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Court File No.

FEDERAL COURT

B E T W E E N :

MEDSPA PARTNERS INC.

Plaintiff

- and -

KEVIN SHIEL

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT:

LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the [Federal Courts Rules](#), serve it on the plaintiff's solicitor or, if the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the [Federal Courts Rules](#).

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date:

Issued by: _____

Address of local office:

Federal Court
180 Queen Street West, Suite 200
Toronto, ON M5V 3L6

TO: **KEVIN SHIEL**
110 – 358 58 Avenue SW
Calgary, AB T2H 2M5

CLAIM

1. The Plaintiff claims:

(a) a declaration that:

- (i) the Defendant has used the Plaintiff's Beacon Registered Mark (as defined herein), and thereby used a mark that is confusingly similar to each of the other Beacon Marks (as defined herein), in a manner that has depreciated the value of the goodwill attached to the Beacon Registered Mark, contrary to section 22 of the *Trademarks Act*, RSC 1985, c T-13 (the "***Trademarks Act***");
- (ii) the Defendant has infringed the Plaintiff's rights to the Beacon Registered Mark, contrary to sections 19 and 20 of the *Trademarks Act*;
- (iii) the Defendant has violated the Plaintiff's exclusive rights in the Beacon Registered Mark by directing public attention to his goods, services and business in such a way as to cause or likely to cause confusion in Canada, contrary to section 7(b) of the *Trademarks Act*;
- (iv) the Defendant has passed off his goods and services as and for those goods and services of the Plaintiff, contrary to section 7(c) of the *Trademarks Act*;

(b) a permanent injunction restraining the Defendant and any companies related or affiliated with the Defendant, their officers, directors, employees, agents, licensees, successors, assigns, and any others over whom the Defendant exercises lawful authority, direction, or control, whether directly or indirectly, from:

- (i) using a mark similar to or confusing with the Beacon Registered Mark in a manner that is likely to depreciate the value of the

goodwill associated therewith, contrary to section 22 of the *Trademarks Act*;

- (ii) infringing the Plaintiff's rights in the Beacon Registered Mark;
 - (iii) selling, distributing, or advertising goods and/or services in association with a trademark or trade name that is the same or confusing or likely to cause confusion with the Beacon Registered Mark, contrary to sections 19 and 20 of the *Trademarks Act*;
 - (iv) directing public attention to their goods and/or services in such a manner as to cause or be likely to cause confusion between their goods and/or services and those of the Plaintiff by using a mark confusingly similar to the Beacon Registered Mark, contrary to section 7(b) of the *Trademarks Act*;
 - (v) passing off their goods and/or services as and for those of the Plaintiff, contrary to section 7(c) of the *Trademarks Act*;
 - (vi) authorizing, directing, ordering, assisting, aiding or abetting others to do any of the foregoing;
- (c) damages sustained by the Plaintiff or an accounting of profits of the Defendant's profits in an amount greater than \$50,000.00, to be elected by the Plaintiff prior to the trial of the action, resulting from the Defendant's wilful conduct contrary to sections 19, 20, 22, 7(b), and 7(c) of the *Trademarks Act*;
- (d) damages sustained by the Plaintiff in an amount greater than \$45,000.00, resulting from the Defendant's failure to make the outstanding payments owed to the Plaintiff to use the Beacon Registered Mark and BeaconSkincare.ca domain;
- (e) exemplary, aggravated, and punitive damages;

- (f) pre-judgement interest and post-judgment interest on all monetary relief in accordance with the *Federal Courts Act*, R.S.C. 1985, c. F-7, as amended;
- (g) the Plaintiff's costs of this action on a solicitor and client scale, plus HST; and
- (h) such further and other relief as this Honourable Court deems just.

The Parties

2. The Plaintiff, MedSpa Partners Inc. ("**MSP**"), is a corporation existing under the laws of Ontario, having a principal office or place of business at 400 – 60 Bloor Street West, Toronto, Ontario, M4W 1J2, Canada. The Plaintiff is a medical aesthetics platform that acquires industry-leading medical aesthetics clinics across North America, including Beacon Dermatology ("**Beacon**").

3. The Defendant, Kevin Shiel ("**Mr. Shiel**"), is an individual operating a business at 110 – 358 58 Avenue SW, Calgary, Alberta, T2H 2M5, Canada.

History of MSP and Acquisition of Beacon Dermatology

4. MSP was founded to acquire and consolidate premium dermatology and medical spa practices across Canada. In September 2022, MSP announced the acquisition of Beacon, which represented MSP's first Alberta location and 30th North American location.

5. Beacon is a premier cosmetic and medical dermatology centre in Calgary founded by leading Board-certified dermatologists. Beacon was developed to become a centre of excellence in cutting-edge cosmetic and medical dermatology technique and technology, innovative clinical research, and advanced education and training, all underpinned by a commitment to patient comfort and satisfaction.

