished by confronting pregnant women who view the AIM Website with numerous extremely graphic photographs of mutilated infants and fetuses, and fearmongering text that raises the specter of sin, government conspiracy, Nazis, the Holocaust, eugenics, vivisection, torture and covert warehousing of fetal tissue for experimentation. As the Aim Website says of its "Not Convinced?" webpage where many of these photographs appear, "It is sure to shock you."

83. AIM's unauthorized registration of the infringing Internet website domain names "prochoiceresource.com," "plannedparenthood.com" and "plannedparenthood.org" to intentionally misdirect individuals seeking to access the ProChoice Resource Website or the Planned Parenthood Federation of America website comports with AIM's manifesto to "further the goals" of anti-abortion adoption agencies "however [it] can" through the use of AIM's resources. The AIM Website, AIM's only apparent "resource," is an embodiment of the goals of the adoption organizations promoted on the AIM Website, and its central function is to further those goals.

84. AIM's Website webpage entitled "Pregnant?", located at <http://www.prochoiceresource.com/pregnant.htm>,

<http://www.planedparenthood.com/pregnant.htm>, <http://www.planedparenthood.org/pregnant.htm> and <http://www.abortionismurder.org/pregnant.htm>, is targeted to underage pregnant women with the purpose of soliciting them to bring their pregnancies to term and put up their child for local adoption. The text of the “Pregnant?” webpage reads: “If you or someone you know is pregnant or thinks that they may be pregnant, there is help available!! You don’t need to worry about your parents, school, friends, teachers or anything else. There are a very many loving people who are willing to help you Right Now in any way they can!!! Please check the links below for a center in your area. There are many, reachable by both phone and email. If you do not find help below, Email Us! Admin@abortionismurder.org We will find you the help you need!” The foregoing text is followed by direct links to the websites of three anti-abortion, pro-adoption organizations.

85. The first organization linked to the AIM Website on the webpage entitled “Pregnant?”, located at <http://www.prochoiceresource.com/pregnant.htm>, <http://www.planedparenthood.com/pregnant.htm>, <http://www.planedparenthood.org/pregnant.htm> and <http://www.abortionismurder.org/pregnant.htm>, is Bethany Christian Services (“Bethany”), an adoption services agency. Two links are provided. The first is the Bethany logo, which when clicked, provides a direct link to the Bethany website’s “Unplanned Pregnancy” webpage located at <http://www.bethany.org/pregnant/index.htm>. The second is an Internet address-style link to the Bethany website homepage, located at <http://www.bethany.org>. According to information posted on the Bethany website at <http://www.bethany.org>, there are 64 locations in the United States including Bethany Christian Services of Manhattan; 292 Fifth Avenue, Suite 410; New York, NY 10001 and Bethany Christian Services of Warwick, Warwick Reformed Church; 16 Maple Avenue; Warwick, NY 10990. The AIM “Pregnant?” webpage also solicits pregnant women to call Bethany: “For immediate, confidential counseling, call 1-800-Bethany right NOW! Don’t be

afraid. 7 days a week, 8AM to 12 midnight (EST (New York time –that is 3 hours ahead of California time) You do NOT have to be a Christian!”

86. The second organization linked to the AIM Website at the webpage entitled “Pregnant?”, located at <http://www.prochoiceresource.com/pregnant.htm>, <http://www.planedparenthood.com/pregnant.htm>, <http://www.planedparenthood.org/pregnant.htm> and <http://www.abortionismurder.org/pregnant.htm>, is Birthright International (“Birthright”). Again, two links are provided, the first is the Birthright logo and the second is an Internet address-style link. Both are direct links to the homepage of the Birthright website located at <http://www.birthright.org>. According to information posted on the Birthright website, Birthright is an international anti-abortion crisis pregnancy service with approximately 500 chapters worldwide, including 450 in the United States. There are over 40 Birthright chapters in New York.

