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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jeffrey Jacobs,

Plaintiff,

vs.

Industry Express Car Wash LLC, et al.,

Defendants.

No. CV-24-03227-PHX-SPL

ORDER

Before the Court is Plaintiff’s Motion for Preliminary Injunction and Request for Consolidated Trial on the Merits (Doc. 11) as well as his Motion for Order to Show Cause (Doc. 12). The Court finds that waiting for a response from Defendants on these motions is unnecessary, as both motions will be denied. *See, e.g., Hayes v. IDOC*, 2023 WL 2814515, at *2 (D. Idaho Apr. 6, 2023) (“Though these motions are not yet ripe, the Court concludes that Plaintiff has not shown entitlement to a preliminary injunction on the face of his moving papers. Therefore, the Court need not wait for Defendants’ responses to the motions.”).

I. BACKGROUND

Plaintiff Jeffrey Jacobs (“Plaintiff”) moves this Court for a consolidated one-day trial on the merits and to enter an order enjoining Defendant Industry Express Car Wash, LLC (the “Car Wash”) from the unauthorized use of Plaintiff’s copyrighted designs. (Doc. 11 at 1). Plaintiff alleges that he created a logo for the Car Wash in late 2020 with the intent to license that logo to the Car Wash “or license it to a third-party car wash for use.” (*Id.* at

1 2). The Car Wash did not contract or pay Plaintiff for the logo. (*Id.*). In February 2022,
2 Plaintiff became a member and manager of the Car Wash. (*Id.* at 2–3). Plaintiff contends
3 that he made it clear to Defendant Tim Berger (“Berger”), another primary member-
4 manager of the Car Wash, that if the Car Wash decided to adopt the logos, it needed to pay
5 Plaintiff “either through a license or an outright purchase.” (Doc. 1 at 8, 19).

6 The Car Wash opened for business in October 2023 and incorporated Plaintiff’s
7 logos “into its branding and promotional materials,” which was allegedly done with
8 permission but with the understanding that Berger had promised to pay Plaintiff for their
9 use. (*Id.* at 19–20). In April 2024, Plaintiff provided Berger with a draft licensing
10 agreement, which was refused. (*Id.* at 20). This caused the relationship between Plaintiff
11 and the other Car Wash members to sour, and on November 1, 2024, Plaintiff was stripped
12 of his managerial role by the other member-managers of the Car Wash, allegedly in
13 retaliation over the licensing dispute. (*Id.* at 29–30). The instant action was filed on
14 November 18, with a Verified Complaint alleging nine different causes of action, which
15 primarily center around Plaintiff’s allegation that the Car Wash infringed—and continues
16 to infringe—upon his copyrights in the logos at issue. (*Id.* at 30–42).

17 **II. LEGAL STANDARD**

18 “The Copyright Act provides that a court ‘may . . . grant temporary and final
19 injunctions on such terms as it may deem reasonable to prevent or restrain infringement of
20 a copyright.’ Thus, injunctive relief to prevent copyright infringement is available as an
21 equitable remedy in the court’s discretion.” *Flexible Lifeline Sys., Inc. v. Precision Lift,*
22 *Inc.*, 654 F.3d 989, 994 (9th Cir. 2011) (citation omitted) (quoting 17 U.S.C. § 502(a)). A
23 party seeking injunctive relief must show that: (1) it is likely to succeed on the merits; (2)
24 it is likely to suffer irreparable harm in the absence of injunctive relief; (3) the balance of
25 equities tips in its favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res.*
26 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

27 “To show irreparable harm, [a] plaintiff must do more than merely allege imminent
28 harm sufficient to establish standing; a plaintiff must *demonstrate* immediate threatened

1 injury as a prerequisite to preliminary injunctive relief.” *Forefront Dermatology S.C. v.*
2 *Crossman*, 642 F. Supp. 3d 947, 949 (D. Ariz. 2022) (alteration in original) (quoting
3 *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988)). Parties
4 are not entitled to a presumption of irreparable harm by establishing a likelihood of success
5 on the merits for copyright infringement claims. *See Herb Reed Enters., LLC v. Fla. Ent.*
6 *Mgmt., Inc.*, 736 F.3d 1239, 1249 (9th Cir. 2013).

7 Moreover, a plaintiff must establish that “remedies available at law, such as
8 monetary damages, are inadequate to compensate for that injury.” *Bean v. Pearson Educ.,*
9 *Inc.*, 2011 WL 1211684, at *2 (D. Ariz. Mar. 30, 2011) (citation omitted). In the context
10 of copyright infringement, injuries such as jeopardy to a company’s competitive position
11 or a more-than-speculative risk of losing customers, goodwill, or reputation may constitute
12 irreparable harm. *Id.* However, showing irreparable injury to goodwill or reputation
13 requires “concrete evidence in the record of those things.” *adidas Am., Inc. v. Skechers*
14 *USA, Inc.*, 890 F.3d 747, 756 (9th Cir. 2018). Evidence of past infringement or a mere
15 likelihood of future infringement does not allow for an inference of irreparable harm
16 because infringement can be redressed via actual or statutory damages. *Metro-Goldwyn-*
17 *Mayer Studios, Inc. v. Grokster, Ltd.*, 518 F. Supp. 2d 1197, 1215 (C.D. Cal. 2007).

