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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 VAPUR, INC., a California corporation,

Case No. 2:11-CV-04568 ODW-JC

11 Plaintiff,

~~PROPOSED~~ PERMANENT
INJUNCTION AND FINAL
JUDGMENT

12 v.

13 RESHINE PROMOTION INC, a business
14 entity,

Date: NA
Time: NA

15 Defendant.

Judge: Hon. Otis D. Wright II

16
17 This matter comes before the Court on Plaintiff Vapur, Inc.'s ("Vapur")
18 Application for Entry of Default Judgment. On September 6, 2011, Vapur filed the
19 above-referenced Application, through which Vapur seeks entry of judgment on the
20 following causes of action alleged in its Complaint: Trademark Counterfeiting under
21 15 U.S.C. § 1114(l); Trademark Infringement under 15 U.S.C. § 1114(l); Trade Dress
22 Infringement under 15 U.S.C. § 1125(a); Unfair Competition and False Designation of
23 Origin under 15 U.S.C. § 1125(a); Design Patent Infringement under 35 U.S.C. § 271;
24 and Unfair, Unlawful, and Fraudulent Business Practices under Cal. Bus. & Prof.
25 Code § 17200. These claims are based on Defendant Reshine Promotion Inc's
26 ("Reshine") marketing, importation, distribution, offer for sale, and sale of counterfeit
27 versions of Vapur's highly distinctive and successful plastic water bottle ("Vapur
28 Bottle").

1 On August 2, 2011, the Clerk entered Default Judgment against Reshine on
2 Vapur's Complaint. Accordingly, all of the factual allegations in Vapur's Complaint
3 are deemed admitted.
4

5 Vapur has presented competent evidence to support its claims for injunctive
6 relief and, good cause having been shown, the Court hereby GRANTS Vapur's
7 Application for Entry of Default Judgment and ORDERS the following:
8

9 1. Vapur owns the federal trademark registrations for its VAPUR®
10 and THE ANTI-BOTTLE® trademark, U.S. Trademark Registration Nos. 3,766,784
11 and 3,893,851 ("Vapur Trademarks");
12

13 2. Vapur owns the trade dress rights to the inherently distinctive and
14 non-functional aspects of the Vapur Bottle and its packaging as identified in
15 Paragraphs 11-12 of the Complaint and Exhibit C thereto ("Vapur Trade Dress");
16

17 3. Vapur owns United States Design Patent Nos. D619,906 S and
18 D622,612 S ("Vapur Design Patents")
19

20 4. Reshine's counterfeit version of the bottle ("Counterfeit Bottle")
21 infringes the Vapur Trademarks, Vapur Design Patents, and Vapur Trade Dress.
22

23 5. Reshine, and its officers, directors, principals, agents, servants,
24 employees, successors and assigns, and all other persons in active concert or privity or
25 in participation with Reshine, jointly and severally, shall be permanently restrained
26 and enjoined from:
27

28 a. Imitating, copying or making use of Vapur's registered

1 VAPUR® Trademarks or any confusingly similar variation thereof;

2
3 b. Imitating, copying or making use of Vapur's registered
4 ANTI-BOTTLE® Mark or any confusingly similar variation thereof;

5
6 c. Manufacturing, producing, distributing, importing,
7 marketing, selling, offering for sale, or displaying any products or other items bearing
8 any copy or colorable imitation of any of Vapur's trademarks, including the Vapur
9 Trademarks;

10
11 d. Using any copy or colorable imitation of the Vapur Trade
12 Dress in connection with the promotion, advertisement, display, sale, offering for sale,
13 manufacture, printing, importation, production, circulation or distribution of any
14 products or services, including the Counterfeit Bottles;

15
16 e. Engaging in any other activity constituting unfair
17 competition with Vapur, or constituting an infringement of the Vapur Trademarks,
18 Trade Dress or Design Patents, or constituting any damage to Vapur's name,
19 trademarks, reputation, or goodwill

20
21 f. Making, using, offering for sale, selling and/or importing
22 infringing Counterfeit Bottles, and from otherwise infringing, contributing to the
23 infringement of, or actively inducing infringement of, the '906 Patent and/or the '612
24 Patents;

1 g. Continuing to market, offer, sell, transfer, advertise,
2 promote, develop or manufacture any bottles, including the Counterfeit Bottle, that
3 infringe Vapur's intellectual property rights, or to participate or assist in any such
4 activity;

5
6 h. Moving, discarding, destroying, selling, transferring, or
7 otherwise disposing of any Counterfeit Bottles or any other products or materials
8 bearing the Vapur Trademarks or Trade Dress, or any other products or materials that
9 infringe or contribute to the infringement of Vapur's intellectual property rights,
10 including its design patent, trademark and trade dress rights; and

11
12 i. Moving, discarding, destroying, selling, transferring, or
13 otherwise disposing of any business records, labels, wrappers, stickers, signs, sales
14 materials, advertising materials, or promotional materials relating to the Counterfeit
15 Bottles or any other products or materials bearing the Vapur Trademarks, or any
16 other products that infringe or contribute to the infringement of Vapur's intellectual
17 property rights, including its design patent, trademark and trade dress rights.

18
19 6. Violation of this permanent injunction shall subject Reshine to contempt
20 and any remedy available at law or equity, including, but not limited to, injunctive
21 relief, monetary damages and the award of reasonable attorneys' fees and costs in
22 enforcing this injunction.
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7. This Court shall retain jurisdiction of this matter in connection with any possible violations of this Permanent Injunction and Final Judgment.

IT IS SO ORDERED

DATE: 10/5/11



OTIS D. WRIGHT, II
U.S. District Court Judge