87. The third organization linked to the AIM Website at the webpage entitled “Pregnant?”, located at <http://www.prochoiceresource.com/pregnant.htm>, <http://www.planedparenthood.com/pregnant.htm>, <http://www.planedparenthood.org/pregnant.htm> and <http://www.abortionismurder.org/pregnant.htm>, is Pregnancy Centers Online. One direct link, the Pregnancy Centers Online logo, is provided. This is a direct link to the Pregnancy Centers Online website, located at <http://www.pregnancycenters.org>, which is an anti-abortion referral listing that provides contact information for hundreds of state and local pro-life organizations and adoption—a.k.a. “crisis pregnancy”—centers. Adjacent to this link, the following text appears: “This site has email counselors and if you click on “Find a Center” you can find help and phone numbers in your local area.”

88. In furtherance of AIM’s solicitation of women to bring their pregnancies to term and put up their children for local adoption, posted on the AIM Website at the webpage entitled,

“Murder vs. Adoption,” located at <http://www.prochoiceresource.com/murdervsadoption.htm>, <http://www.planedparenthood.com/murdervsadoption.htm>, <http://www.planedparenthood.org/murdervsadoption.htm> and <http://www.abortionismurder.org/murdervsadoption.htm>, are two charts purporting to set forth the similarities and differences between abortion and adoption. These charts are “Compliments of Bethany Christian Services,” and the content is identical to that which appears on the Bethany website at the webpage located at <http://www.bethany.org/pregnant/index.htm>. Both postings conclude “Adoption goes a step beyond choosing life for your baby. It is a quality of life decision for you and your child.”

89. In furtherance of AIM’s solicitation of women to bring their pregnancies to term and put up their children for local adoption, posted on the AIM Website at the webpage entitled “Not Convinced?”, located at <http://www.prochoiceresource.com/notconvinced.htm>, <http://www.planedparenthood.com/notconvinced.htm>, <http://www.planedparenthood.org/notconvinced.htm> and <http://www.abortionismurder.org/notconvinced.htm>, are nearly two dozen gruesome color photographs of horribly mutilated fetuses and stillborn babies, severed heads and limbs, and garbage bags filled with stillborn babies. The accompanying text suggests that aborted fetuses are routinely delivered alive, then subjected to experimental vivisection, tortured, and then their mutilated bodies are incinerated with cats and dogs. This webpage also displays three photographs, attributed to Operation Rescue, depicting a storeroom full of several hundred blood-smearred plastic pint and quart-sized containers, stacked to the ceiling, which are purported to contain aborted fetuses.

(B) Local Action Solicitation on the AIM Website

90. Apart from soliciting pregnant women to seek local adoption services, AIM, through its AIM Website, solicits various other local acts including joining the Right to Life Party and voting for its candidates, running for office, writing letters, demonstrating and volunteering for local anti-abortion organizations and adoption services agencies.

91. The AIM Website's webpage entitled "What Can I Do?", located at <http://www.prochoiceresource.com/whatcanido.htm>, <http://www.planedparenthood.com/whatcanido.htm>, <http://www.planedparenthood.org/whatcanido.htm> and <http://www.abortionismurder.org/whatcanido.htm>, begins with a solicitation for individuals to register to vote and declare membership in the Right to Life Party. The solicitation is followed by a direct Internet address-style link to the Federal Election Commission's National Mail Voter Registration Form. The AIM Website advises: "You can register to vote from just about any state by printing out and mailing in the registration form at: <http://www.fec.gov/votregis/vr.htm> just scroll to the bottom and click on the name of your state."

92. Mailing the National Mail Voter Registration Form to the New York State Board of Elections in Albany is a valid means of registering to vote in New York.

93. The AIM Website's "What Can I Do?" webpage, located at <http://www.prochoiceresource.com/whatcanido.htm>, <http://www.planedparenthood.com/whatcanido.htm>, <http://www.planedparenthood.org/whatcanido.htm> and <http://www.abortionismurder.org/whatcanido.htm>, solicits individuals to "Volunteer in Crisis Pregnancy Centers like Birthright. Go to: <http://www.birthright.org/admin.html#volunteer> or

Bethany call Kristen at (616) 224-7458 <http://www.bethany.org>.” Both of the foregoing Internet addresses are direct links from the AIM Website to the links’ respective adoption organization.