18 **III. ANALYSIS**

19 In this case, Plaintiff fails to demonstrate immediate, irreparable harm. Even
20 assuming that Defendants are infringing Plaintiff’s protected logos, the standard for
21 granting a preliminary injunction requires more. As the Ninth Circuit held in *Flexible*
22 *Lifeline Systems, Inc.*, it is not enough that Plaintiff may well prevail on the merits of his
23 copyright claim; in order to obtain *preliminary* injunctive relief, Plaintiff “must
24 *demonstrate a likelihood* of irreparable harm.” 654 F.3d at 1000 (emphasis added).

25 The bulk of Plaintiff’s alleged injuries are of a sort that would be adequately
26 compensated by monetary damages, the primary injury being that the Car Wash is
27 benefitting from Plaintiff’s copyright-protected logos without having incurred any expense
28 to do so. (Doc. 11 at 10). While Plaintiff makes some attempt to allege loss of goodwill

1 and reputational harm caused by the infringement, those allegations are wholly speculative.
2 For example, Plaintiff claims that the Car Wash’s continued unauthorized use of the logos
3 means those logos now have “less value to a potential licensee,” because once a “brand is
4 linked to a particular company or product it is impossible to dissociate the brand from the
5 product on social media marketing platforms or the internet.” (*Id.* at 11). But conclusory
6 assertions about lost value do not show a *likelihood* of irreparable harm. Similarly, Plaintiff
7 claims that Car Wash customers “are likely to recognize” the logos as Plaintiff’s “and
8 mistakenly assume that [Plaintiff] is vouching for the [Car Wash’s] business and services,”
9 so if they have poor customer experiences, Plaintiff’s “products, business reputation, and
10 goodwill is harmed.” (*Id.* at 12). This claim is speculative on numerous levels: first, it
11 presumes that customers will be able to recognize the logos as Plaintiff’s, despite Plaintiff’s
12 primary business being in branding and selling specialty food products (Doc. 1 at 3–4);
13 second, it presumes that Car Wash customers will take the logos as Plaintiff’s implicit
14 endorsement of the business; and third, it presumes that customers will have such a
15 negative experience at the Car Wash that Plaintiff will suffer secondhand reputational harm
16 merely by visual association. The alleged reputational harm is attenuated at best, and
17 certainly does not pose the kind of threat that would warrant this Court issuing immediate
18 injunctive relief in Plaintiff’s favor.

19 The purpose of a preliminary injunction under Federal Rule of Civil Procedure 65
20 is to preserve the status quo until a full trial on the merits can be held. *Univ. of Tex. v.*
21 *Camenisch*, 451 U.S. 390, 395 (1981). Here, Plaintiff is not merely asking the Court to
22 preserve the status quo and prevent reputational harm until he can defend his copyright
23 claims on the merits; rather, Plaintiff is inappropriately attempting to use the preliminary
24 injunction as a backdoor mechanism to fast-track this Court’s judgment on his nine causes
25 of action.¹

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27 ¹ In the Introduction to his Motion for Preliminary Injunction, the Court notes that
28 Plaintiff states that a consolidated trial on the merits of his copyright infringement claim
“will effectively resolve the litigation as every issue in dispute arises out of [Plaintiff’s]
ownership of the marks and the Company’s use of the marks.” (Doc. 11 at 2). Not so. A

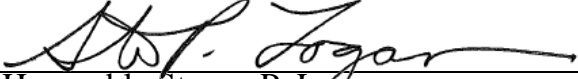
1 Because Plaintiff has failed to meet his burden to demonstrate a likelihood of
2 irreparable harm, this Court need not address the remaining *Winter* factors, and it will deny
3 Plaintiff’s Motion for Preliminary Injunction (Doc. 11). Additionally, because it is denying
4 the preliminary injunction motion, this Court will deny Plaintiff’s contemporaneously filed
5 Motion for Order to Show Cause (Doc. 12), in which Plaintiff requests this Court enter an
6 Order to Show Cause “as to why [Plaintiff’s] Motion for Preliminary Injunction should not
7 be immediately entered.” (Doc. 12 at 1).

8 Accordingly,

9 **IT IS ORDERED** that Plaintiff’s Motion for Preliminary Injunction and Request
10 for Consolidated Trial on the Merits (Doc. 11) is **denied**.

11 **IT IS FURTHER ORDERED** that Plaintiff’s Motion for Order to Show Cause
12 (Doc. 12) is **denied as moot**.

13 Dated this 25th day of November, 2024.

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16 Honorable Steven P. Logan
17 United States District Judge
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27 consolidated trial on the merits of Plaintiff’s copyright claim would potentially resolve one
28 issue: the copyright claim. There are eight other causes of action in Plaintiff’s voluminous
Complaint, and no matter how related those causes of action may be, Plaintiff would have
the burden of proving every element of every claim he has brought to ultimately prevail in
this litigation.