

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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<b>PRIVATE BUSINESS JETS, L.L.C.</b>	)	)	
	)	)	
<b>Plaintiff,</b>	)	)	
	)	)	
<b>v.</b>	)	)	<b>Civil Action No.</b>
	)	)	
<b>PRVT, Inc.</b>	)	)	
	)	)	
<b>Defendant.</b>	)	)	
<hr/>		)	

**COMPLAINT AND JURY DEMAND**

By this Complaint, Plaintiff Private Business Jets, L.L.C. brings claims against Defendant PRVT, Inc. for trademark infringement, unfair competition, trademark dilution, and cyber-piracy under the Trademark Act, 15 U.S.C. § 1051 *et seq.*

**THE PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Private Business Jets, L.L.C. (“Private Business Jets”) is a Delaware limited liability company with its corporate headquarters at 80 Research Road, Hingham, Massachusetts, 02043.

2. On information and belief, Defendant PRVT, Inc. (“PRVT”) is a Delaware corporation with its corporate headquarters at 3920 Veterans Memorial Highway, Suite 14, Bohemia, New York, 11716.

3. On information and belief, PRVT conducts business nationally, including in Massachusetts. PRVT maintains a website available throughout the world that contains marketing material and interactive features for customers.

4. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this matter arises under the Trademark Act, 15 U.S.C. § 1051 *et seq.*

5. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b)(2) and (c)(2).

**FACTUAL BACKGROUND**

***Private Business Jets' Ownership and Use of the FLY PRIVATE and FLYPRIVATE.COM Marks***

6. Private Business Jets, L.L.C. owns the service marks FLY PRIVATE and FLYPRIVATE.COM for airplane chartering and making reservations and bookings for air transportation and ground transportation. Private Business Jets has owned the domain name [www.flyprivate.com](http://www.flyprivate.com) since November, 2002.

7. The FLY PRIVATE service mark was registered on the United States Patent and Trademark Office's Principal Register on October 31, 2006 under the Registration Number 3,164,691.

8. The FLYPRIVATE.COM service mark was registered on the Principal Register on August 7, 2007 under the Registration Number 3,276,730.

9. Both the FLY PRIVATE and the FLYPRIVATE.COM marks have become incontestable under 15 U.S.C. § 1065.

10. Attached as Exhibit A and Exhibit B, respectively, are true and accurate copies of the FLY PRIVATE and FLYPRIVATE.COM registrations and acceptance of the Declarations of Continuous Use and Incontestability under Sections 8 and 15 of the Trademark Act, 15 U.S.C. §§ 1058 and 1065.

11. Private Business Jets has been using the FLY PRIVATE mark since at least as early as November 19, 2002.

12. Private Business Jets has been using the FLYPRIVATE.COM mark since at least as early as January 5, 2007.

13. Private Business Jets' advertisements are clearly marked with the symbol ® to denote and give notice that FLY PRIVATE and FLYPRIVATE.COM are registered marks.

14. The FLY PRIVATE and FLYPRIVATE.COM marks are in full force and effect and have never been abandoned.

15. The FLY PRIVATE and FLYPRIVATE.COM marks are widely recognized as representing the services provided by Private Business Jets.

16. Private Business Jets uses the FLY PRIVATE and FLYPRIVATE.COM marks on advertisements and on a website that is available throughout the world and has customers throughout the United States and Canada.

***PRVT's Infringing Activities***

17. PRVT advertises airplane chartering and making reservations for air transportation and ground transportation services using the designation FLYPRVT.COM.

18. On information and belief, long after Private Business Jets' adoption and use of FLYPRIVATE.COM for airplane chartering and making reservations for air and ground transportation, PRVT obtained the domain name [www.flyprvt.com](http://www.flyprvt.com).

19. PRVT uses the domain name [www.flyprvt.com](http://www.flyprvt.com) to advertise its services and interact with customers.

20. PRVT is commonly understood to be an acronym for the word "private."

21. PRVT's use of the designation FLYPRVT.COM causes a likelihood of confusion as to an affiliation, connection or association of PRVT with Private Business Jets and/or as to the origin, sponsorship or approval of PRVT's services or commercial activities by Private Business Jets.

22. In fact, several vendors have confused PRVT with Private Business Jets.

23. PRVT's use of FLYPRVT.COM has a substantial effect on interstate commerce.

24. On information and belief, PRVT uses the domain name [www.flyprvt.com](http://www.flyprvt.com) with the bad faith intent to profit from Private Business Jets' registered service marks and the goodwill associated with them.

25. On information and belief, PRVT's use of the designation FLYPRVT.COM is willful and intentional and designed to cause consumers to be deceived as to the source of its services.

26. PRVT's use of the designation FLYPRVT.COM is without the consent of Private Business Jets.

**COUNT I**  
**INFRINGEMENT OF FEDERALLY REGISTERED MARKS**

27. This count arises under 15 U.S.C. § 1114(1) and alleges infringement of trademarks registered with the United States Patent and Trademark Office.

28. Private Business Jets repeats and realleges the allegations in Paragraphs 1-27 as if fully set forth herein.

29. PRVT's activities set forth above constitute infringement of the FLY PRIVATE and FLYPRIVATE.COM marks and, on information and belief, are in willful disregard of Private Business Jets' rights.

30. PRVT's infringing activities have continued despite its receipt of notice, by letter dated March 31, 2014, that its activities violate Private Business Jets' rights.

31. PRVT's use of the designation FLYPRVT.COM in connection with the sale, offering for sale, distribution or advertising of its services has already caused and is likely to continue to cause confusion, to deceive, or to cause mistake, and falsely creates the impression that PRVT's services are authorized, sponsored or approved by Private Business Jets.