94. The AIM Website’s “What Can I Do?” webpage, located at <http://www.prochoiceresource.com/whatcanido.htm>, <http://www.planedparenthood.com/whatcanido.htm>, <http://www.planedparenthood.org/whatcanido.htm> and <http://www.abortionsmurder.org/whatcanido.htm>, solicits individuals to “contact your local RTL [Right to Life] party office and ask what you can do to help. This usually involves running for office as a candidate . . . and collecting signatures/petitions from RTL members.”

95. The AIM Website’s “What Can I Do?” webpage, located at <http://www.prochoiceresource.com/whatcanido.htm>, <http://www.planedparenthood.com/whatcanido.htm>, <http://www.planedparenthood.org/whatcanido.htm> and <http://www.abortionsmurder.org/whatcanido.htm>, solicits individuals to “Write letters to your local parish/synagogue/temple etc. asking that they make the Pro-Life message clear in their homilies/sermons etc.”

96. The AIM Website’s “What Can I Do?” webpage, located at <http://www.prochoiceresource.com/whatcanido.htm>, <http://www.planedparenthood.com/whatcanido.htm>, <http://www.planedparenthood.org/whatcanido.htm> and <http://www.abortionsmurder.org/whatcanido.htm>, solicits individuals to “Join the protests and marches, start your own, if you need ideas contact us at admin@abortionismurder.org we would be

glad to help.” When the foregoing email address is clicked on the AIM Website, it enables the user instantly to write and send an email to AIM.

(C) Promotion of Publications and Products on the AIM Website

97. On the AIM Website, third party publications are posted as content to promote the sale of books. Various other products, videos and music on compact disc are promoted for sale. No publications by AIM, nor AIM products, are available for sale.

98. On the AIM Website at the webpage entitled “Songs,” located at <http://www.prochoiceresource.com/songs.htm>, <http://www.planedparenthood.com/songs.htm>, <http://www.planedparenthood.org/songs.htm> and <http://www.abortionismurder.org/songs.htm>, there are three links for various computer formats to play or download the song, “Precious Child” by Debbie McCurry, free of charge. On the same webpage, there are links to free samples of portions of eleven songs which appear on a compact disc promoted by AIM: “PROject Life – A fantastic CD, 11 tracks of great music re-enforcing the Prolife message. Proceeds from purchase are used to further Prolife causes. Below are 45 second clips of each track. To purchase the CD Online or via phone go to: <http://goldendomerecords.com>.” This direct link is a connection to the Golden Dome Records website, where the compact disc can be purchased for \$12.95 plus \$3.50 shipping and handling.

99. Also on the AIM Website at the webpage entitled “Videos,” located at <http://www.prochoiceresource.com/videos.htm>, <http://www.planedparenthood.com/videos.htm>, <http://www.planedparenthood.org/videos.htm> and <http://www.abortionismurder.org/videos.htm>, there are free links to clips from the American Portrait Films videos, “Hard Truth,” “Massacre,” and “Silent,” as well as two direct links to the American Portrait Films website’s “Pro-Life

Videos” webpage located at <http://www.amport.com/prolife.htm>, which advertises for sale 27 abortion videos ranging in price from \$14.95 to \$39.95.

100. Posted on the AIM Website at the webpage entitled “Roe Changed Her Mind,” located at <http://www.prochoiceresource.com/roechangedhermind.htm>, at <http://www.planedparenthood.com/roechangedhermind.htm>, <http://www.planedparenthood.org/roechangedhermind.htm> and <http://www.abortionismurder.org/roechangedhermind.htm> is a 1998 article by Cable News Network Interactive writer Douglas S. Wood entitled, “Who is ‘Jane Roe’?: Anonymous no more, Norma McCorvey no longer supports abortion rights.” The article discusses a book McCorvey co-authored about her religious conversion, entitled Won By Love. Also appearing on this AIM webpage alongside the text of the article about the book is a prominent full color picture, approximately 3” x 4,” of Won By Love, which is 244 pages long and has a publisher’s list price of \$19.99.

101. Posted on the AIM Website at the webpage entitled “Rape/Incest,” located at <http://www.prochoiceresource.com/rapeincest.htm>, <http://www.planedparenthood.com/rapeincest.htm>, <http://www.planedparenthood.org/rapeincest.htm> and <http://www.abortionismurder.org/rapeincest.htm>, is an article by Frederica Matthewes-Green, entitled “Rape and Incest are Tragic, But Abortion Doesn’t Heal the Pain,” which advocates bringing pregnancies to term and giving birth, regardless of the age of the mother, where the pregnancy is the result of rape and/or incest. The article is essentially a favorable review of a book entitled Victims and Victors, edited by David C. Reardon, Amy Sobie and Julie Makimaa (Acorn Books, May 2000), which is 192 pages long and has a market price of \$11.95.

