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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**Barbara M. Dawson and Matthew A. Katzer**, an Oregon partnership, d/b/a KAM Industries,

Case No. 04-1627-JE

Plaintiff,

**FINAL JUDGMENT ON CONSENT**

v.

**Jerry R. Britton**, an individual resident of Pennsylvania,

Defendant.

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Plaintiffs Barbara M. Dawson and Matthew A. Katzer, an Oregon partnership d/b/a KAM Industries ("KAM") brought this action for trademark infringement and passing off under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), and under the common law, and for unlawful trade practices under ORS 646.605-652, accusing defendant Jerry R. Britton ("Britton") of operating a website at www.computerdispatcherpro.com that infringed KAM's rights in and to

KAM's trademarks COMPUTER DISPATCHER and COMPUTER DISPATCHER PRO. KAM and Britton, having settled their differences, and having entered into a Settlement Agreement and Release, on consent of KAM and Britton,

**IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS.**

1. This Court has jurisdiction over the subject matter of this action and over the parties herein.

2. KAM has valid and enforceable rights in the trademarks COMPUTER DISPATCHER and COMPUTER DISPATCHER PRO for computer software for operating a model railroad (hereinafter "KAM's trademarks").

3. Britton was aware of KAM's trademarks when he registered the domain name computerdispatcherpro.com and when he set up a website under that name and, in so doing, willfully infringed one or both of KAM's trademarks by registering the domain name computerdispatcherpro.com, operating a website under that name devoted to operating model railroads by computer, and by developing and hosting materials on the site.

4. Britton, his successors and assigns, and all persons acting in concert with them or under their control who receive actual notice of this Judgment, are hereby permanently enjoined and restrained from using in any way the domain name computerdipsatcherpro.com, or any other domain names, trade names, trademarks or service marks that are confusingly similar to KAM's trademarks.

5. All claims by KAM against Britton related to computerdispatcherpro.com are hereby dismissed with prejudice.

6. The parties consent to the entry of this Final Judgment on Consent in the form set forth herein.

7. The Court retains jurisdiction over this matter for the purpose of enforcing the terms of this Final Judgment on Consent, and the Settlement Agreement and Release.

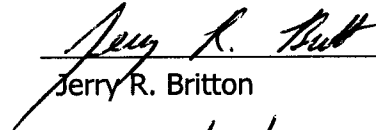
**IT IS SO STIPULATED** on the date indicated below.

CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP



By: Kevin L. Russell, OSB No. 93485  
Of Attorneys for Plaintiff

Dated: 3/15/2005



Jerry R. Britton

Dated: 2/25/2005

**IT IS SO ORDERED** this 7<sup>th</sup> day of April 2005.



United States District Judge

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement"), dated as of February 25, 2005, is between Barbara M. Dawson and Matthew A. Katzer, an Oregon partnership located at 2373 NW 185<sup>th</sup> Avenue, Suite 416, Hillsboro, Oregon, d/b/a KAM Industries ("KAM"), and Jerry R. Britton of 25 Maplewood Drive, Etna, Pennsylvania ("Britton"), hereinafter collectively referred to as "the Parties."

**WHEREAS**, a lawsuit between the Parties is currently pending in the U.S. District Court for the District of Oregon ("the Court"), said suit being captioned as *Barbara M. Dawson and Matthew A. Katzer, an Oregon partnership, d/b/a KAM Industries, v. Jerry R. Britton, an individual resident of Pennsylvania*, Civil No. 04-1627-JE ("the lawsuit").

**WHEREAS**, the Parties have settled their differences as set out in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing, and of the mutual covenants, promises and agreements contained herein, the Parties agree as follows.

1. Britton acknowledges and stipulates that KAM owns and has enforceable rights in the trademarks COMPUTER DISPATCHER and COMPUTER DISPATCHER PRO (hereinafter "KAM's trademarks").

2. Britton acknowledges that he registered the domain name computerdispatcherpro.com and established a website under that name featuring articles and information about using computers and software to operate model railroads. Britton further acknowledges that he was fully aware of KAM's trademarks when Britton registered the domain name and established the website.

3. By registering the domain name computerdispatcherpro.com and operating a website as described above, Britton willfully infringed KAM's trademarks.

4. Britton nor anyone in privity with or otherwise connected to Britton shall use the domain name computerdispatcherpro.com, or any other name or mark that is confusingly similar to KAM's trademarks.

5. Within thirty (30) days of the date of execution of this Agreement, Britton shall transfer the domain name computerdispatcherpro.com to KAM, and KAM will transfer the domain name decoderpro.com, owned by KAM, to Britton.

6. Britton shall not sell or otherwise transfer ownership of decoderpro.com.

7. Britton has no knowledge nor is he otherwise aware of any members of "JMRI initial strategy group" or a similarly named group. Britton has no knowledge of nor is aware of any members of "jmri\_strategy@yahoogroups.com" or a similarly named group.

8. Britton has no knowledge nor is he otherwise aware of any parties who participate in a denial of service attack on KAM's website located at www.kamind.com on or about October 12-13, 2004.

9. Britton will direct the domain name decoderpro.com only to the sourceforge.net website or a mutually agreed-to site if sourceforge.net ceases operations. If Britton does not direct the name to the sourceforge.net site for any period of five (5) consecutive days, the ownership of decoderpro.com reverts to KAM.

10. In the event that sourceforge.net ceases operations, the Parties agree to locate and use a suitable repository for the decoderpro.com name.

11. Britton will not publish, post on a website, or otherwise disseminate any information about or otherwise related to KAM, KAM's patents, trademarks, or other intellectual property owned by KAM or KAM's principals.

12. Each of the Parties represents and warrants that it is authorized to enter into and perform this Agreement and will be bound by the terms of this Agreement. This Agreement shall be binding on and inure to the benefit of KAM and Britton and their respective successors and assigns.

13. The Parties hereby release each other from all liabilities, claims, suits or causes of action, whether in law or equity, arising out of Britton's actions related to computerdispatcherpro.com and decoderpro.com and KAM's assertion of its trademark rights against Britton related to computerdispatcherpro.com and decoderpro.com.

14. The Parties agree that this Agreement is confidential and that its contents and terms shall not be released or otherwise transmitted to any third parties. The Parties further agree that KAM may issue a press release that fairly and reasonably reports on the settlement of the lawsuit.

15. In the event that either of the Parties breaches any of the terms in this Agreement, the breaching party shall, within fifteen (15) days of a demand by the other party, pay the sum of \$20,000 to the non-breaching party.

16. In the event that either party is found to have breached this Agreement, reasonable attorney fees shall be awarded to the prevailing party in any lawsuit on proceeding brought to enforce any term or portion of this Agreement, including fees incurred in connection with any appeals.

17. The Parties consent to, jointly move for and seek entry by the Court of a Final Judgment on Consent in the form attached hereto as Exhibit A.

18. This Agreement represents the entire agreement among the Parties and incorporates all prior agreements, oral or otherwise. In the event that any portion of this Agreement is voided or found unenforceable, the remainder of the Agreement shall remain valid and binding upon the Parties.

19. This Agreement shall be governed by and interpreted under the laws of the State of Oregon, and any action to enforce any aspect of this Agreement shall be brought in the appropriate federal or state court in Oregon.

Barbara M. Dawson and Matthew A. Katzer,  
an Oregon partnership, d/b/a KAM  
Industries

Jerry R. Britton, an individual resident of  
Pennsylvania



By: Matthew A. Katzer, Partner

Dated: 3/28/2005



Jerry R. Britton

Dated: 2/25/2005