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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

UL LLC,

Plaintiff,

v.

Sturgeon Services International, Inc., a
California corporation, Engineered Well
Service International, Inc., a California
corporation, John Powell, an individual, and
John Does 1-20, individuals,

Defendants.

Case No.: 1:16-CV-01389-TLN-SAB

**STIPULATED CONSENT DECREE
AND PERMANENT INJUNCTION AS
BETWEEN PLAINTIFF UL LLC AND
DEFENDANT JOHN E. POWELL, JR.**

**AND RELATED CROSS-CLAIMS AND
THIRD-PARTY CLAIMS**

1 Plaintiff UL LLC (“UL”), and Defendant John E. Powell, Jr. (“Powell”), through
2 their respective counsel of record, have agreed to enter into a stipulated Consent Decree
3 and Permanent Injunction in conjunction with their Settlement Agreement.

4 This order is made with reference to the following facts, which Powell admits:

5 (a) UL is the owner of the famous UL-in-a-circle certification mark, and
6 variations thereof, in the United States and abroad, including UL® (stylized) (Reg. No.
7 782,589), UL® (stylized) (Reg. No. 2,391,140), and UL® (Reg. No. 4,201,014), among
8 other trademark registrations (collectively, the “UL Marks”). The UL Marks are valid,
9 famous, incontestable, and enforceable.

10 (b) Sturgeon Services International, Inc. (“SSI”) and Engineered Well Services
11 International Inc. (“EWS”) need flame retardant clothing for their line of work. Beginning
12 in at least 2012, Sturgeon and EWS began investigating purchasing flame retardant
13 clothing from Powell’s girlfriend, Rebecca Rynders (aka Rebecca Zhu) and her company
14 Zimpex Inc. (collectively, “Zimpex”). At that time, Powell was CEO of both Sturgeon and
15 EWS and an owner of EWS, and directed Sturgeon and EWS employees to purchase flame
16 retardant clothing from Zimpex, although John Powell knew that Zimpex had never
17 imported or sold flame retardant garments before. Sturgeon, EWS and Powell knew that
18 such clothing needs to comply with NFPA 2112, the safety standard that governs flame
19 retardant uniforms.

20 (c) In January 2014, a laundry vendor provided a written report pointing out that
21 the garments provided by Zimpex did not comply with NFPA 2112, and were not certified
22 by a testing company, such as UL. The Sturgeon and EWS employees who received the
23 report shared it with Powell, who directed the employees to work with Zimpex to correct
24 the deficiencies noted in the report.

25 (d) In or around March of 2014, Zimpex provided Sturgeon and EWS what was
26 claimed to be a certificate proving that the garments were UL-certified. Chad Givens, an
27 employee of Sturgeon and EWS, compared the certificate to the information in UL’s
28 online product certification directory, and noticed that the certificate Zimpex had provided

CONSENT DECREE AND PERMANENT INJUNCTION

1 appeared to list an entirely different manufacturer than the one listed in UL's online
2 directory. Chad Givens informed Powell that the UL certificate provided by Zimpex did
3 not match the information on UL's online product certification directory, and that he had
4 doubts about whether the garments had been tested and certified by UL.

5 (e) In or around March of 2014, Powell directed Sturgeon and EWS to purchase
6 approximately \$70,000 worth of Zimpex products. When the products arrived, the
7 products delivered by Zimpex had labels which claimed that the products had been
8 certified by UL as complying with NFPA 2112. The labels, however, had obvious
9 misspellings, such as the phrase "FLAM RETARDANT" instead of "FLAME
10 RETARDANT." The labels also listed "Zimpex Inc." as the manufacturer. EWS
11 distributed these garments to EWS employees. Danielle Broussard, an employee of
12 Sturgeon, noticed that Zimpex was not listed in UL's online certification directory, and
13 promptly brought this to the attention of Powell.