102. Posted on the AIM Website at the webpage entitled “What Can I Do?”, located at <http://www.prochoiceresource.com/whatcanido.htm>, <http://www.planedparenthood.com/whatcanido.htm>, <http://www.planedparenthood.org/whatcanido.htm> and <http://www.abortionsmurder.org/whatcanido.htm>, is a direct Internet address-style link to the Victory Won homepage, where all manner of anti-abortion materials are available for purchase—from plastic models of fetuses to license plate frames. The AIM Website promotes Victory Won and its products on the “What Can I Do?” webpage: “You can obtain Pro-life materials such as bumper stickers, pamphlets to be handed out, mailing labels and much much more at: <http://www.victorywon.com> they have a very large selection of materials and the prices are good.”

103. Posted on the AIM Website at the webpage entitled “Former Abortion Employees Speak Out”, located at <http://www.prochoiceresource.com/former.htm>, <http://www.planedparenthood.com/former.htm>, <http://www.planedparenthood.org/former.htm> and <http://www.abortionsmurder.org/former.htm>, is a direct link to the AIM Website “Videos” page and an article “[c]ourtesy of www.prolife.com” entitled “Former Abortionists and Former Abortion Counselors Speak Out”, which, after 7 two or three sentence quotations from various individuals, encourages Internet users “To order the 30-minute ‘Meet the Abortion Providers’ video which contains these statements and more, call Heritage House toll-free at 1-800-858-3040. It’s only \$17.95 and it’s one of the most powerful videos ever produced on abortion. Don’t forget to ask the friendly folks at Heritage House to send you their FREE 96-page catalog offering tons of pro-life/chastity books, videos, brochures, bumper stickers, T-shirts, Precious Feet pins and more. When you call, please let them know that your friends at Pro-Life America

recommended you give them a call.” At the bottom of this webpage, a book by Dr. Bernard M. Nathanson, M.D. is promoted: “Dr. Nathanson has written an autobiography titled, THE HAND OF GOD - A JOURNEY FROM DEATH TO LIFE BY THE ABORTION DOCTOR WHO CHANGED HIS MIND. Abortion doesn’t look the same after you view it through [sic] the eyes of former abortionists like Dr. Nathanson. You can read a review of Dr. Nathanson’s powerful book and confessions by clicking here.” Two direct links enable Internet users to purchase the book from Heritage House.

(D) Educational Information on the AIM Website

104. On the AIM Website at the webpage entitled “Politics,” located at <http://www.prochoiceresource.com/politics.htm>, <http://www.planedparenthood.com/politics.htm>, <http://www.planedparenthood.org/politics.htm> and <http://www.abortionismurder.org/politics.htm>, AIM reports the findings of its “investigation” regarding the stance of 11 political parties on the issue of abortion.

105. On the AIM Website at the webpage entitled “Religion,” located at <http://www.prochoiceresource.com/religion.htm>, <http://www.planedparenthood.com/religion.htm>, <http://www.planedparenthood.org/religion.htm> and <http://www.abortionismurder.org/religion.htm>, in connection with the subject of abortion, are links to excerpts from the Quoran, the Old and New Testaments of the Bible, and discussions of Hindu and Buddhist teachings.