6. Prior to MSP's acquisition of Beacon, Mr. Shiel carried on an online store on Beacon's behalf under the domain "BeaconSkincare.ca". Mr. Shiel was permitted to use

the Beacon Registered Mark and the “BeaconSkincare.ca” domain upon payment of a flat fee of \$100,000/year, which was paid monthly to Beacon. At all material times, Beacon retained control over any use of the BEACON mark in association with the “BeaconSkincare.ca” domain, as well as the character and quality of the goods and services offered through this domain.

7. Mr. Shiel operated the online store until January 31, 2025, after which any use by Mr. Shiel of the BEACON mark was no longer authorized. Mr. Shiel nonetheless continued to operate BeaconSkincare.ca without any authorization or approval from the Plaintiff, renaming the store to “SkinVault.ca” to sell similar skincare products, while still using the “BeaconSkincare” mark without authorization.

The Plaintiff’s Trademark Rights in Canada

8. MSP owns exclusive trademark rights over the Beacon brand in Canada, with registered trademark rights to BEACON (TMA1,192,261) (the “**Beacon Registered Mark**”) and pending registrations for BEACON DERMATOLOGY (Application No. 2376076) and BEACON SKINCARE (Application No. 2376080) (together with the Beacon Registered Mark, the “**Beacon Marks**”).

9. The success attributable to the Beacon Marks in Canada arises from MSP’s commitment to providing high-quality cosmetic dermatology services. MSP has invested substantial time, money, and resources in building, expanding, and supporting Beacon in the Canadian market to provide world-class customer services.

10. As a result of the Plaintiff’s use and promotion of the Beacon Marks in association with dermatology and cosmetic skincare goods and services, as well as the Beacon brand’s distinctiveness, presence in the marketplace, and recognition by consumers, the Beacon Marks have acquired significant goodwill and valuable reputation in Canada.

11. Accordingly, MSP places significant importance on the Beacon Marks together with the value, goodwill, and reputation of those marks.

The Harmful Activities of the Defendant

Depreciation of Goodwill and Reputation in the Beacon Marks

12. The Defendant's use of the Beacon Registered Mark and any confusingly similar marks to advertise and sell skincare products on his website (SkinVault.ca) has adversely affected the Plaintiff and the goodwill and reputation that the Plaintiff has in the Beacon Marks, contrary to section 22 of the *Trademarks Act*.

13. As the Plaintiff's business, Beacon, is a premier cosmetic and medical dermatology centre and leader in the dermatology field, the Beacon Marks have become well known in the industry across Canada and the United States in association with two world-class dermatologists and high-quality medical aesthetics and dermatology services. As a result, the Beacon Marks have garnered substantial goodwill.

14. The Defendant's use of BEACON and BEACON SKINCARE has adversely impacted the goodwill in the Beacon Marks and the Beacon brand. The Defendant's use of these marks causes consumers to be redirected to the Skin Vault store, where they likely associate the skincare goods and services advertised and sold by the Defendant as originating from the Plaintiff.

15. The Defendant's ongoing misuse of BEACON and BEACON SKINCARE weakens the impression associated with these marks in the Canadian marketplace, erodes the Plaintiff's ability to control the manner in which the Beacon Marks are used, blurs the image of the Beacon Marks, whittles away the brand power associated with Beacon, and diverts sales away from Beacon's products.

16. Accordingly, the activities of the Defendant have had the effect of tarnishing the well-known Beacon Marks and depreciating the value of the goodwill in the Beacon Marks. Such activities have been detrimental to the Plaintiff's business, Beacon, and will continue to inflict reputational damage to Beacon, in violation of the Plaintiff's rights under section 22 of the *Trademarks Act*.

The Defendant Has Infringed the Plaintiff's Rights Under Sections 7(b) and 7(c)

17. The Defendant has directed public attention to his goods, services, and business in a manner likely to cause confusion between his goods, services, and business and those of the Plaintiff, contrary to section 7(b) of the *Trademarks Act*, and passed off his goods and services as and for those of the Plaintiff, contrary to section 7(c) of the Act.

18. As described above, the Beacon Marks possess significant goodwill such that the public would associate the Beacon Marks with Beacon and its good, services, and business. In using marks that are confusingly similar to the Plaintiff's Beacon Marks, the Defendant has been attempting to pass off his goods, services, and business for those of the Plaintiff to direct consumers to his Skin Vault online store.

19. The Defendant has been displaying "BeaconSkincare.ca" in his Google advertisements to advertise and sell his skincare services and direct customers to his store, as shown below:



20. The "BeaconSkincare.ca" domain is also used by the Defendant on social media pages for Skin Vault, which show that SkinVault.ca is "formerly BeaconSkincare.ca". The Defendant also expressly states to consumers that "BeaconSkincare.ca is now SKINVAULT.CA!" and that this was a "name change".

