

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

PIRTEK USA, LLC,	:	
Plaintiff,	:	
	:	
VS.	:	Civil No. 3:05CV1002(AVC)
	:	
IRWIN ZAETZ, HYDRAULIC HOSE	:	
AND SERVICE, LLC, PETER ZAETZ	:	
and HOSE MEDIC, LLC.,	:	
Defendants,	:	

**RULING AND ORDER ON THE PLAINTIFF’S MOTION FOR EXPEDITED  
DISCOVERY AND RULE 16 CONFERENCE**

This is an action for equitable relief and damages arising out of the defendants’, Irwin Zaetz, Peter Zaetz, Hydraulic Hose and Service, LLC., and Hose Medic, LLC, operation of a hose installation and repair business and the termination of a franchise agreement between the defendants and the plaintiff, Pirtek USA, LLC (“Pirtek”). It is brought pursuant to section 43(g) of the Lanham Act, 15 U.S.C. §§ 1114, 1125, the Federal Trademark Dilution Act of 1995, 15 U.S.C. § 1125(a), the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110(a) et seq., and common law tenets concerning, inter alia, breach of covenant not to compete and breach of contract. Specifically, Pirtek alleges that the defendants are (1) operating a “competing hose installation and repair business in violation” of the defendants’ covenant not to compete with Pirtek, (2) “infringing upon Pirtek USA’[s] tradename, trademarks and service marks”, and (3) “violating the post-termination provisions of the applicable franchise agreement.”

Pirtek has filed the within motion (document no.36) for “expedited discovery and Rule 16 conference.” The defendants originally responded that Pirtek has “failed to offer good cause to support” its request for expedited discovery. For the reasons set forth below, the motion (document no.36) is DENIED.

### **FACTS**

On June 21, 2005, Pirtek commenced this action by filing a complaint in the United States District Court for the District of Connecticut. On the same day, Pirtek filed a motion for preliminary injunction. On July 13, 2005, the defendants filed a memorandum in opposition to the motion for preliminary injunction.

On July 29, 2005, the Honorable Alan H. Nevas, United States District Judge, transferred this case to the undersigned. On August 1, 2005, the court ordered that the defendants appear on August 25, 2005 to “show cause why the relief prayed for” in Pirtek’s motion for preliminary injunction should “not be granted.”

On August 4, 2005, Pirtek filed the within motion “for expedited discovery and Rule 16 conference.” On August 10, 2005, the defendants filed a memorandum in opposition to the motion for expedited discovery.

### **DISCUSSION**

Federal Rule of Civil Procedure 26(d) provides, in part: “Except . . . when authorized . . . by *order or agreement of the parties*, a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f).” Fed. R. Civ. P. 26(d)(emphasis added).

The parties have recently informed the court that they have agreed (1) to schedule expedited discovery, and (2) to postpone the hearing on the motion for preliminary injunction until September 15, 2005. Accordingly, the motion for an order directing the defendants to respond to Pirtek's expedited discovery requests is DENIED and the motion for a Rule 16 conference is DENIED.

The parties shall commence expedited discovery in conformance with their agreement. The court will conduct a hearing on the motion for preliminary injunction on September 15, 2005 at 1:00 P.M.

It is so ordered this \_12<sup>th</sup> \_\_\_ day of August, 2005 at Hartford, Connecticut.

\_\_\_\_\_/s/\_\_\_\_\_  
Alfred V. Covello  
United States District Judge