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6 Attorneys for Plaintiff
 SUMMIT ENTERTAINMENT, LLC

7
 8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA
 10 WESTERN DIVISION

11 SUMMIT ENTERTAINMENT, LLC,
 12 a Delaware limited liability company,
 Plaintiff,

13 v.

14
 15 PREFERRED FRAGRANCE, INC., a
 New York Corporation, FRAGRANCE
 16 ACQUISITIONS, LLC, a Delaware
 limited liability company, EZRIEL
 17 POLATSEK, an individual, and
 DOES 1-10, inclusive,

18 Defendants.

Case No. 2:13-cv-04310-CAS-AJW

**STIPULATED JUDGMENT AND
 PERMANENT INJUNCTION
 AS TO DEFENDANTS
 PREFERRED FRAGRANCE, INC.
 AND EZRIEL POLATSEK**

19
 20 AND RELATED CROSS-CLAIMS.

21
 22 IT IS HEREBY STIPULATED by and between plaintiff Summit
 23 Entertainment, LLC (“Summit”) and defendants Preferred Fragrance, Inc.
 24 (“Preferred Fragrance”) and Ezriel Polatsek (collectively, “Defendants”) that a
 25 Judgment shall be entered to fully and finally dispose of this action as to
 26 Defendants, and that the Judgment be entered against Defendants as follows:

27 WHEREAS, Summit is the producer and distributor of the motion picture
 28 *Twilight* and its sequels *The Twilight Saga: New Moon*, *The Twilight Saga:*

1 *Eclipse, The Twilight Saga: Breaking Dawn – Part 1, and The Twilight Saga:*
2 *Breaking Dawn – Part 2* (collectively, the “*Twilight* Motion Pictures”);

3 WHEREAS, Summit is the owner of all right, title, and interest in certain
4 intellectual property rights – including trademarks, copyrights, and trade dress rights
5 – related to and/or derived from the *Twilight* Motion Pictures (the “*Twilight*
6 Intellectual Property”), including the federally registered TWILIGHT, stylized
7 TWILIGHT (as depicted immediately below), and NEW MOON trademarks used
8 on and/or in conjunction with a variety of goods and services (the “TWILIGHT and
9 NEW MOON Marks”), as well as other trademarks, copyrights, and protectable
10 trade dress:

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14 WHEREAS, on December 4, 2013, the Court deemed filed Summit’s First
15 Amended Complaint [Docket No. 28], through which Summit sought damages and
16 injunctive relief against Defendants for false designation of origin, trademark
17 infringement, trademark dilution, and unfair competition. Summit alleged that
18 Defendants’ sale of eau de parfum and related products under the MOONLIGHT
19 trademark infringed Summit’s rights in the TWILIGHT and NEW MOON Marks;

20 WHEREAS, Defendants deny all wrongdoing alleged by Summit in the First
21 Amended Complaint;

22 WHEREAS, Summit and Defendants, without any admission of liability on
23 the part of Defendants, have entered into a Confidential Settlement Agreement dated
24 June 2, 2014 (the “Agreement”) with the mutual intention of resolving all disputes
25 between them which arise from the allegations of the First Amended Complaint; and

26 WHEREAS, this Court has jurisdiction over the subject matter of this
27 controversy pursuant to 15 U.S.C. § 1121(a) , 28 U.S.C. § 1331, 28 U.S.C.
28 § 1338(a), and 28 U.S.C. § 1338(b);

1 THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES:

2 1. Permanent Injunction. Defendants and, as applicable, their past and
3 present officers, directors, servants, employees, representatives, successors and
4 assigns (other than Fragrance Acquisitions, LLC), attorneys and agents, and all
5 persons in active concert or participation with Defendants or with any of the
6 foregoing, hereby agree to permanently refrain from:

