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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALLERGAN, INC.,

Plaintiff,

v.

DERMAVITA LIMITED
PARTNERSHIP, DIMA CORP. S.A., and
KBC MEDIA RELATIONS LLC,

Defendants.

Case No. 8:17-cv-619-CJC (DFMx)

**FINAL JUDGMENT OF
TRADEMARK INFRINGEMENT,
UNFAIR COMPETITION,
TRADEMARK DILUTION, AND
FALSE ADVERTISING AGAINST
DEFENDANT DIMA CORP, S.A.**

1 The Court hereby enters the following Final Judgment of Trademark Infringement,
2 Unfair Competition, Trademark Dilution, and False Advertising Against Defendant Dima
3 Corp. S.A.

4 **I. BACKGROUND AND PROCEDURAL HISTORY**

5 This is an action for trademark infringement, unfair competition, trademark
6 dilution, and false advertising under the United States Trademark Act, 15 U.S.C. §§ 1051
7 *et seq.*, as amended. These claims are within the subject matter of the jurisdiction of this
8 Court pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338(b). This Court has personal
9 jurisdiction over Defendant Dima Corp. S.A. (“Dima Corp.”) because it has committed,
10 or aided, abetted, contributed to and/or participated in the commission of the tortious act
11 of trademark infringement and the other claims asserted by Plaintiff Allergan, Inc.
12 (“Allergan”) which have led to foreseeable harm and injury to Allergan in the State of
13 California. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

14 Dima Corp. stipulated to the entry of a preliminary injunction against it during the
15 pendency of this case based on a sufficient likelihood that Allergan would ultimately
16 prevail on the merits of its claims. [Dkt. 38.] The Court entered the parties’ proposed
17 order granting preliminary relief on July 21, 2017. [Dkt. 40.]

18 **II. FINDINGS OF FACT**

19 **A. Scope of Allergan’s Rights**

20 Together with its corporate affiliates, Allergan is a global pharmaceutical company
21 that manufactures, develops, markets, and sells a range of products, including a collection
22 of dermal fillers marketed under the trademark JUVÉDERM. Allergan’s JUVÉDERM
23 collection of dermal fillers is marketed to the general public but is designed to be
24 administered by healthcare professionals and is indicated for improving the appearance of
25 facial lines and wrinkles. The primary active ingredient in Allergan’s JUVÉDERM
26 products is hyaluronic acid. Allergan owns a number of valid and subsisting U.S.
27 trademark registrations for or including JUVÉDERM (collectively, the “JUVÉDERM
28

1 Marks”), including but not limited to U.S. Registration Nos.: 3,706,974; 4,380,506;
2 4,380,507; and 4,481,317.

3 Allergan has spent more than \$122 million in direct-to-consumer advertising of
4 JUVÉDERM products since launching the brand in the United States in 2007, and as a
5 result sales of the JUVÉDERM products have exceeded \$2 billion (USD). Allergan’s
6 extensive use, promotion, and exposure of its JUVÉDERM Marks on and in connection
7 with its JUVÉDERM products has rendered the JUVÉDERM Marks famous in the
8 United States. Allergan would suffer immediate and irreparable harm if it were to lose
9 control over the goodwill it has created surrounding its JUVÉDERM Marks.

10 **B. Dima Corp.’s Infringement of Allergan’s JUVÉDERM Marks and False**
11 **Advertisement of “Juvederm”-Branded Products**

12 At least as early as 2015, Defendant Dermavita Limited Partnership (“Dermavita”)
13 began creating and promoting cosmetic skincare products outside the United States under
14 the mark JUVEDERM. Dermavita sought registration of its mark in the European Union
15 and, by extension, in the United States. On March 17, 2017, Dima Corp. announced via
16 press release (the “Press Release”) that it had acquired a “full license” from Dermavita
17 “to develop and market cosmetic products under the nearly-identical Juvederm
18 trademark” (the “Dermavita Juvederm Mark”) and that it intended to immediately
19 introduce skincare products that would be available in “2000+ doctor’s offices in the
20 United States by June 2017.” The products were advertised as containing hyaluronic acid
21 and were designed to be used by consumers in conjunction with Allergan’s JUVÉDERM
22 products. Among the products intended for distribution in the United States by Dima
23 Corp. was a “Juvederm”-branded aftercare product for patients who had just received
24 injections of Allergan’s genuine JUVÉDERM filler products. “Juvederm”-branded
25 products were promoted on Dima Corp.’s websites located at www.juvedermlab.com and
26 www.dimacorp.lu as well as through a mobile application.

1 The Press Release contained statements that could mislead consumers into thinking
2 those products were approved as “drugs” by the U.S. Food and Drug Administration,
3 when in fact they were not. The press release also contained statements about a
4 “Juvederm” mobile application that could mislead consumers into thinking those
5 products were approved as diagnostic medical devices, when in fact they were not.

6 Dima Corp. had both constructive and actual notice of the JUVÉDERM Marks at
7 the time the Press Release was issued. Dermavita’s Juvederm Mark is confusingly
8 similar to Allergan’s JUVÉDERM Marks, as evidenced by at least one instance of actual
9 consumer confusion.

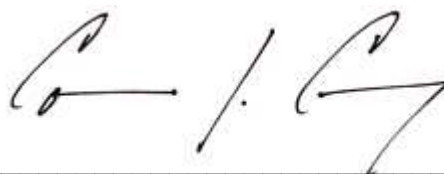
10 **III. CONCLUSION AND JUDGMENT**

11 Based on the foregoing findings of fact, the Court finds sufficient basis to enter
12 final judgment on the merits against Dima Corp. for: non-willful federal trademark
13 infringement in violation of 15 U.S.C. § 1114(1); federal unfair competition in violation
14 of 15 U.S.C. § 1125(a)(1); federal trademark dilution in violation of 15 U.S.C. § 1125(c);
15 and federal false advertising in violation of 15 U.S.C. § 1125(a)(1)(b), (*i.e.*, Counts One
16 through Four of the Complaint). Count Five of the Complaint is dismissed without
17 prejudice.

18 The Court’s Order Granting Preliminary Injunctive Relief of July 21, 2017, [Dkt.
19 40], will be vacated upon entry of this Final Judgment and the Order Granting Permanent
20 Injunctive Relief to be entered contemporaneously herewith.

21 IT IS SO ORDERED.

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23 DATED: January 25, 2019



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26 The Hon. Cormac J. Carney
United States District Court Judge