106. Posted on the AIM Website at the webpage entitled “NAZI Correlation Story,” located at <http://www.prochoiceresource.com/NAZICorrelationstory.htm>, <http://www.planedparenthood.com/NAZICorrelationstory.htm>, <http://www.planedparenthood.org/NAZICorrelationstory.htm> and

<http://www.abortionismurder.org/NAZICorrelationstory.htm>, is an article “[d]isplayed with permission from TheKingsNetwork.com, authored by dougp@thekingsnetwork.com,” entitled, “The Correlations between the abortion holocaust and the NAZI holocaust.” This article teaches that “The American eugenics program has no central sponsor but several big guns, including Planned Parenthood, NARAL (National Abortion Rights Action League [sic] and the National Abortion Federation. Planned Parenthood founder Margaret Sanger was a NAZI symphathiser [sic] and an ardent proponent of Eugenics. She was also known for her strong anti-black sentiments and geared her eugenicists [sic] efforts towards ahnialating [sic] the black race in America. The combined forces of these individuals and groups make up the ‘Pro-Choice’ campaign, a thinly veiled ‘Final Solution’ for the unwanted unborn child.” Accompanying the article are graphic photographs of Nazi atrocities and several large, close-up color photographs of stillborn babies and mutilated fetuses.

107. Posted on the AIM Website at the webpage entitled “Partial Birth Murder,” located at <http://www.prochoiceresource.com/partialbirthmurder.htm>, <http://www.planedparenthood.com/partialbirthmurder.htm>, <http://www.planedparenthood.org/partialbirthmurder.htm> and <http://www.abortionismurder.org/partialbirthmurder.htm>, are five diagrams purporting to demonstrate the procedures involved in a late-term abortion.

108. Posted on the AIM Website at the webpage entitled “Evidence,” located at <http://www.prochoiceresource.com/evidence.htm>, <http://www.planedparenthood.com/evidence.htm>, <http://www.planedparenthood.org/evidence.htm> and <http://www.abortionismurder.org/evidence.htm>, is an article by Ellie Dillon entitled, “Legalized

Abortion Harms Women and Children,” which purportedly appeared in the St. Louis Post Dispatch on January 22, 2000. Among other things, the article suggests a causal link between the advent of legalized abortion and increases in teenage pregnancy, child abuse and statutory rape, and asserts that doctors who provide late-term abortions routinely deliver the fetus alive then break the fetus’s neck or beat the fetus to death.

**Defendants’ Infringements Are Likely To Cause
Confusion And Deception, As Is Defendants’ Intent**

109. In light of defendants’ avowed mission of furthering the goals of anti-abortion “crisis pregnancy” adoption organizations, defendants’ registration of the “alias” domain names using the ProChoice Resource mark and variations on the Planned Parenthood Federation of America mark evinces defendants’ knowledge of the wide recognition and fame of these marks and the likelihood that Internet users who seek information on reproductive rights issues are likely to attempt to access the websites of either ProChoice Resource or Planned Parenthood Federation of America.

110. A person who types into a computer search engine “www.” plus any of the AIM Website Internet domain names identified above is connected to the AIM Website, exactly as if that person had typed in www.abortionismurder.org.

111. The AIM Website is devoted to reproductive rights issues, just as is the ProChoice Resource Website, albeit from the perspective of the anti-abortion movement. The AIM Website promotes publications available for purchase, advocates local activism, advertises services in connection with local activism, and provides educational information with respect to reproductive rights in connection with such topics as abortion, politics, religion and the history of the reproductive rights movement. The ProChoice Resource Website likewise promotes publications available for purchase, advocates local activism, advertises services in connection with local

activism, and provides educational information with respect to reproductive rights in connection with such topics as abortion, politics, religion and the reproductive rights movement.

112. Defendants' unauthorized use of ProChoice Resource's PROCHOICE RESOURCE mark in connection with the improper "prochoiceresource.com" domain name registration is willfully and intentionally designed and calculated by defendants to cause, and is likely to cause, confusion, mistake and deception of the public as to the source, origin, sponsorship, approval or affiliation of defendants with ProChoice Resource, including by causing Internet users who intend to access the ProChoice Resource Website to be "hijacked" to the AIM Website.

113. This use of ProChoice Resource's PROCHOICE RESOURCE mark in connection with the improper "prochoiceresource.com" domain name registration causes harm to ProChoice Resource in New York by, without limitation, causing Internet users who seek to access the ProChoice Resource Website for the first time to mistakenly conclude that ProChoice Resource is not a genuine entity, resulting in lost donations and revenues from the sale of publications; diluting ProChoice Resource's famous and distinctive mark; and tarnishing the reputation of ProChoice Resource by offering competing services of inferior quality and scurrilous, false, and repugnant content.

