

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ACCEL CAPITAL, INC.,

Plaintiff,

-against-

JTT FUNDING INC.,

Defendant.
-----X

SUMMONS

Index No.:

Plaintiff's place of business:
65 West 36th Street, 12th Fl.
New York, New York 10018

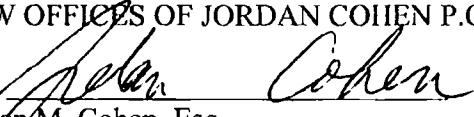
The basis of venue is that
Plaintiff's principal office is
in New York County

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby summoned to answer the Complaint in the action and to serve a copy of your Answer, or if the Complaint is not served with the Summons, to serve a Notice of Appearance on the Plaintiff's attorney within twenty (20) days after service of the Summons exclusive of the date of service (or within thirty (30) days after service is complete, if the Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
April 13, 2018

LAW OFFICES OF JORDAN COHEN P.C.

By: 
Jordan M. Cohen, Esq.
Attorneys for Plaintiff
10 East 40th Street, 46th Floor,
New York, New York 10016
jcohen@jordancohenlaw.com

Defendant's Address:
535 Broadhollow Road, Suite B36
Melville, New York 11747

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ACCEL CAPITAL, INC.,

Plaintiff,

COMPLAINT

Index No.:

-against-

JTT FUNDING INC.,

Defendant.

-----X

Plaintiff Accel Capital, Inc. ("Accel"), by and through its undersigned attorneys, Law Offices of Jordan Cohen P.C., alleges and states as follows:

NATURE OF THE ACTION

1. This action presents a straightforward case of deceptive business practices by Defendant JTT Funding Inc. ("JTT"), which has wrongfully used Accel's name and logo -- without authorization -- in its business approaches to, and transactions with, consumers. JTT even went so far as to create a false email address intended to make it look like at least one of its agents was employed by Accel. JTT's fraudulent intent and conduct is plain on its face, is causing confusion in the market place, and is causing Accel substantial irreparable and financial harm. Accordingly, by this action, Accel seeks preliminary and permanent injunctive relief, and damages.

PARTIES

2. Accel is a domestic business corporation, having its principal place of business at 65 West 36th Street, 12th Floor, New York, New York 10018.

3. Upon information and belief, JTT is a domestic business corporation, having its principal place of business at 535 Broadhollow Road, Suite B36, Melville, New York.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the defendant pursuant to CPLR § 301 and CPLR § 302(a).

5. Venue is proper in this Court pursuant to CPLR § 503(a) and (c) because Plaintiff's principal office is located in New York County.

STATEMENT OF FACTS



6. Accel was incorporated under the laws of the State of New York on April 26, 2016.

7. Accel is a fully automated, online marketplace designed to connect small business owners with access to funders who provide fast, flexible, financing solutions. Accel has a proprietary platform technology that allows business owners to obtain real results for multiple product types, and the ability to go directly to contract.

8. Accel has learned that JTT -- with which Accel has no relationship -- has been conducting its business utilizing the Accel name and logo and has held itself out as a principal and/or agent of Accel, without authorization.

9. By way of example, JTT provided funding to Tropical Smoothie Café and Pizza/Curtis M. Williams as per a funding agreement (The "Tropical Smoothie Agreement"). The Tropical Smoothie Agreement bears the Accel logo and in which JTT repeatedly refers to itself as "Accel Capital". The Tropical Smoothie Agreement never refers to, or references JTT.

10. Below is a copy of Accel's logo, as it appears on its website, <https://www.accelcapital.com/>, compared to the logo appearing at the top of the Tropical Smoothie Agreement.

Accel's Website Logo	The Logo At The Top Of the Tropical Smoothie Agreement
	

11. They are identical, and JTT does not have Accel's permission to use it.

12. In addition, JTT is using a supposed "Accel" email address -- mark.accelcapital@gmail.com -- intended to confuse consumers into believing that "Mark" is an agent of Accel. However, Accel's email address is @accelcapital.com, not accelcapital@gmail.com, and "Mark" is not an agent of Accel.