7 (a) Manufacturing, transporting, promoting, importing, advertising,
8 marketing, publicizing, distributing, displaying, offering for sale or selling any good
9 or service under any of the TWILIGHT and NEW MOON Marks or any other mark,
10 name, symbol, design, logo, image, or trade dress that is likely to cause confusion or
11 to cause mistake or to deceive persons into the erroneous belief that any goods or
12 services that Defendants caused to enter the stream of commerce are sponsored,
13 licensed, or authorized by Summit, or are connected, associated, or affiliated with
14 Summit or the *Twilight* Motion Pictures;

15 (b) Manufacturing, transporting, promoting, importing, advertising,
16 marketing, publicizing, distributing, displaying, offering for sale or selling any good
17 or service under any of the TWILIGHT and NEW MOON Marks or any other mark,
18 name, symbol, design, or logo that is confusingly similar to or a reproduction,
19 counterfeit, copy, or colorable imitation of, or incorporates, the TWILIGHT and
20 NEW MOON Marks;

21 (c) Implying Summit's endorsement of any of Defendants'
22 commercial activities, Defendants' goods or services, or Defendants' business, and
23 representing that Summit has endorsed, sponsored, licensed, or approved, or is
24 affiliated or associated with Defendants or Defendants' products or that Defendants'
25 products are affiliated, associated, or connected with the *Twilight* Motion Pictures;

26 (d) Seeking to register any of the TWILIGHT and NEW MOON
27 Marks or any other mark, name, symbol, design, logo, image, or trade dress which is
28 likely to cause confusion or to cause mistake or to deceive persons into the

1 erroneous belief that the businesses, goods, or services of Defendants are sponsored
2 or endorsed or authorized by Summit or are connected or affiliated in some way
3 with Summit or the *Twilight* Motion Pictures;

4 (e) Engaging in any act which is likely to dilute the distinctive
5 quality of the TWILIGHT and NEW MOON Marks and/or injures Summit's
6 business reputation; and

7 (f) Knowingly assisting, inducing, aiding or abetting any person or
8 business entity in engaging in or performing any of the activities referred to in sub-
9 paragraphs (a) through (e), inclusive, above.

10 2. Destruction and Removal of Infringing Products. Within ten (10) court
11 days of the effective date of the Agreement, Defendants shall, to the extent they
12 have any of the following materials and media in their possession, custody, or
13 control: (a) destroy all labels, tags, packaging, boxes, advertising materials,
14 marketing materials, and any other physical objects in their possession, custody, or
15 control bearing the MOONLIGHT mark or any other intellectual property associated
16 with the *Twilight* Motion Pictures; and (b) delete or alter all electronic media under
17 their control (including, without limitation, web pages, electronic tags, and
18 metatags) so as to remove all uses of the MOONLIGHT mark or any other
19 intellectual property associated with the *Twilight* Motion Pictures.

20 3. Proof of Compliance. Within fourteen (14) court days of the Court's
21 entry of the Judgment, Defendants shall serve upon Summit a declaration under the
22 penalty of perjury that it has complied with the terms of the Agreement and the
23 Judgment, including the measures described in Paragraph 2 above.

24 4. No Admission of Liability. Defendants do not admit liability for or the
25 validity of any of Summit's claims alleged in the First Amended Complaint, and this
26 Judgment shall not be interpreted as an admission or a determination of wrongful or
27 unlawful conduct by Defendants.

28 5. Attorneys' Fees and Costs. Each party shall bear its own attorneys'

1 fees and costs arising out of, related to, or incurred in this action, except as provided
2 herein and in the Agreement.

3 6. Violation of Judgment – Contempt of Court. In the event that any part
4 of this Judgment or the obligations set forth in Paragraph 7 of the Agreement are
5 violated by Defendants, or by any of its present or former officers, directors, agents,
6 servants, employees, or representatives, or by any person in active concert and
7 participation with Defendants that receive notice of this Judgment, Summit may file
8 and serve a motion for contempt seeking damages, attorneys’ fees, expert witness
9 fees, and/or other appropriate relief.

10 7. Violation of Judgment -- Prevailing Party Fees and Costs. In an action
11 or proceeding based upon an allegation that a party has violated this Judgment, the
12 prevailing party shall be entitled to recover all of its reasonable attorneys’ fees,
13 expert witness fees, and other costs incurred in connection with the action or
14 proceeding. This paragraph shall not be construed to limit any party’s rights,
15 remedies or procedural options.

