

Slip Copy, 2010 WL 4970766 (E.D.N.Y.)
(Cite as: 2010 WL 4970766 (E.D.N.Y.))

Only the Westlaw citation is currently available.

**This decision was reviewed by West editorial staff
and not assigned editorial enhancements.**

United States District Court,
E.D. New York.
BLACK SHEEP TELEVISION, LTD., Plaintiff,

v.

THE TOWN OF ISLIP, a municipal corporation of
the State of New York, Defendant.
No. VC 10-04926.

Dec. 3, 2010.

[Howard E. Greenberg, Esq.](#), Smithtown, NY, for the
Plaintiff.

Connell Foley, by: [Peter J. Pizzi, Esq.](#), New York,
NY, for the Defendant.

Harry Rapaport, CSR, United States District Court,
Central Islip, NY, for Court Reporter.

TRANSCRIPT OF PROCEEDINGS

Honorable [LEONARD D. WEXLER](#), District Judge.

*1 Proceedings recorded by mechanical stenography.

Transcript produced by computer-assisted transcrip-
tion.

THE CLERK: Black Sheep versus Islip.

Appearances, please.

MR. GREENBERG: Good afternoon, your Honor.

Howard Greenberg for the plaintiff.

MR. PIZZI: Your Honor, Peter Pizzi from Connell
Foley for the Town of Islip.

THE COURT: The Court's decision.

To obtain a preliminary injunction the Town must show irreparable injury in the absence of an injunction, either, A, a likelihood of success on the merits, or, B, sufficiently serious questions going to the merits to make them a fair ground for litigation, plus a balance of hardships that tips decidedly toward the party seeking preliminary relief.

The Court holds that the Town has established its right to the requested preliminary relief. The Town has established that it has both common law and registered trademark rights. Irreparable harm is demonstrated by the infringement of the Town's mark and also by the likelihood of confusion stemming from Black Sheep's use of the marks. The Court also holds that the Town is likely to succeed on the cyber squatting claim.

The Court also holds that there is a public policy—a strong public policy favoring the injunctive relief requested. Black Sheep's use of the marks is confusing to members of the general public looking for important information about the airport. Users of the Black Sheep website will no doubt be misled into thinking that the site is the official site of the Town's airport. They are likely to turn to that site for official information which they will think comes from the Town. In the event of an emergency, the public may receive inaccurate and non-official information from the website that is neither operated by nor monitored by the Town.

The Court also holds that the passage of time does not defeat the claim for injunctive relief as laches is not available against the Town. Even if it were, the strong public interest that is served by ensuring that the public receives accurate information and is not misled in the event of an emergency is more than sufficient to defeat any claim that Islip took too long to enforce its rights.

Finally, the Court has considered the transcripts and CDs produced to the Court and holds that they do not alter this Court's conclusion. Black Sheep is free to pursue any claim of breach of contract, fraudulent inducement or conversion that they claim arises out

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of these tapes.

The preliminary injunction is granted. The Town is directed to submit an appropriate order.

That is the order of the Court. And the Court is in recess.

E.D.N.Y.,2010.
Black Sheep Television, Ltd. v. The Town of Islip
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