13. At some point after executing the Tropical Smoothie Agreement, Curtis Williams of Tropical Smoothie, who borrowed funds from JTT (not Accel), reached out to Accel specifically about the funding agreement that he signed with JTT because he believed, erroneously, that Accel was the funder.

14. Once Accel learned of JTT's misuse of its corporate name, Accel sent a cease and desist letter, dated March 2, 2018, to JTT, which demanded that JTT immediately cease and desist any efforts to sell, offer or promote goods and services using the Accel name in any way that (a) is likely to cause confusion among consumers; (b) erroneously suggests that JTT is affiliated with Accel in any way whatsoever; or (c) suggests that JTT's products or services are being sold or offered by Accel.

15. Accel warned JTT: "In the event we do not receive confirmation that this conduct has ceased within five (5) days of the date of this letter, Accel will have no alternative but to seek all legal and equitable remedies which includes without limitation, commencing legal action

against your company to enjoin you from continuing the foregoing and recover damages based upon your willful conduct.”

16. JTT ignored Accel’s cease and desist letter and is continuing to misuse the Accel name.

17. Further, an internet search reveals that JTT has a reputation for unscrupulous conduct,¹ and thus JTT is damaging Accel’s name, brand, good will, reputation and business, and causing it substantial financial damages.

18. By reason of the foregoing, JTT has caused, or is likely to cause, confusion in the marketplace because consumers will, or are likely to, believe that (a) JTT and its agents and employees are authorized by Accel to conduct business in their name; (b) products or services offered by JTT are being offered or sold by Accel; and/or (c) JTT or the documents utilized by JTT are affiliated with Accel, when none of the foregoing is true.

19. By using Accel’s name without authorization, and by associating its unscrupulous business practices with Accel, JTT is causing Accel irreparable harm.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION **(Deceptive Business Practices In Violation Of N.Y. General Business Law § 349)**

20. Accel repeats and realleges each and every allegation contained in paragraphs 1 through 21 above as though fully set forth herein.

¹ See, e.g., <https://www.glassdoor.com/Reviews/Employee-Review-JTT-Funding-RVW18634114.htm> (last visited on April 6, 2018) (Posted on January 8, 2018, and stating, “STAY AWAY FROM JTT FUNDING INC . . . I worked at JTT Funding full-time (More than a year) . . . They are scamming companies and stealing money . . . They are stealing people’s money. They are being pursued [sic] by the FBI and they are also being sued by several companies. Advice to Management: Stop stealing and scamming people. This will catch up to you.”).

21. Accel properly and lawfully incorporated under the name “Accel Capital, Inc.” in the State of New York. By so doing, Accel has an indisputable and exclusive right to use the Accel name.

22. Nonetheless, without authorization, JTT is, and has been, using the Accel logo and name as part of its business, thus causing confusion in the marketplace, and otherwise damaging Accel’s name, brand, good will, reputation and business, and causing it substantial financial damages.

23. JTT conducts business in New York within the meaning of New York General Business Law § 349.

24. JTT has engaged in deceptive acts and practices in connection with the use of the Accel name in connection with its efforts to sell products and provide services.

25. JTT’s deceptive practices are causing immediate and irreparable injury to Accel’s name, brand, good will, reputation and business, and causing it substantial financial damages, and will continue to damage Accel and deceive the public unless enjoined by this Court.

26. JTT has ignored Accel’s cease and desist letter. It is clear, therefore, that without judicial intervention, JTT will continue to misuse the Accel name to the detriment of Accel, which is, and has been, irreparably harmed by such conduct.

27. Defendants’ actions violate New York General Business Law § 349.

28. Additionally, Accel has been damaged in an amount to be determined at trial, including, without limitation, actual damages, trebled damages, and attorney’s fees.

