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Design, Inc.  
8

JS-6

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
11

12 CREATIVE NAIL DESIGN, INC. a  
California corporation,  
13

Plaintiff,

v.

15 CALI CHEM, INC., a California  
16 Corporation; LOC DUONG, an  
individual dba CALI BEAUTY  
17 SUPPLY; DAVID PHUC, an  
individual; SCOTT STACER, an  
18 individual; and DOES 1-10, inclusive,  
19

Defendants.

CASE No. SACV 10-00317 JVS (MLGx)

**JUDGMENT AND PERMANENT INJUNCTION**

Assigned For All Purposes:  
Honorable James V. Selna  
Courtroom: 10C

Action Filed: March 15, 2010  
Disc. Cutoff: May 11, 2011  
Motion Cutoff: July 11, 2011  
Trial Date: August 30, 2011

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This action having been commenced by Plaintiff Creative Nail Design, Inc. (“CND”) against Defendants Cali Chem, Inc., Loc Duong, Scott Stacer, and David Phuc (“Phuc”); and CND having served the Summons and Complaint on Phuc and a proof of service of the Complaint having been filed on April 9, 2010 and Phuc having failed to answer the Complaint or appear in any way, and the time for answering the Complaint having past; and

CND having shown, the following:

1. CND owns all right, title and interest in and to the following marks used in connection with the CND Products:

A. the words “C CREATIVE NAIL DESIGN,” (USPTO Registration No. 2,220,935 with a first use in commerce date of September 18, 1997);

B. the letters “CND,” (USPTO Registration No. 3,423,891 with a first use in commerce date of July 17, 2007);

C. the “CNDC Logo,” (USPTO Registration No. 3,466,796 with a first use in commerce date of July 17, 2007);

D. the words “RADICAL SOLARNAIL,” (USPTO Registration No. 2,208,857 with a first use in commerce date of April 15, 1993); and

E. the words “RETENTION+” (USPTO Registration No. 2,232,067 with a first use in commerce date of March 26, 1998).

1           2.     Phuc is offering for sale and/or selling counterfeit CND Products –  
2 including but not limited to sculpting liquid – bearing counterfeits of CND’s  
3 Trademarks (“Counterfeit CND Products”) to buyers in the United States, including in  
4 this Judicial District; and

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6           3.     The Clerk of this Court having entered a Default against Phuc on July 26,  
7 2010; and

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9           4.     CND having moved for entry of default judgment; and so the Court

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11           HEREBY FINDS that Phuc is liable for federal trademark counterfeiting and  
12 infringement under 15 U.S.C. § 1114 and accordingly

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14           IT IS HEREBY ORDERED that CND’s Motion for Default Judgment is  
15 GRANTED in its entirety and this Final Judgment is entered against Phuc.

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17           IT IS FURTHER ORDERED that Phuc, his officers, agents, servants, employees,  
18 attorneys, suppliers, distributors, and all those in active concert or participation with  
19 any of them, are permanently restrained and enjoined from:

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21           A.     using CND’s Trademarks or any reproduction, counterfeit, copy or  
22 colorable imitation of CND’s Trademarks in connection with the importation,  
23 distribution, advertising, offer for sale, and/or sale of merchandise not the  
24 genuine products of CND, or in any manner likely to cause others to believe that  
25 Phuc’s products are connected with CND or CND’s genuine CND Products  
26 bearing CND’s Trademarks;

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B. passing off, inducing, or enabling others to sell or pass off any sculpting liquid, nail care products or other items that are not CND’s genuine merchandise as or for CND’s genuine merchandise;

C. committing any other acts calculated to cause purchasers and/or the general public to believe that Phuc’s products are CND’s genuine merchandise unless they are such;

D. importing, shipping, delivering, holding for sale, distributing, returning, transferring or otherwise moving, storing or disposing of in any manner sculpting liquid, nail care products or other items falsely bearing CND’s Trademarks, or any reproduction, counterfeit, copy, or colorable imitation of the CND Trademarks or engaging in any other wrongful conduct with regard to the CND Trademarks; and

E. assisting any other person or business entity in engaging or performing any of the activities referred to in the above subparagraphs (A) through (D).

IT IS FURTHER ORDERED, ADJUDGED and DECREED that pursuant to 15 U.S.C. § 1117(c)(2), CND is awarded statutory damages from Phuc in the amount of \$13,620.00.

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IT IS FURTHER ORDERED ADJUDGED and DECREED that pursuant to 15 U.S.C. § 1117 and California Central District Local Rule 55-3, CND is awarded reasonable attorneys' fees from Phuc in the amount of \$1,221.72.

DATED: July 7, 2011

  
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Hon. James V. Selna

Submitted by:  
CONKLE, KREMER & ENGEL  
Professional Law Corporation  
William C. Conkle  
John A. Conkle  
Kevin R. Keegan

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By Kevin R. Keegan  
Attorneys for Plaintiff Creative Nail  
Design, Inc.

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action.** I am employed in the County of Los Angeles, State of California. My business address is 3130 Wilshire Boulevard, Suite 500, Santa Monica, California 90403-2351.

On March 28, 2011, I served true copies of the following document(s) described as **[PROPOSED] JUDGMENT AND PERMANENT INJUNCTION** on the interested parties in this action as follows:

Jason S. Roberts, Esq.  
GRANT, GENOVESE & BARATTA,  
LLP  
2030 Main Street, Suite 1600  
Irvine CA 92614  
Phone: (949) 660-1600  
Fax: (949) 660-6060  
Email: *ggm@ggb-law.com*  
Attorneys for Defendant Lou Duong, an  
Individual dba CALI BEAUTY SUPPLY

Jeffrey R. Salberg, Esq.  
Richard A. Jorgensen, Esq.  
JORGENSEN & SALBERG, LLP  
20 Executive Park, Suite 130  
Irvine, CA 92614  
Phone: (949) 851-9900  
Fax: (949) 861-7133  
Email: *rjorgensen@jslawgroup.com*  
Attorneys for Defendant Scott Stacer

**BY CM/ECF NOTICE OF ELECTRONIC FILING:** I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic Filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF Users set forth in the service list obtained from this Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 28, 2011, at Santa Monica, California.

\_\_\_\_\_  
Kevin R. Keegan

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David Phuc  
9081 Bolsa Ave.  
Westminster, CA 92683  
Defendant

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Conkle, Kremer & Engel's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 28, 2011, at Santa Monica, California.

\_\_\_\_\_  
Erlinda Bernabe