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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

HOOSIER MOMMA, LLC)	
)	
Plaintiff,)	
v.)	CAUSE NO. 1:14-cv-1727
)	
ERIN EDDS)	
Defendant.)	

**COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF
AND JURY TRIAL DEMAND**

Plaintiff, Hoosier Momma, LLC (“Hoosier Momma”), by counsel, and for its Complaint against Defendant Erin Edds (“Edds”) hereby alleges as follows:

1. This is an action for violation of the federal Lanham Act, the Computer Fraud and Abuse Act, computer tampering, misappropriation and attempted misappropriation of trade secrets and violations of Indiana’s Uniform Trade Secret Act, breach of contract, breach of fiduciary duties, tortious interference with business relationships, conversion and alternative equitable relief.

PARTIES

2. Plaintiff Hoosier Momma is an Indiana Limited Liability Company with its principal place of business at 3895 North County Road 575 East, Brownsburg, Hendricks County, Indiana.

3. Defendant Edds is a resident of and domiciled in Marion County, Indiana.

4. In the summer of 2010, Kimberly Cranfill (“Cranfill”), Catherine Hill (“Hill”) and Edds formed Hoosier Momma, of which Cranfill, Hill, and Edds are the sole members (collectively referred to as “Members”).

5. Since its inception in 2010, Hoosier Momma has been in the business of developing and selling vegan, gluten-free products made with premium ingredients, which include bloody mary mixers. Hoosier Momma products are sold in more than 600 restaurants, stores and hotels in at least six states.

6. Hoosier Momma has used and continues to use “Hoosier Momma” and a “Betty Design” mark as trademarks in interstate and intrastate commerce in association with its products. Hoosier Momma’s trademarks were registered in 2014, U.S. Registration Nos. 4584165 and 4584167.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over the parties as they each reside and/or do business in the State of Indiana.

8. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331. Additionally, this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1337.

9. Venue is proper under 28 U.S.C. § 1391 as the parties reside in this District and a substantial part of the events or omissions giving rise to Plaintiff’s claims took place in this District. Moreover, pursuant to Section 9.8 of Hoosier Momma, LLC’s Operating Agreement, the parties agreed to submit to the exclusive jurisdiction of this Court. A true and accurate copy of the Operating Agreement is attached hereto as Exh. A.

FACTUAL BACKGROUND

The Formation of Hoosier Momma and Operating Agreement

10. When Hoosier Momma was incorporated in the summer of 2010, on August 6, 2010, Cranfill, Hill, and Edds entered into the Operating Agreement as the sole Members of Hoosier Momma.

11. The Operating Agreement was adopted to govern operations of Hoosier Momma and to set forth the rights and obligation of each of its Members, as well as to protect the disclosure of Hoosier Momma's confidential information.

12. At the time the Operating Agreement was executed, Edds had a 34% interest in Hoosier Momma, and Cranfill and Hill each had a 33% interest in Hoosier Momma.

13. In October 2011, Edds sold 10% of her interest in Hoosier Momma to Cranfill and Hill, leaving Edds with 24% interest in Hoosier Momma.

14. Pursuant to Section 5.1 of the Operating Agreement titled *Management*, Hoosier Momma is managed by its Members and each Member is an agent of [Hoosier Momma] for the purpose of [Hoosier Momma's] business and affairs and the act of any Member...binds [Hoosier Momma].”

15. Pursuant to Section 5.2.2 of the Operating Agreement titled *Meetings of and Voting by Members*, “the affirmative vote of Members holding fifty-one percent (51%) or more of the Percentages then held by Members shall be required to approve any matter coming before the Members.”

16. Pursuant to Section 5.3 of the Operating Agreement titled *Personal Service*, “[u]nless approved by the Members, no Member shall be entitled to compensation for services performed for [Hoosier Momma].”

17. Pursuant to Section 5.8 of the Operating Agreement titled *Liability*, a Member is liable for an action taken as a Member if the “Member has breached or failed to perform the Member's duties to [Hoosier Momma] and the breach or failure to perform constitutes willful misconduct or recklessness.”

