

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil Action No. 5:21-cv-00251-BO

BERINGER COMMERCE, INC. d/b/a
BLUE ACORN iCi,

Plaintiff,

v.

FIN CAP, INC. d/b/a "BLUEACORN.CO,"
BLUE ACORN PPP, LLC, BLUE OAK
FOREST, LLC, MICHAEL S. COTA,
JIMMY FLORES, STEPHANIE
HOCKRIDGE REIS, and NATHAN REIS,

Defendants.

**PROPOSED ORDER GRANTING
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTIVE RELIEF**

Upon consideration of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunctive Relief, the Court GRANTS the motion and FINDS that Plaintiff has sufficiently demonstrated irreparable injury in the form of actual consumer confusion, the likelihood of continued consumer confusion, Plaintiff's inability to conduct its own business affairs due to the volume of Defendants' customer complaints directed to Plaintiff, and serious reputational harm, warranting entry of a Temporary Restraining Order.

This Court has considered the necessity of security pursuant to Rule 65 and finds that security in the amount of _____ shall be given by Plaintiff.

For the foregoing reasons, Plaintiff's Motion for Temporary Restraining Order is GRANTED, and the Court ORDERS as follows: Defendants BLUEACORN.CO, FIN CAP, INC., BLUE OAK FOREST, LLC, MICHAEL S. COTA, JIMMY FLORES, STEPHANIE HOCKRIDGE REIS and NATHAN REIS are directed to take the following actions:

1. Cease, desist, and permanently refrain from all use of the words “acorn,” “blue acorn,” or “blueacorn” or any of their formatives in any manner and on any print or electronic platform of any kind, including but not limited to any website, social media platforms, or any online or print advertising or marketing materials;

2. Cease, desist, and permanently refrain from all use of any acorn images, including a copy of the Acorn Logo, in any manner, including but not limited to any electronic platform, any advertising, and on any public forum;

3. Place a prominent disclaimer on the landing or home page for all websites associated with Defendants’ business, explaining that the website and services at issue are not affiliated with, sponsored by, or otherwise connected to Blue Acorn iCi;

4. Set up an actively monitored email address and dedicated customer service line for customer inquiries and maintain sufficient trained personnel to monitor and respond to such inquiries on a timely basis;

5. Provide detailed information that is prominently displayed on all websites associated with Defendants’ business, explaining how, where, and when to contact Defendants by phone and by email;

6. Deactivate the “blueacorn.co” and “getblueacorn.com” websites and any other website associated with Defendants’ business in which any form of the name “blue acorn” is used in the domain name;

7. Reroute all traffic from the websites noted in the previous paragraph to a non-fringing website that is actively monitored by Defendants;

8. Change Defendants' company name(s) with the Wyoming and Arizona Secretaries of State and any other state in which an infringing name is used; and inform Defendants' customers of the new name; and

9. Destroy all materials, including advertising and promotional materials, bearing the infringing "blue acorn" name, logo, images, acorn image, and marks.

This Temporary Restraining Order shall be effective until _____.

SO ORDERED, this the ____ day of June, 2021.

United States District Judge