16 8. Binding Effect. This Judgment shall be binding upon and inure to the
17 benefit of the parties and all successors and assigns (other than Fragrance
18 Acquisitions, LLC), officers, directors, members, agents, and other persons who are
19 in active concert or participation with anyone described herein, who receive actual
20 notice of this Judgment by personal service or otherwise.

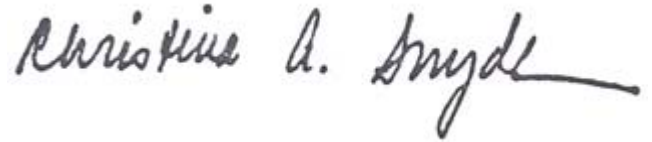
21 9. Continuing Jurisdiction. This Court shall retain jurisdiction to enforce
22 this Judgment and the Agreement.

23 10. No Territorial Limit. This Judgment shall be enforceable against
24 Defendants for any acts that violate this Judgment that occur inside and/or outside of
25 the United States of America.

26 11. Final Judgment. This Judgment shall be a final adjudication of all
27 claims alleged or which, limited to the sales reports disclosed by Defendants to
28 Summit, could have been alleged by Summit in this action against Defendants, and

1 the parties stipulate that this Judgment is not appealable.

2 SO ORDERED.




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4 Date: June 4, 2014

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United States District Court Judge

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1 *Approved as to content and form:*

2 SUMMIT ENTERTAINMENT, LLC
3 *Plaintiff*

4 By: 
5 Name: David C. Ruedman
6 Title: VP & General Counsel

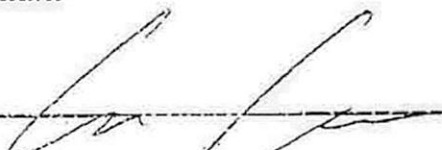
Date: 6/3/14

7
8 PREFERRED FRAGRANCE, INC.
9 *Defendant*

10 By: 
11 Name: _____
12 Title: _____

Date: 6-2-14

13 EZRIEL POLATSEK
14 *Defendant*

15 By: 

Date: 6-2-14

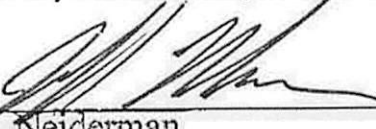
17 *Approved as to form:*

18 SHEPPARD MULLIN RICHTER HAMPTON, LLP

19
20 By: _____
21 Jill M. Pietrini
22 *Attorneys for Plaintiff*
Summit Entertainment, LLC

Date: _____

23 SCHWARCZ, RIMBERG, BOYD & RADER, LLP

24
25 By: 
26 Jeff D. Neiderman
27 *Attorneys for Defendants*
Preferred Fragrance, Inc. and Ezriel Polatsek

Date: 6/2/14

28 SMRH:423686492.1

1 *Approved as to content and form:*

2 SUMMIT ENTERTAINMENT, LLC
3 *Plaintiff*

4 By: _____ Date: _____

5 Name: _____

6 Title: _____

7

8 PREFERRED FRAGRANCE, INC.
9 *Defendant*

10 By: _____ Date: _____

11 Name: _____

12 Title: _____

13 EZRIEL POLATSEK
14 *Defendant*

15
16 By: _____ Date: _____

17 *Approved as to form:*

18 SHEPPARD MULLIN RICHTER HAMPTON, LLP

19

20 By: /s/Jill M. Pietrini Date: June 3, 2014

21 Jill M. Pietrini
Attorneys for Plaintiff
Summit Entertainment, LLC

22

23 SCHWARCZ, RIMBERG, BOYD & RADER, LLP

24

25 By: _____ Date: _____

26 Jeff D. Neiderman
Attorneys for Defendants
Preferred Fragrance, Inc. and Ezriel Polatsek

27

28 SMRH:423686492.1