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JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TU THIEN THE, INC., a California Corporation,

Plaintiff,

v.

TU THIEN TELECOM, INC., a California corporation; PAUL VIET LE, an individual; and LAM NGUYEN, an individual,

Defendants.

CASE NO. CV 11-09899-MWF (JEMx)

JUDGMENT AFTER TRIAL

TU THIEN TELECOM, INC., a California corporation; and LAM NGUYEN, an individual,

Counter-Claimants,

v.

TU THIEN THE, INC., a California corporation; and HUONG THANH NGUYEN, aka HAI LE, an individual,

Counter-Defendants.

1 Following a jury trial on the legal claims, the jury returned verdicts in favor of
2 Plaintiff Tu Thien The, Inc. (“Plaintiff”) and against Counter-Claimants Tu Thien
3 Telecom, Inc. and Lam Nguyen (collectively, “Counter-Claimants”). (Docket No.
4 144). Based on the jury’s findings and the evidence in the record, the Court
5 concluded that injunctive relief was appropriate, and that, pursuant to 15 U.S.C. §
6 1117(a), the circumstances of this case justified increasing the jury’s award of actual
7 damages by a multiplier of 1.5. The Court also entered Findings of Fact and
8 Conclusions of Law on the parties’ equitable claims. Consistent with the jury’s
9 verdict, this Court’s Orders, and the Findings of Fact and Conclusions of Law, and
10 pursuant to Rules 54 and 58 of the Federal Rules of Civil Procedure, IT IS
11 HEREBY ORDERED, ADJUDGED, AND DECREED that judgment on the merits
12 be entered as follows:

13 **Plaintiff’s Claims**
14

- 15 1. The Court finds in favor of Plaintiff on the following claims:
- 16 a. Plaintiff’s Claim 1 for unfair competition/false designation in
17 violation of Section 43(a) of the Lanham Act;
 - 18 b. Plaintiff’s Claim 2 for service mark infringement, trade name
19 infringement, and unfair competition under the common law;
 - 20 c. Plaintiff’s Claim 4 for unfair competition in violation of California’s
21 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*;
 - 22 d. Plaintiff’s Claim 5 for injunction for infringement, Cal. Bus. & Prof.
23 Code § 14402; and
 - 24 e. Plaintiff’s Claim 6 for conversion.
- 25 2. The Court finds in favor of Defendants on the following claims:
- 26 a. Plaintiff’s Claim 3 for service mark and trade name dilution in
27 violation of Section 43(c) of the Lanham Act;
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- b. Plaintiff's Claim 7 for unjust enrichment; and
- c. Plaintiff's Claim 8 for injury to business reputation, Cal. Bus. & Prof. Code § 14247.

3. With regard to Plaintiff's Claims 1, 2, and 4,

a. Defendants Tu Thien Telecom, Inc., Paul Viet le, and Lam Nguyen (collectively, "Defendants") are jointly and severally liable to Plaintiff as follows:

i. Actual Damages:	\$ 600,000.00
ii. Defendants' Profits:	<u>\$ 450,000.00</u>
TOTAL:	\$ 1,050,000.00

b. Defendant Paul Viet Le is also liable to Plaintiff as follows:

i. Actual damages:	\$ 150,000.00
ii. Defendants' profits:	<u>\$ 218,000.00</u>
TOTAL:	\$ 368,000.00

4. With regard to Plaintiff's Claim 6, Defendant Paul Viet Le is liable to Plaintiff for damages in the amount of \$35,000.00.

5. Plaintiff is awarded post-judgment interest pursuant to 28 U.S.C. § 1961.

6. Plaintiff may submit its Bill of Costs to the Clerk, pursuant to Local Rule 54-2.

7. With regard to Plaintiff's Claims 1, 2, 4, and 5, it is further ordered that:

a. Pursuant to 15 U.S.C. § 1116 and California Business and Professions Code §§ 14402 and 17203, Defendants, their officers, agents, servants, employees, licensees, attorneys, successors, related companies, parent companies, and assigns, and any persons in active concert or participation with them are enjoined and restrained from:

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- i. Using the Tu Thien The mark, the service mark described in this action as three stick figures, or any other mark or designation that is confusingly similar to these marks;
 - ii. Causing a likelihood of confusion or misunderstanding as to an affiliation, connection, or association with Plaintiff and its services; and
 - iii. Unfairly competing with Plaintiff in any manner or causing injury to Plaintiff’s business reputation.
- b. Pursuant to 15 U.S.C. § 1118, Defendants shall deliver, within 30 days of entry of this Judgment, to Plaintiff all advertisements, brochures, and current inventory of products in their possession, bearing the Tu Thien The mark, the service mark described in this action as three stick figures, or any other mark that is confusingly similar to these marks, and all plates, molds, matrices, and other means of making the same, for destruction by Plaintiff.

Counter-Claimants’ Claims

1. The Court finds in favor of Counter-Defendants Tu Thien The, Inc. and Huong Thanh Nguyen, aka Hai Le, on the following claims:
 - a. Counter-Claimants’ Claim 1 for unfair competition/false designation in violation of the Section 43(a) of the Lanham Act;
 - b. Counter-Claimants’ Claim 2 for service mark infringement, trade name infringement, and unfair competition under the common law;
 - c. Counter-Claimants’ Claim 3 for service mark and trade name dilution in violation of Section 43(c) of the Lanham Act;

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- d. Counter-Claimants’ Claim 4 for unfair competition in violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*;
- e. Counter-Claimants’ Claim 5 for injunction for infringement, Cal. Bus. & Prof. Code § 14402;
- f. Counter-Claimants’ Claim 6 for unjust enrichment; and
- g. Counter-Claimants’ Claim 7 for injury to business reputation, Cal. Bus. & Prof. Code § 14247.



Dated: August 11, 2014

MICHAEL W. FITZGERALD
United States District Judge