32. On information and belief, PRVT has used and continues to use the FLYPRVT.COM designation with knowledge that it is likely to cause confusion, cause mistake or deceive.

33. Private Business Jets is suffering irreparable harm and damages as a result of PRVT's trademark infringement.

**COUNT II**  
**UNFAIR COMPETITION (FALSE DESIGNATIONS OF ORIGIN AND FALSE DESCRIPTIONS AND REPRESENTATIONS)**

34. This count arises under 15 U.S.C. § 1125(a) and alleges the use of false designations of origin and false descriptions and representations in commerce.

35. Private Business Jets repeats and realleges the allegations in Paragraphs 1-34 as if fully set forth herein.

36. PRVT's use of the term FLYPRVT.COM is a false designation of origin and/or a false or misleading representation and description. The use of the term FLYPRVT.COM is has caused and is likely to continue to cause confusion, cause mistake or deceive as to an affiliation, connection or association of PRVT with Private Business Jets and/or as to the origin, sponsorship or approval of PRVT's services or commercial activities by Private Business Jets.

37. On information and belief, PRVT's activities are in willful disregard of Private Business Jets' rights.

38. Private Business Jets is suffering irreparable harm and damages as a result of PRVT's use of a false designation of origin and false and misleading representation and description.

**COUNT III**  
**DILUTION**

39. This count arises under 15 U.S.C. § 1225(c) and alleges dilution of the FLY PRIVATE and FLYPRIVATE.COM marks.

40. Private Business Jets repeats and realleges the allegations in Paragraphs 1-39 as if fully set forth herein.

41. The FLY PRIVATE and FLYPRIVATE.COM marks are “famous” and “distinctive” under 15 U.S.C. § 1225(c).

42. The FLY PRIVATE and FLYPRIVATE.COM marks are recognized nationwide by the purchasing public as synonymous with the high quality services offered by Private Business Jets, and are distinctly associated with Private Business Jets.

43. PRVT’s use of the FLYPRVT.COM designation in commerce causes dilution of the distinctive quality of the FLY PRIVATE and FLYPRIVATE.COM marks.

44. On information and belief, PRVT is using the designation FLYPRVT.COM with the willful intent to trade upon Private Business Jet’s reputation and to cause dilution to its marks.

45. Private Business Jets is suffering irreparable harm and damages as a result of PRVT’s actions.

**COUNT IV**  
**CYBER-PIRACY**

46. This count arises under 15 U.S.C. § 1225(d) and alleges internet piracy.

47. Private Business Jets repeats and realleges the allegations in Paragraphs 1-46 as if fully set forth herein.

48. On information and belief, PRVT registered the domain name FLYPRVT.COM.

49. PRVT uses the domain name [www.flyprvt.com](http://www.flyprvt.com) to offer and advertise airplane chartering and reservations/bookings for air transportation and ground transportation services.

50. [www.flyprvt.com](http://www.flyprvt.com) is confusingly similar to and dilutive of Private Business Jet's FLYPRIVATE.COM mark.

51. On information and belief, PRVT has a bad faith intent to profit from its use of a domain name that is confusingly similar and dilutive of the FLYPRIVATE.COM mark.

52. Private Business Jets is suffering irreparable harm and damages as a result of PRVT's use of the [www.flyprvt.com](http://www.flyprvt.com) domain name

**PRAYER FOR RELIEF**

WHEREFORE, Private Business Jets respectfully requests that this Court:

- (1) Enter judgment in Private Business Jets' favor on all Counts of this Complaint;
- (2) Require PRVT to account to Private Business Jets for all profits and damages resulting from PRVT's infringing activities;
- (3) Issue a preliminary and permanent injunction prohibiting PRVT and its officers, directors, principals, agents, servants, successors, assigns, employees, attorneys and all persons in active concert or participation with them from:
  - (a) Using the internet domain name [www.flyprvt.com](http://www.flyprvt.com) or the term FLYPRVT.COM or any other confusingly similar term or name in connection with the sale, offering for sale, or advertising of goods or services, including airplane chartering and reservations/booking for air and ground transportation;

- (b) Using any logo, trade name, trademark, service mark or domain name that may be calculated to falsely represent or that has the effect of falsely representing that the goods or services of PRVT are sponsored by, authorized by, or in any way associated with Private Business Jets;
  - (c) Infringing or diluting the FLY PRIVATE or FLYPRIVATE.COM registered marks.
  - (d) Using any reproduction, counterfeit, copy or colorable imitation of Private Business Jet's trademarks in connection with the publicity, promotion, sale or advertising of goods or services offered by PRVT; and
  - (e) Otherwise unfairly competing with Private Business Jets or infringing Private Business Jets' rights.
- (4) Require PRVT to assign the domain name [www.flyprvt.com](http://www.flyprvt.com) to Private Business Jets;
  - (5) Require PRVT, pursuant to 15 U.S.C. § 1118, to deliver up for destruction labels, signs, prints, packages, wrappers, receptacles, and advertisements in its possession, custody or control that refer to FLYPRVT.COM;
  - (6) Award Private Business Jets actual damages and interest, and increase that award as provided for under 15 U.S.C. § 1117;
  - (7) Award Private Business Jets treble damages under 15 U.S.C. § 1117.
  - (8) Award Private Business Jets costs of this action and its reasonable attorneys' fees under 15 U.S.C. § 1117; and
  - (9) Grant such other relief as the Court may deem fair and just.



**JURY DEMAND**

Private Business Jets demands a jury on all issues so triable.

Respectfully submitted,

PRIVATE BUSINESS JETS, L.L.C.

By its attorneys,

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May 16, 2014