114. This use of ProChoice Resource's PROCHOICE RESOURCE mark in connection with the infringing "prochoiceresource.com" domain name registration occurred after the mark's fame was established in the reproductive rights community and has caused dilution of the distinctiveness of the mark.

115. By letter dated March 23, 2001, attorneys for ProChoice Resource notified defendants that their unauthorized use of the PROCHOICE RESOURCE mark in connection with defendants' registration of the "prochoiceresource.com" domain name alias is unlawful, and

demanded that defendants cease all use of the PROCHOICE RESOURCE mark and transfer the “prochoiceresource.com” domain name to ProChoice Resource. Defendants have not contacted the attorneys for ProChoice Resource in response to this letter. However, on March 24, 2001, defendants sent an electronic mail message to ProChoice Resource which among other things solicited ProChoice Resource to buy the domain name prochoiceresource.com. A true copy of this electronic mail message is attached as Exhibit A.

FIRST CLAIM FOR RELIEF

**False Designation Of Origin, And False And Misleading
Descriptions And Representations, And Unfair Competition Under
Section 43(a) Of The United States Trademark Act Of 1946**

116. ProChoice Resource repeats and realleges the allegations in paragraphs 1 through 115 hereof as if fully set forth herein.

117. The aforesaid acts of defendants constitute use of false designation of origin, false and misleading descriptions and representations and unfair competition in violation of Section 43(a) of the United States Trademark Act of 1946, as amended, 15 U.S.C. § 1125(a).

118. Defendants' aforesaid acts have caused, and unless restrained by this Court will continue to cause irreparable injury to ProChoice Resource.

119. ProChoice Resource has no adequate remedy at law.

SECOND CLAIM FOR RELIEF

**Trademark Dilution Under The Federal Trademark
Dilution Act Of 1995, As Amended, 15 U.S.C. § 1125(c)**

120. ProChoice Resource repeats and realleges the allegations in paragraphs 1 through 115 hereof as if fully set forth herein.

121. Defendants' aforesaid activities constitute dilution of the distinctive quality of, and goodwill associated with the PROCHOICE RESOURCE CENTER and PROCHOICE RESOURCE marks in violation of the Federal Trademark Dilution Act of 1995, as amended, 15 U.S.C. § 1125(c).

122. Defendants' aforesaid acts have caused, and unless restrained by this Court will continue to cause irreparable injury to ProChoice Resource.

123. ProChoice Resource has no adequate remedy at law.

THIRD CLAIM FOR RELIEF

**Cybersquatting Under Section 1125(d) Of The
Anticybersquatting Consumer Protection Act**

124. ProChoice Resource repeats and realleges the allegations in paragraphs 1 through 115 hereof as if fully set forth herein.

125. The aforesaid acts of defendants constitute a violation of the ACPA, 15 U.S.C. § 1125(d), because defendants registered the infringing “prochoiceresource.com” domain name, which is identical to the famous PROCHOICE RESOURCE mark, with the bad faith intent to profit therefrom by “hijacking” Internet users attempting to access the ProChoice Resource Website; furthermore, defendants have engaged in a consistent pattern of violations.

126. Defendants’ aforesaid acts have caused, and unless restrained by this Court will continue to cause irreparable injury to ProChoice Resource.

127. ProChoice Resource has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF

**Common Law Unfair Competition; Trademark Infringement; Trade Name
Infringement; Service Mark Infringement; Misappropriation; And Palming Off**

128. ProChoice Resource repeats and realleges the allegations in paragraphs 1 through 115 hereof as if fully set forth herein.

129. The aforesaid acts of defendants constitute common law unfair competition, trademark infringement, trade name infringement, service mark infringement, misappropriation, and palming off.

130. Defendants’ aforesaid acts have caused, and unless restrained by this Court, will continue to cause irreparable injury to ProChoice Resource.

131. ProChoice Resource has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF

Conversion

132. ProChoice Resource repeats and realleges the allegations in paragraphs 1 through 115 hereof as if fully set forth herein.

133. The aforesaid acts of defendants constitute common law conversion.

134. Defendants' aforesaid acts have caused, and unless restrained by this Court, will continue to cause irreparable injury to ProChoice Resource.