18. Pursuant to Section 5.9 of the Operating Agreement titled *Performance of Duties and Reliance on Others*, each Member must perform his/her duties as a Member “in good faith, in a manner the Member reasonably believes to be in the best interest of [Hoosier Momma], and with such care as an ordinarily prudent person in a like position would use under similar circumstances . . .”

19. Section 5.10 of the Operating Agreement titled *Members’ Duties Regarding Confidential Information and Intellectual Property* sets forth the Members’ duties regarding confidential information, as defined in that section, as well as intellectual property. Such section provides, among other things, that “so long as a Member owns any Interest [in Hoosier Momma], and for a period of two (2) years thereafter, each Member will...[h]old in confidence the Confidential Information and will not disclose it to any person except with the specific prior written consent of [Hoosier Momma];... [n]ot sell, assign or otherwise transfer, whether or not for consideration, to any person, corporation, partnership, limited liability company, firm or other entity, any Confidential Information” Confidential Information is defined by the Operating Agreement to specifically include formulae, compositions and processes and Hoosier Momma’s famous bloody mary mix “and all future recipes, foods and drinks created or sold . . .” by Hoosier Momma.

20. Pursuant to Section 6.3 of the Operating Agreement titled *Sale to Third Parties*, “[a] Member may not transfer all, or any portion of such Member’s ownership interest to any person without transmitting an offer to both [Hoosier Momma] and all other Members who are parties to this Agreement that the Member proposes to transfer.”

21. On July 25, 2014, a Resolution to the Operating Agreement (“Resolution”) was passed which provides that Cranfill and Hill are the only Members of Hoosier Momma who may communicate with current and potential business contacts on behalf of Hoosier Momma.

Edds’ False and Misleading Statements and Representations

22. Throughout the past several years, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds made false and/or misleading statements to the press and on social media concerning her role in developing Hoosier Momma products and her interest in Hoosier Momma. Such misconduct includes communications made by Edds on social media in July 2014 in which she stated that she was the sole founder of Hoosier Momma.

23. Throughout the past several years, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds has improperly controlled social media concerning Hoosier Momma in a manner that has likely negatively affected Hoosier Momma’s reputation and sales of its products.

24. In June and July 2012, Edds marketed Hoosier Momma products to various vendors without the prior knowledge or consent of Hoosier Momma and/or its other Members and in a manner that was not approved by Hoosier Momma.

25. In October 2014, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds poorly imitated Hoosier Momma’s mark(s) in a manner that tarnished such mark and Hoosier Momma’s reputation.

Edds’ Unauthorized Access and Use of Email and Social Media Accounts

26. In July and August 2014, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds intentionally changed the passwords to Hoosier Momma’s social media accounts and deleted at least one of Hoosier Momma’s social media

accounts to prevent Hoosier Momma and its other Members from accessing the same and being able to advertise and market its products using such social media, which is a main source of Hoosier Momma's advertising and marketing. Edds has refused to relinquish control of Hoosier Momma's social media accounts and continues to maintain the threads and postings relating to Hoosier Momma on such accounts.

27. In August 2014, without the knowledge, consent or authority of Hoosier Momma and or its other Members, Edds intentionally accessed Cranfill's password-protected email account to obtain confidential information.

28. In November 2014, without the knowledge, consent or authority of Hoosier Momma and or its other Members, Edds intentionally accessed Cranfill's password-protected email account and sent emails to the Director of National Accounts at Tone Products, Inc. ("Tone"), a food packer, in the name of Cranfill to obtain access to confidential information, and thereby jeopardized Hoosier Momma's confidential information and the relationship between Hoosier Momma and Tone.

Edds' Additional Misconduct

29. In May, July and August 2011, April and July 2012 and April 2014, without the prior knowledge or consent of Hoosier Momma and/or its other Members, and without first transmitting an offer to both Hoosier Momma and/or its other Members, Edds attempted to sell interest(s) in Hoosier Momma to various third parties, without the consent required pursuant to Section 6.3 of the Operating Agreement.