AS AND FOR A SECOND CAUSE OF ACTION
(Violation Of N.Y. General Business Law § 133)

29. Accel repeats and realleges each and every allegation contained in paragraphs 1 through 28 above as though fully set forth herein.

30. N.Y. General Business Law § 133 provides, in relevant part:

No person, firm or corporation shall, with intent to deceive or mislead the public, assume, adopt or use as, or as part of, a corporate, assumed or trade name, for advertising purposes or for the purposes of trade, or for any other purpose, any name, designation or style, or any symbol or simulation thereof, or a part of any name, designation or style, or any symbol or simulation thereof, which may deceive or mislead the public as to the identity of such person, firm or corporation or as to the connection of such person, firm or corporation with any other person, firm or corporation

Whenever there shall be an actual or threatened violation of this section, an application may be made to a court or justice having jurisdiction to issue an injunction, upon notice to the defendant of not less than five days, to enjoin and restrain such actual or threatened violation; and if it shall appear to the satisfaction of the court or justice that the defendant is in fact assuming, adopting or using such name, or is about to assume, adopt or use such name, and that the assumption, adoption or use of such name may deceive or mislead the public, **an injunction may be issued by said court or justice, enjoining and restraining such actual or threatened violation without requiring proof that any person has in fact been deceived or misled thereby.** (emphasis added.)

31. Here, as set forth above, JTT is, and has been, using the Accel logo and name as part of its business (and even its made-up email address) without authorization, which use has deceived and misled, or may deceive or mislead, the public.

32. Accordingly, Accel respectfully requests a permanent injunction permanently enjoining JTT as follows:

- (a) enjoining JTT from using the name, or otherwise holding itself out to be, ACCEL CAPITAL, INC. ("Accel") or Accel;
- (b) enjoining JTT from any and all efforts to sell, offer or promote goods and services using the Accel name that in any way is likely to cause confusion among consumers; or that erroneously suggests that JTT

is affiliated with Accel in any way, or that its products are being sold by Accel; or that its services are being offered by Accel; and

- (c) granting Accel such other, further and different relief as the Court deems just, proper and equitable.

33. Additionally, Accel has been damaged in an amount to be determined at trial, including, without limitation, actual damages, trebled damages, and attorney's fees.

AS AND FOR A THIRD CAUSE OF ACTION
(Tortious Interference)

34. Accel repeats and realleges the allegations contained in paragraphs 1 through 33 as if fully set forth herein.

35. By reason of the activities referred to above, JTT has tortiously and wrongfully interfered with Accel's business, damaged its reputation and goodwill and interfered with its prospective economic advantage.

36. As a result of JTT's conduct, Accel has been damaged in an amount as yet undetermined, but which is believed to be in excess of \$250,000.00.

AS AND FOR A FOURTH CAUSE OF ACTION
(Conversion)

37. Accel repeats and realleges the allegations contained in paragraphs 1 through 36 as if fully set forth herein.

38. By reason of the activities referred to above, JTT has converted Accel's property and clients.

39. The foregoing conversion and unlawful appropriation caused Accel to suffer damages in an amount as yet undetermined but which is believed to be in excess of \$250,000.00. Because JTT's actions constitute gross, wanton and/or willful conduct involving a high degree of culpability and evinces a high degree of moral turpitude and wanton dishonesty so as to imply

criminal indifference to civil obligations, Accel also seeks punitive damages to redress this malicious and morally repugnant injury in the amount of \$1,000,000.00.

AS AND FOR A FIFTH CAUSE OF ACTION

(Accounting)

40. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 39 as if fully set forth herein.

41. Accel has no adequate remedy at law.

42. That by virtue of JTT's conduct, conversion and use of Accel's name, Accel demands an accounting of all business conducted by JTT while using Accel's name, marks or reputation, monies received by JTT from these sources, and a list of persons and/or entities who are current or former clients of JTT and with whom JTT has communicated while using Accel's name, marks or reputation.