135. ProChoice Resource has no adequate remedy at law.

SIXTH CLAIM FOR RELIEF

New York General Business Law Violations

Section 133 – Use Of Name Or Address With Intent To Deceive;

Section 135 – Unlawful Use Of Name Of Charitable Corporation;

Section 349 – Deceptive Trade Practices;

Section 360-l – Injury To Business Reputation And Dilution; And

Section 397 – Unlawful Use Of Name Or Other Identification Of Non-Profit Organization

136. ProChoice Resource repeats and realleges the allegations in paragraphs 1 through 115 hereof as if fully set forth herein.

137. The aforesaid acts of defendants constitute knowing and willful violations of New York General Business Law §§ 133; 135; 349; 360-k; 360-l; and 397.

138. Defendants' aforesaid acts have caused, and unless restrained by this Court, will continue to cause irreparable injury to ProChoice Resource.

139. ProChoice Resource has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, ProChoice Resource requests the Court to enter judgment against defendants on its Claims for Relief as follows:

1. That defendants Thomas P. Fitch and/or Meegan Fitch individually and d/b/a Abortion Is Murder and abortionismurder.org; their current and future principals, shareholders, officers, directors, employees, successors, assigns, suppliers, agents, servants, attorneys, alter egos; and all those persons in active concert, participation or privity with them, or any of them, be permanently enjoined and restrained from:

(a) Infringing the trademarks, trade names and service marks of ProChoice Resource by registering Internet website domain name(s) which include the words “prochoice resource” or any derivation of these words, including misspellings and abbreviations, or any substantially similar words, alone or in combination with any other words, marks, or other elements; and

(b) Doing any other act or thing calculated or likely to cause confusion or mistake, or to deceive the public into the belief that defendants’ goods or services are ProChoice Resource’s goods or services, or come from or are affiliated with ProChoice Resource or are sponsored or approved by ProChoice Resource. And further,

2. That they be required to take all actions necessary to effect the immediate transfer of the registration of the “prochoiceresource.com” domain name and any variations thereof registered by defendants to ProChoice Resource.

3. That they be directed to file with this Court and serve upon ProChoice Resource a written report signed by each of them under oath, setting forth in detail the manner in which each has complied with the Court’s injunction.

4. That they be required to post on the top half of the homepage of the AIM Website, in the same size and color typeface as the titles of the tabs running across the top thereof, a corrective statement, the precise language of which is to be determined by the Court, stating that AIM and the AIM Website are not affiliated with ProChoice Resource and the ProChoice Resource Website. Such corrective statement is to remain on the AIM Website for a duration equal to the period of time from defendants' registration of "prochoiceresource.com" until the completion of the transfer of such registration to ProChoice Resource. If the Court should find that defendants have registered additional domain names that infringe the marks of ProChoice Resource, the posting of the corrective statement is to be extended for period of time equal to each period of time from defendants' registration of such domain names until the completion of the transfer of the registration of such domain name to ProChoice Resource.

5. That ProChoice Resource be awarded and recover its actual and consequential damages proximately resulting from defendants' illegal conduct.

6. That ProChoice Resource be awarded and recover disgorgement of defendants' profits attributable to their violations of ProChoice Resource's rights.

7. That ProChoice Resource be awarded and recover three times its actual and consequential damages sustained as a result of defendants' willful and knowing violations, and that ProChoice Resource be awarded and recover three times the defendants' profits arising from their aforesaid acts.

8. That ProChoice Resource be awarded and recover damages in the amount of \$100,000 for defendants' intentional, bad faith registration and use of the domain name prochoiceresource.com, which is identical to and dilutive of the PROCHOICE RESOURCE mark, with the intent to profit therefrom; and further, that ProChoice Resource be awarded and

recover damages in the amount of \$100,000 for each additional such registration found by the Court.

9. That ProChoice Resource be awarded and recover additional exemplary and punitive damages against defendants under state law.

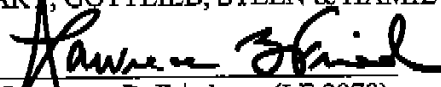
10. That ProChoice Resource be awarded and recover its reasonable attorneys' fees, disbursements, and all costs incurred as a result of defendants' aforesaid acts.