21. The Defendant's wilful misrepresentation is creating confusion in the public. The Defendant has adopted and used "BeaconSkincare.ca", which is likely to be confused with the Plaintiff's Beacon Marks, in which the Plaintiff owns goodwill. A "casual consumer somewhat in a hurry", as a matter of first impression, who encounters

the advertisement, having no more than an imperfect recollection of the Beacon Marks, would likely to draw an association between the Plaintiff's business, Beacon, and the Defendant. The Defendant has been deliberately misrepresenting that Skin Vault products are associated with, or authorized for sale by, the Plaintiff. In other words, the Defendant has and continues to direct public attention to his business in a way that causes confusion in Canada.

22. As a result of the Defendant's activities, the Plaintiff has suffered, and will continue to suffer, actual or potential damages. MSP has suffered a loss of business and control over its reputation, image, and goodwill, and is likely to suffer potential damages, whether through sales, marketing, and distribution, that can cause serious long-term effects on the sustainability of MSP's business in Canada. At a minimum, the Defendant is falsely advertising his business to increase Skin Vault's sales in Canada so that it may attract further interest in the company, potentially to attract more purported distributors and/or consumers through these ads.

Infringement of the Plaintiff's Trademark Rights

23. The Defendant has infringed MSP's trademark rights in the Beacon Registered Mark contrary to section 19 of the *Trademarks Act*, and under section 20 through use of the Beacon Registered Mark and confusingly similar marks.

24. MSP, as the registered owner of BEACON, has the exclusive right to the use of the mark throughout Canada in respect of the associated goods or services. This right to exclusive use is deemed to be infringed by the Defendant's sale, distribution, and advertisement of goods or services associated with a confusing trademark or trade name being used by the Defendant.

25. Based on all the surrounding circumstances, as prescribed by section 6(5) of the *Trademarks Act*, there is a likelihood of confusion between the Defendant's use of "BeaconSkincare.ca" and the Plaintiff's Beacon Marks. The Beacon Marks are distinctive, both inherent and acquired. There is a high degree of resemblance between the parties' marks, with the Defendant's use of "BeaconSkincare.ca" including the

whole of the Beacon Registered Mark and BEACON SKINCARE. The nature of the goods, services, and business bearing the Beacon Registered Mark and BEACON SKINCARE, together with the channels of trade of both parties, overlap with those of the registered goods and services such that confusion is likely.

26. Accordingly, the unauthorized use of the Beacon Registered Mark and any confusingly similar marks by the Defendant infringes the Plaintiff's trademark rights.

Relief Sought

Monetary Remedies for Trademark Infringement, Passing Off, and Depreciation of Goodwill

27. As a result of the Defendant's activities, as set out in this Statement of Claim, the Plaintiff has suffered and will continue to suffer harm, loss of reputation and goodwill in the Beacon Marks, and other irreparable harm. The Plaintiff has suffered and will continue to suffer monetary damage in the form of lost sales revenue as a consequence of the activities of the Defendant.

28. If the activities are permitted to continue, the distinctiveness of the Beacon Marks will be eroded, and the value, reputation and goodwill associated with the Beacon Marks will continue to be diminished and depreciated.

29. The Defendant's unlawful conduct, described above, was intended to cause or committed with recklessness or wilful blindness to causing injury to the Plaintiff and causing a depreciation of goodwill in the Plaintiff's trademarks, passing off its goods and services of the Plaintiff, and infringing on the Plaintiff's exclusive trademark rights, resulting in the Defendant being liable to pay the resulting damages to the Plaintiff.

Monetary Remedies for Monies Owed for Use of the Beacon Registered Mark

30. During the period of authorized use of the Beacon Registered Mark and "BeaconSkincare.ca", Mr. Shiel was required to make a flat-fee payment of \$100,000/year paid monthly to Beacon for at least the use of the Beacon Registered Mark and "BeaconSkincare.ca" domain.

31. After October 2024, Mr. Shiel ceased making payments associated with the use of the Beacon Registered Mark and the “BeaconSkincare.ca” domain, despite his ongoing use of the domain continuing through to January 31, 2025. The failure of Mr. Shiel to make such payments and other payments associated with product invoices has harmed, and continues to harm, the Plaintiff. The Plaintiff claims relief in respect of all such harm.

32. The Plaintiff respectfully requests that this action be allowed, with costs to the Plaintiff payable on a solicitor-client scale, together with all disbursements, inclusive of expert witness fees, interest, and taxes.

33. The Plaintiff proposes that the trial of this action be held in Toronto, Ontario.

May 28, 2025



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