

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

KILPATRICK TOWNSEND & STOCKTON LLP
GREGORY S. GILCHRIST (State Bar No. 111536)
RYAN T. BRICKER (State Bar No. 269100)
ALEXANDRA N. MARTINEZ (State Bar No. 317382)
Nineteenth Floor, Two Embarcadero Center
San Francisco, California 94111
Telephone: (415) 576-0200
Facsimile: (415) 576-0300
Email: gilchrist@kilpatricktownsend.com
rbricker@kilpatricktownsend.com
amartinez@kilpatricktownsend.com

JS-6

Attorneys for Plaintiff
PATAGONIA, INC.

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES**

PATAGONIA, INC.,

Plaintiff,

v.

TAMMY MANN,

Defendant.

Case No. 2:18-cv-03868 FMO (RAOx)

**FINAL JUDGMENT AND
PERMANENT INJUNCTION AS
TO TAMMY MANN**

Plaintiff Patagonia, Inc. (“Patagonia”) has filed a Complaint alleging counterfeiting, trademark infringement, unfair competition, and copyright infringement under federal law against co-defendant Tammy Mann. Ms. Mann has promoted apparel products bearing one or more identical or substantially indistinguishable imitations of Patagonia’s federally registered marks (the “Counterfeit Products”) using social media, including Facebook user accounts or Facebook Groups, and sought to import and sell such Counterfeit Products. Ms. Mann consents to entry of judgment and permanent injunction to resolve this matter.

The Court now enters final judgment based upon the following undisputed facts. Each party has waived the right to appeal from this final judgment and each party will bear its own fees and costs in connection with this action.





1 **I. FACTS AND CONCLUSIONS**

2 A. This Court has subject matter jurisdiction over this lawsuit and personal
3 jurisdiction over Ms. Mann. Venue is proper in this Court.

4 B. Patagonia owns numerous registrations for the PATAGONIA trade-
5 mark, and for its distinctive logo depicting the Mt. Fitz Roy skyline (the “Fitz Roy
6 Design”), for a wide ranging assortment of products. Among these are the
7 following U.S. trademark registrations:

8

9 Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
10 PATAGONIA	1189402/ Feb. 9, 1982	Men’s and Women’s Clothing-Namely, Sweaters, Rugby Shirts, Walking Shorts, Trousers, Jackets, Mittens, Hoods and Rainwear.	08/1974
12 	1294523/ Sept. 11, 1984	Men’s, Women’s and Children’s Clothing- Namely, Jackets, Pants, Vests, Gloves, Pullovers, Cardigans, Socks, Sweaters, Underwear, Shirts, Shorts, Skirts and Belts	08/1974- 1981
14 	1775623/ June 8, 1993	Luggage back packs, and all-purpose sports bags	08/1988
16 PATAGONIA	1811334/ Dec. 14, 1993	Luggage, back packs, fanny packs and all- purpose sport bags, foot- wear, ski bags and ski gloves	08/1990
18 PATAGONIA	2260188/ July 13, 1999	Computerized on-line ordering activities in the field of clothing and acces- sories; Providing informa- tion in the field of technical clothing and accessories for use in	10/1995

28



Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
		recreational, sporting and leisure activities; providing information in the field of existing and evolving environmental issues	
PATAGONIA.COM	2392685/ Oct. 10, 2000	On-line retail store and mail order services featuring technical clothing, footwear, and accessories; Computer services in the nature of on-line information related to the environment and clothing	10/1995
PATAGONIA	2662619/ Dec. 17, 2002	Retail store services featuring clothing, footwear, luggage and a wide variety of sporting goods and accessories	06/1986

These registrations for the PATAGONIA mark and logos are in full force and effect. The registrations have become incontestable under 15 U.S.C. § 1065. Collectively, these marks, Patagonia’s other registered trademarks, and its common law marks are referred to as the “PATAGONIA trademarks.” A color image of the Fitz Roy Design follows:



C. Ms. Mann promoted for sale, and sought to import and sell, Counterfeit Products.

///

///



1 **II. PERMANENT INJUNCTION AND AWARD**

2 It is hereby ordered and adjudged as follows:

3 A. Commencing as of the “So Ordered” date of this Final Judgment and
4 Permanent Injunction, Ms. Mann, her agents, employees, attorneys, successors,
5 assigns, affiliates, joint ventures, and any person(s) in active concert or participation
6 with her, and/or any person(s) acting for, with, by, through, or under her control
7 who receive actual notice of this Order, are hereby permanently enjoined and
8 restrained, anywhere in the world, directly or indirectly, from doing, authorizing
9 or procuring any persons to do any of the following:

10 1. Manufacturing, producing, sourcing, importing, selling, offering
11 for sale, distributing, advertising, or promoting any goods or services that bear
12 reproductions of the PATAGONIA Trademarks;

13 2. Manufacturing, producing, sourcing, importing, selling, offering
14 for sale, distributing, advertising, or promoting any goods or services that display
15 any words or symbols that so resemble the PATAGONIA trademarks as to be likely
16 to cause confusion, mistake, or deception, on or in connection with any product that
17 is not authorized by or for Patagonia;

18 3. Using any word, term, name, symbol, device, or combination
19 thereof that causes or is likely to cause confusion, mistake, or deception as to the
20 affiliation or association of Ms. Mann or her products with Patagonia or as to the
21 origin of Ms. Mann’s goods, or any false designation of origin, false or misleading
22 description or representation of fact, or any false or misleading advertising;

23 4. Further infringing the rights of Patagonia in and to its
24 PATAGONIA trademarks, or otherwise damaging Patagonia’s goodwill or business
25 reputation;

26 5. Further infringing Patagonia’s copyright rights, including its
27 rights in the Fitz Roy Design, or otherwise infringing any of Patagonia’s rights
28 under the Copyright Act and any other source of federal or state law;



1 6. Otherwise competing unfairly with Patagonia in any manner; and
2 7. Assisting, aiding or abetting any person or entity engaging in or
3 performing any act prohibited by this paragraph.

4 B. This is a final judgment as to all claims asserted against Ms. Mann
5 related to the Counterfeit Products, sold prior to the date of entry of this Final
6 Judgment and Permanent Injunction. Both parties shall bear their own costs.

7 C. If Ms. Mann is found to be in contempt of this injunction by a court of
8 law, she agrees that she will pay to Patagonia a liquidated penalty in an amount no
9 less than \$15,000.00 as liquidated damages, plus any other non-duplicative penalties
10 or damages arising from the contempt.

11 D. If Patagonia commences an action for enforcement of this Judgment,
12 the prevailing party shall be awarded reasonable attorneys' fees and costs from the
13 other party for both the action enforcing this Judgment and the underlying litigation.

14

15 Dated: August 29, 2018

16

17

18

19

20

21

22

23

24

25

26

27

28

_____/s/
Hon. Fernando M. Olguin
United States District Judge