11. That the Court grant ProChoice Resource such other and further relief as this Court deems just and proper.

Dated: May 9, 2001
New York, New York

Respectfully submitted,

CLEARY, GOTTlieb, STEEN & HAMILTON

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-----Original Message-----

From: admin@abortionismurder.org [mailto:admin@abortionismurder.org]
Sent: Saturday, March 24, 2001 1:59 PM
To: info@prochoiceresource.org
Subject: Contacted by your lawyer....

Hello,

My name is Thomas Fitch. Today I received a fedex C&D from your law firm in Liberty Plaza in Manhattan, requesting and demanding that we stop using the name prochoiceresource.com. By the way thanks for waking us up at 9:00am on a Saturday and putting my wife's name on it, she was real happy about it.

I must first compliment your law firm for writing such a nice letter. I'm not being sarcastic. The letters we usually receive from lawyers insult us, try to intimidate us and make many untrue ugly accusations against us.

There are several ways this could play out. I'm going to put all of my cards on the table here.

First, we performed trademark searches on "prochoice resource" and "prochoice resource center" and "prochoice resource center inc." and came up with nothing

We've been through this before -we hold over 30 names and haven't given one up yet-, so we've learned a lot from the experiences.

Your organization is a Non-profit, actually a registered 501. The use of the .com name is for Companies (ie; commercial), Profit driven companies. .org is for non-profit Organizations. This is an argument we would use in court.

On our website we make absolutely no reference to your organization in any way. We don't even say the name Prochoice Resource Center, this is important as well.

We don't have a 'competing' tangible product. We have competing agendas yes. But the Judge's love wrangling over this issue.

We are a non-profit in the truest sense of the word. We make NO money in any way. We don't ask for nor accept donations. We're not registered with the IRS as a 501. When it all comes down to it. I myself am Abortionismurder.org there is no paper trail to anyone else.

Going to court will give us publicity. There is no such thing as bad publicity for us. It's all in our name. BTW We always represent ourselves.

If you want to go to court over this we will oblige, we will fight as long as it takes. I should tell you that we appear poor -as we have no real assets or decent bank accounts to speak of, so on the slim chance that you got a judge on your side, actually won, then won the appeal -if we could get one- and tried to get your legal fees paid, you'd never ever collect (BTW We're in FL we have Homestead Exemption -you can't take the only asset we have -our house).

We're willing to negotiate. We are trying to help women in a crisis pregnancy NOW. Not tomorrow, not next week. As you can imagine doctors bills, cribs, diapers, formula not to mention job training and future planning for the mother are expensive!

This is the deal we are offering. do the math, how much is it going to cost you to go into a prolonged court battle? Take a fraction of that and make us a fair offer for the name. We will donate 1000% of those funds directly to an on the edge crisis pregnancy resource center. This leaves the politics of the issue out of it and helps people who really need it NOW.

Upon notification of a Fair offer (please use email) we will immediately point the name to the name to your website -this takes 24-48 hours to be replicated planet wide- as a show of good faith. Then we'll start filling out the forms to transfer over the name to you -this needs to be done in ink and by regular mail. Once we have actually received the funds we will perform the last action giving you the name.

Or you can decide to send this letter to your lawyer and we'll see you in court. Its up to you now. We could have the name pointed and functioning as early as Tuesday.

<http://www.abortionismurder.org>

Mommy keep me safe, Mommy keep me warm,
Handle me with all your love, Mommy keep me from harm.
I'm only six weeks old today, This birthday gift to me,
A pair of bright blue eyes, That someday you will see,
I've barely got ears, A little puppy nose,
and at the end of my feet, Little things called toes.
Looking forward to my life, toys, teddy bears, snails,
and long fairy tales. Where are we going mommy,
in a bath, on a bus ride or, perhaps far away.
Where are we going being pushed at all force.
How funny it feels passing through doors,
people dressed in green, if they hurt you mommy just scream.
What's happening mommy, I'm starting to cry,
Mommy come quickly, they're making me die,
Killing me slowly, Pulling me apart,
everything inside of me even my heart, Bye mommy, good-bye
But how I wanted to see the grass, the trees,
hear a sweet song, feel a sweet breeze. Bye mommy
good-bye I love You I really do
I just wish you could love me too.

-by Fred Minnic