

## MEMORANDUM

TO: Lawyering Skills I students  
FROM: Professor David E. Sorkin  
DATE: March 1, 2010  
RE: Boyd Enterprises

We represent Boyd Enterprises, a closely held Illinois corporation. For the past five years Boyd has been promoting pigeon meat as an alternative to chicken. Boyd sells pigeon breeding stock and supplies to entrepreneurs across the United States and Canada. Approximately 15% to 20% of Boyd's customers live in Illinois. Boyd uses NEW CHICKEN and PIGEON IS THE NEW CHICKEN as trademarks to promote its business, and claims to have acquired common-law rights in these marks.

Boyd's CEO, Angela Lyon, tells us that many of the company's customers have been very successful, but a few customers have floundered or even lost their entire investment. One disgruntled customer in particular, Logan Treever, has begun waging a public campaign against Boyd, using the Internet to disparage the company and accuse it of defrauding its customers. Treever has established a website at the domain name "newchickenisfowl.com" for this purpose. Treever paid slightly over \$100,000 to Boyd for breeding stock and supplies between early 2007 and mid-2008. Treever placed his orders from Boyd by phone; Boyd has a website describing its products but accepts orders only via its toll-free telephone number. Boyd shipped the pigeons to Treever, who lives in Oklahoma, using the U.S. Postal Service. The supplies were shipped to Treever via United Parcel Service (but only the Postal Service will ship live animals). According to information in Boyd's files, Treever first learned of Boyd while attending a franchising convention in Chicago in October 2006; he then participated in a training session held by Boyd in East St. Louis, Illinois, in December 2006.

Boyd is planning to file a lawsuit against Treever, alleging trademark infringement and dilution, cybersquatting, tortious interference with prospective business relations, and various other claims. Ideally Boyd would like to be able to file this action in a federal court in Chicago (i.e., the U.S. District Court for the Northern District of Illinois). However, it is not clear that a court in Illinois will be able to exercise personal jurisdiction over Treever, since he is not an Illinois resident. Please prepare a memorandum addressing this issue.