30. In June and July 2012, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds sold and traded Hoosier Momma product and retained

the proceeds of such sales and value of such trades and did not compensate Hoosier Momma for the same.

31. Between January 2014 and April 2014, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds shared confidential information of Hoosier Momma with Wilks & Wilson, a competitor of Hoosier Momma.

32. In April 2014, without the prior knowledge or consent of Hoosier Momma and/or its other Members, Edds conferred with Tone, a direct competitor of Hoosier Momma's packer, concerning Hoosier Momma's products. During such time, Edds requested that Tone reverse-engineer a Hoosier Momma product to allow Tone to determine the confidential recipe of such product, a trade secret of Hoosier Momma, and provide it to Edds for her personal use and/or a use that jeopardized the disclosure of Hoosier Momma's trade secrets. By engaging in such communications, Edds intentionally or with recklessness and without due care also jeopardized Hoosier Momma's relationship with its packer.

33. In April 2014, Hoosier Momma was notified by Glazer's Distributors of Indiana, a distributor for Hoosier Momma, that Edds' communications with the distributor were inappropriate and said distributor thus threatened to cease selling Hoosier Momma products as a result of Edds' behavior.

34. Throughout 2014, without the prior knowledge or consent of Hoosier Momma and/or its other Members and despite Hoosier Momma's Resolution, Edds has contacted and continues to contact several of Hoosier Momma's distributors, clients, manufacturers and other business partners, intentionally and/or recklessly jeopardizing Hoosier Momma's business relationships with such entities.

35. Edds is currently in possession of various communications with current and potential business partners of Hoosier Momma which she refuses to produce to Hoosier Momma and/or its other Members, which actions have jeopardized Hoosier Momma's business relationships with such business partners.

COUNT I – VIOLATION OF THE LANHAM ACT, 15 U.S.C. § 1051, *et seq.*

36. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

37. As a result of the care and skill exercised by Hoosier Momma in the conduct of its business, and the high quality of Hoosier Momma products offered under its marks, as well as the extensive advertising, promotion, and sale of Hoosier Momma products associated with the marks, Hoosier Momma's marks have become widely-recognized by the consuming public and have come to identify popular Hoosier Momma food products and related goods, and to distinguish Hoosier Momma goods from those of others. Accordingly, Hoosier Momma has acquired and enjoys substantial goodwill and valuable reputation through its marks and branding.

38. Hoosier Momma also heavily relies on social media to advertise, market, promote, and sell its products to the public.

39. Edds has improperly controlled, disrupted, and altered social media outlets without the consent of and majority vote of the Members of Hoosier Momma in a manner that prevents Hoosier Momma from marketing, advertising, promoting and selling its products.

40. Edds has made false and/or misleading statements to the press and on social media concerning Hoosier Momma and Edds' role in the company which likely confuses the public concerning Edds' affiliation, connection or association with Hoosier Momma.

41. Edds has acted in a manner that has tarnished Hoosier Momma's marks and which likely confuses the public concerning Hoosier Momma's marketing, advertising, promotion and general reputation.

42. Moreover, Edds' unauthorized sales and trading of Hoosier Momma's products have prevented Hoosier Momma from controlling the way in which Hoosier Momma products are marketed, further confusing the public concerning Hoosier Momma's intended marketing of its products.

43. Edds' false and misleading statements, representations and actions, in the manner described above, create a likelihood of confusion, mistake or deceit in violation of 15 U.S.C. § 1225(a)(1)(A).

44. As a direct result of Edds' conduct in violation of the Lanham Act, Hoosier Momma has suffered damages.

45. Because Hoosier Momma has suffered and continues to suffer irreparable harm as a result of Edds' conduct in violation of the Lanham Act, Hoosier Momma is entitled to a permanent injunction enjoining Edds from making any further false and/or misleading statements and representations concerning Hoosier Momma and/or the marketing, advertising and/or sale of Hoosier Momma products, as well as from selling and/or trading Hoosier Momma products without the consent of Hoosier Momma.