43. An accounting is the only remedy by which Accel can determine the extent of JTT's conduct and Accel's damages arising therefrom.

AS AND FOR A SIXTH CAUSE OF ACTION

(Unjust Enrichment)

44. Accel repeats and realleges the allegations contained in paragraphs "1" through "43" as if fully set forth herein.

45. JTT unjustly benefited and was unjustly enriched to the extent it used Accel's name, marks and goodwill.

46. It would be against equity and good conscience to permit JTT to retain what is sought to be recovered.

47. By reason of the foregoing, Accel has been damaged in an amount to be determined

at trial.

AS AND FOR A SEVENTH CAUSE OF ACTION

(Injunction)

48. Accel repeats and realleges the allegations contained in paragraphs 1 through 47 as if fully set forth herein.

49. Accel has no adequate remedy at law.

50. Accordingly, Accel respectfully requests a permanent injunction permanently enjoining JTT as follows:

- (d) enjoining JTT from using the name, or otherwise holding itself out to be, Accel Capital, Inc. (“Accel”) or Accel;
- (e) enjoining JTT from any and all efforts to sell, offer or promote goods and services using the Accel name that in any way is likely to cause confusion among consumers; or that erroneously suggests that JTT is affiliated with Accel in any way, or that its products are being sold by Accel; or that its services are being offered by Accel; and
- (f) granting Accel such other, further and different relief as the Court deems just, proper and equitable.

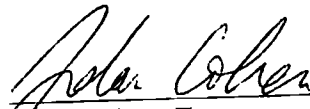
WHEREFORE, Accel requests judgment against JTT as follows:

- (a) on the first cause of action, judgment in an amount to be determined at trial;
- (b) on the second cause of action, judgment in an amount to be determined at trial and injunctive relief as sought therein;
- (c) on the third cause of action, judgment in an amount to be determined at trial;
- (d) on the fourth cause of action, judgment in an amount to be determined at trial;
- (e) on the fifth cause of action, an accounting as prayed for therein;

- (f) on the sixth cause of action, judgment in an amount to be determined at trial;
- (g) on the seventh cause of action, an injunction as prayed for therein;
- (h) along with such other and further relief as the Court deems just, equitable and appropriate.

Dated: New York, New York
April 13, 2018

LAW OFFICES OF JORDAN COHEN
P.C.

By: 
Jordan M. Cohen, Esq.
10 East 40th Street, 46th Floor,
New York, New York 10016
jcohen@jordancohenlaw.com

Attorneys for Plaintiff

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

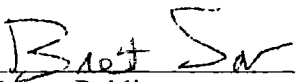
Sal Ottomanelli, being duly sworn, hereby deposes and says:

I am the CEO of Accel Capital, Inc., and, as such, I am authorized to make this verification on behalf of Accel Capital, Inc. I have read the foregoing Verified Complaint, know the contents thereof and the same to be true to my knowledge, except as to those matters stated therein upon information and belief, and, as to those matters, I believe them be true. My belief as to those matters therein not stated upon knowledge is based upon a review of files maintained in my Accel's office.



SAL OTTOMANELLI

Sworn and subscribed to before me
this 16th day of April, 2018



Notary Public

BRET SABLOSKY
Notary Public - State of New York
No. 01SA6362623
Qualified in New York County
My Commission Expires Aug 7, 2021

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

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ACCEL CAPITAL, INC.,

Plaintiff,

-against-

JTT FUNDING INC.,

Defendant.

SUMMONS AND COMPLAINT

**LAW OFFICES OF JORDAN COHEN P.C.
ATTORNEYS FOR PLAINTIFF
Office and Post Office Address
10 East 40th Street, 46th Floor
New York, New York 10016
(212) 889-0707-ext. 115**

To:

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for Plaintiff