**COUNT II – VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT,
18 U.S.C. § 1030, et seq.**

46. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

47. Edds knowingly and with intent to defraud, accessed Cranfill's password-protected email account without Cranfill's knowledge or authorization in order to disrupt such

email account and obtain confidential information from such account, and by means of such conduct furthered the intended fraud and obtained confidential information, in violation of 18 U.S.C. § 1030(a)(4).

48. Edds knowingly and with intent to defraud, accessed Cranfill's password-protected email account without Cranfill's knowledge or authorization in order to disrupt such email account, obtain confidential information from such account and defraud a third-party into believing it was communicating with Cranfill. By means of such conduct, Edds furthered the intended fraud and sought to obtain information of value to the relationship between Hoosier Momma and the third-party business, in violation of 18 U.S.C. § 1030(a)(4).

49. Edds knowingly and with intent to defraud deleted postings on Hoosier Momma's social media accounts and blocked access to and tampered with Hoosier Momma's social media accounts. By means of such conduct, Edds furthered the intended fraud in her efforts to disrupt Hoosier Momma's marketing channels and potential sales.

50. As a direct result of Edds' conduct in violation of the Computer Fraud and Abuse Act, Hoosier Momma has suffered damages in an amount no less than \$5,000.00 and will continue to suffer damages, entitling Hoosier Momma to compensatory damages in an amount to be determined.

51. Because Hoosier Momma has suffered and continues to suffer irreparable harm as a result of Edds' willful and unauthorized access of Hoosier Momma's social media accounts and the email accounts of its Members, Hoosier Momma is entitled to a permanent injunction enjoining Edds from any further unauthorized access to and use of Hoosier Momma's social media accounts and outlets and/or the computers, computer software and/or other computer system services of Hoosier Momma and/or Cranfill or Hill.

COUNT III – COMPUTER TAMPERING

52. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

53. Computer tampering under Indiana Code § 35-43-1-8 occurs when a party knowingly or intentionally and without authorization “disrupts, denies or causes the disruption or denial of computer system services to an authorized user of the computer system services that are...owned by, or...under contract to, or...operated for, on behalf of, or in conjunction with another person in whole or part.”

54. Edds knowingly and with intent to defraud, accessed Cranfill’s password-protected email account without Cranfill’s knowledge or authorization in order to disrupt such email account and obtain confidential information from such account, and by means of such conduct furthered the intended fraud and obtained confidential information, in violation of Indiana Code § 35-43-1-8.

55. Edds knowingly and with intent to defraud, accessed Cranfill’s password-protected email account without Cranfill’s knowledge or authorization in order to disrupt such email account, obtain confidential information from such account and defraud a third-party into believing it was communicating with Cranfill. By means of such conduct, Edds furthered the intended fraud and sought to obtain information of value to the relationship between Hoosier Momma and the third-party business, in violation of Indiana Code § 35-43-1-8.

56. Edds knowingly and with intent to defraud deleted postings on Hoosier Momma’s social media accounts and blocked access to and tampered with Hoosier Momma’s social media accounts. By means of such conduct, Edds furthered the intended fraud in her efforts to disrupt Hoosier Momma’s marketing channels and potential sales.

57. As a direct result of Edds' conduct, Hoosier Momma has suffered damages and will continue to suffer damages, entitling Hoosier Momma to compensatory damages in an amount to be determined.

58. Because Hoosier Momma has suffered and continues to suffer irreparable harm as a result of Edds' willful and unauthorized access of Hoosier Momma's social media accounts and the email accounts of its Members, Hoosier Momma is entitled to a permanent injunction enjoining Edds from any further unauthorized access to and use of Hoosier Momma's social media accounts and outlets and/or the computers, computer software and/or other computer system services of Hoosier Momma and/or Cranfill or Hill.

**COUNT IV- MISAPPROPRIATION AND ATTEMPTED MISAPPROPRIATION OF
TRADE SECRETS AND VIOLATION OF
INDIANA UNIFORM TRADE SECRET ACT**

59. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

60. The recipes and blending processes for Hoosier Momma's products are Hoosier Momma trade secrets. These trade secrets derive independent economic value as they are not generally known to or readily ascertainable through appropriate means by other persons who may obtain economic value from its disclosure or use.

61. Hoosier Momma invests and has invested considerable funds and effort, including significant research and development efforts, to arrive at these unique, proprietary recipes and blending processes.

62. Hoosier Momma takes extensive measures to protect its trade secrets, including:
a) requiring each of its Members to execute the Operating Agreement which obligates the

Members to keep such recipes and blending processes confidential, b) entering into appropriate non-disclosure agreements, and c) keeping its recipes otherwise under lock and key.

63. Edds sought to obtain Hoosier Momma's confidential formulae, recipes and/or other confidential and trade secret information for her own benefit through, among other actions, her unauthorized access of Cranfill's email account and/or by requesting that Tone reverse-engineer Hoosier Momma's product for her.

64. Edds' willful, intentional and/or reckless disclosure and/or attempted disclosure to third-parties, of information concerning Hoosier Momma's products, including its recipes and blending processes, constitutes a violation(s) of the Indiana Uniform Trade Secret Act, I.C. § 24-2-3 *et seq.*

65. Hoosier Momma has suffered damages as a result of Edds' misappropriation of Hoosier Momma's trade secrets.

66. Because the conduct described above was willful and malicious, and in reckless disregard for Hoosier Momma's rights, Hoosier Momma is entitled to exemplary damages and attorneys' fees.

67. Because Hoosier Momma has suffered and continues to suffer irreparable harm as a result of the misappropriation of trade secrets by Edds, and because the Operating Agreement provides for injunctive relief for misappropriation of trade secrets under Section 5.10(f), Hoosier Momma is entitled to a permanent injunction enjoining any further unauthorized disclosure or use of Hoosier Momma's confidential information and trade secrets by Edds.

COUNT V – BREACH OF CONTRACT

68. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

69. Hoosier Momma and Edds have a valid and enforceable contract, *i.e.* the Operating Agreement.

70. Edds' wrongful misconduct, in the manner described above, constitute breaches of the Operating Agreement, which include, but are not limited to the following breaches:

- a. Edds breached Section 5.2.2 of the Operating Agreement (*Meetings of and Voting by Members*) by taking actions that were collectively disapproved by Cranfill and Hill who hold more than 51% of the Member votes;
- b. Edds breached Section 5.3 of the Operating Agreement (*Personal Service*) by compensating herself financially for services she ostensibly performed for Hoosier Momma;
- c. Edds breached Section 5.9 of the Operating Agreement (*Performance of Duties and Reliance on Others*) as each of the actions and/or omissions she has taken in the manner described above, were not performed in good faith, in a manner she reasonably believed to be in the best interest of Hoosier Momma, and/or with such care as an ordinarily prudent person in a like position would use under similar circumstances;
- d. Edds breached Section 5.10 of the Operating Agreement (*Members' Duties Regarding Confidential Information and Intellectual Property*) by disclosing Confidential Information to third parties; and
- e. Edds breached Section 6.3 of the Operating Agreement (*Sale to Third Parties*) by transferring or attempting to transfer part or all of her interest in Hoosier Momma without first transmitting an offer to Hoosier Momma and each of the other Members.

71. Edds' breach of the Operating Agreement has injured Hoosier Momma.

72. Because Hoosier Momma has suffered and continues to suffer irreparable harm as a result of Edds' breaches of the Operating Agreement, Hoosier Momma is entitled to a permanent injunction enjoining any further unauthorized disclosure or use of Hoosier Momma's trade secrets and other confidential information by Edds.

COUNT VI – BREACH OF FIDUCIARY DUTIES

73. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

74. By virtue of the formation of Hoosier Momma as a limited liability company and the Operating Agreement, Edds owes fiduciary duties to Hoosier Momma.

75. Edds has breached her fiduciary duties to Hoosier Momma by not performing her duties as a Member with care and in good faith, and with loyalty to Hoosier Momma.

76. Edds' breach of her fiduciary duties has injured Hoosier Momma.

COUNT VII – TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS

77. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

78. Hoosier Momma has or has had business relationships with Tone Products, Inc. and Glazer's Distributors of Indiana, among other business partners.

79. Edds knew of Hoosier Momma's business relationships with each of those third parties.

80. Edds intentionally and maliciously interfered with such business relationships in the manner described above.

81. Edds' conduct caused injury to Hoosier Momma's relationship with each of those third parties, including but not limited to, the termination of such relationships.

82. Because Hoosier Momma has suffered and continues to suffer irreparable harm as a result of Edds' tortious interference with Hoosier Momma's business relationships, Hoosier Momma is entitled to a permanent injunction enjoining Edds from further tortious interference of Hoosier Momma's business relationships.

COUNT VIII – CONVERSION

83. Hoosier Momma incorporates by reference each of the above paragraphs as if fully restated herein.

84. Edds knowingly or intentionally exerted unauthorized control over the property of Hoosier Momma, including but not limited to her use of Hoosier Momma's funds and intangible property such as Hoosier Momma's social media accounts, in violation of Indiana Code § 35-43-4-3.

85. The Indiana Crime Victim's Relief Act provides the right to bring a civil action for conversion if a person "...suffers a pecuniary loss as a result of a violation of IC 35-43..." Ind. Code § 34-24-3-1.

86. Hoosier Momma has suffered a pecuniary loss as a result of Edds' violations of Indiana Code § 35-43-4-3 and is entitled to damages.

COUNT XI – UNJUST ENRICHMENT

87. In the alternative, Hoosier Momma states a claim for unjust enrichment.

88. Hoosier Momma, LLC conferred a benefit on Edds, while Edds was a Member of Hoosier Momma, when it provided her with Fifty-Two Thousand Five Hundred Dollars (\$52,500.00) for Edds' personal expenses (the "Benefit").

89. Edds accepted the Benefit from Hoosier Momma.

90. Retention of the Benefit by Edds would be unjust to Hoosier Momma.

91. Edds has been unjustly enriched, to the detriment of Hoosier Momma, in the amount of Fifty-Two Thousand Five Hundred Dollars (\$52,500.00).

92. Hoosier Momma is entitled to an award of damages in the amount of Fifty-Two Thousand Five Hundred Dollars (\$52,500.00).

WHEREFORE, Plaintiff requests this Court enter judgment in its favor and against Defendant Erin Edds and requests the following relief:

(a) A preliminary and permanent injunction enjoining Edds from making false and/or misleading statements and representations concerning Hoosier Momma and/or the marketing, advertising and/or sale of Hoosier Momma products;

(b) A preliminary and permanent injunction enjoining Edds from selling and/or trading Hoosier Momma products without the consent of Hoosier Momma;

(c) A preliminary and permanent injunction enjoining Edds from controlling, disrupting, altering or otherwise tampering with Hoosier Momma's social media accounts and outlets and/or the computers, computer software and/or other computer system services of Hoosier Momma and/or Cranfill or Hill, and requiring her to relinquish all control and participation in media outlets, including relevant passwords;

(d) A preliminary and permanent injunction enjoining Edds from misappropriating or attempting to misappropriate or otherwise disclose to any third-party the confidential information and trade secrets of Hoosier Momma;

(e) A preliminary and permanent injunction enjoining Edds from tortiously interfering with Hoosier Momma's current and prospective business relationships;

- (f) Compensatory and exemplary damages, as well as attorneys' fees as allowed by law;
- (g) Costs and expenses in this action;
- (h) Actual damages for unjust enrichment in the amount of Fifty-Two Thousand Five Hundred Dollars (\$52,500.00) if equitable relief is appropriate;
- (i) Such further and other relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Hoosier Momma demands a trial by jury on all issues so triable.

Dated: November 21, 2014

Respectfully submitted,

/s/ Laura E. Gorman

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