14 (f) In or around June 2014, while under Powell's leadership, and at Powell's
15 direction, Sturgeon and EWS made another purchase of purported flame resistant garments
16 from Zimpex, totaling over \$300,000. In or about November 2014, Sturgeon purchased an
17 additional \$30,000 worth of purported flame resistant products from Zimpex. All of these
18 products purchased in 2014 listed "Zimpex Inc". as the manufacturer and had labels which
19 claimed that the products had been certified by UL. Some of the garments purchased from
20 Zimpex were used by Sturgeon's employees.

21 The parties have entered into a settlement agreement, and as part of that settlement
22 agreement have stipulated to this Consent Decree and Permanent Injunction. The Court
23 has reviewed and considered, and hereby approves, the stipulated Consent Decree and
24 Permanent Injunction.

25 It is hereby **ORDERED** that Powell is found liable for using in commerce
26 counterfeit UL Marks in connection with the distribution of goods, in violation of 15
27 U.S.C. § 1114. Powell stipulates to a judgment in the amount of \$220,000, and judgment
28 in that amount shall be entered in a final Judgment entered in this action in Plaintiff UL

1 LLC's favor against Powell. Each side to bear their own costs and fees.

2 It is hereby **ORDERED**, pursuant to Federal Rule of Civil Procedure 65, that
3 Powell, and his respective agents, employees, and attorneys, and all others in active
4 concert or participation therewith, are hereby enjoined and restrained from:

- 5 (i) imitating, copying, or making any other infringing use of the UL Marks;
- 6 (ii) manufacturing, assembling, producing, distributing, offering for distribution,
7 circulating, selling, offering for sale, advertising, importing, promoting, or
8 displaying any simulation, reproduction, counterfeit, copy, or colorable
9 imitation of the UL Marks;
- 10 (iii) using any false designation of origin or false description or statement that can
11 or is likely to lead the trade or public or individuals erroneously to believe that
12 any good has been provided, produced, distributed, offered for distribution,
13 circulation, sold, offered for sale, imported, advertised, promoted, displayed,
14 licensed, sponsored, approved, or authorized by or for UL, when such is not
15 true in fact;
- 16 (iv) using any reproduction, counterfeit, copy, or colorable imitation of the UL's
17 Marks, including but not limited to its famous certification mark, in
18 connection with the manufacture, importation, sale, offering for sale, or
19 distribution of goods in the United States, which goods in fact are not certified
20 by UL or are not genuine UL certified products, which such use is likely to
21 cause confusion, or to cause mistake, or to deceive;
- 22 (v) committing any other acts reasonably calculated to cause users to believe that
23 Zimpex products are authorized or certified by UL, when in fact such
24 products are not authorized or certified by UL;
- 25 (vi) passing off any goods that are not authorized by UL as being certified,
26 approved, or authorized by UL; and
- 27 (vii) assisting, aiding, or abetting any other person or business entity in engaging in
28 or performing any of the activities referred to in the above paragraphs (i)

1 through (vi), inclusive.

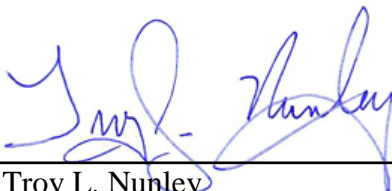
2 Nothing in the Order shall prohibit Powell, and his respective agents, employees,
3 and attorneys, and all others in active concert or participation therewith, from distributing,
4 selling, or offering to sell products bearing genuine UL Marks.

5 **IT IS FURTHER ORDERED** that Powell will not manufacture, import, distribute,
6 sell, offer to sell, or otherwise commercially exploit goods bearing a UL Mark without
7 UL's explicit, written prior approval.

8 **IT IS FURTHER ORDERED** that the Court will retain jurisdiction of this action
9 for purposes of enforcement of this Consent Decree and Permanent Injunction, and of the
10 parties' settlement agreement, including the payment terms of the parties' settlement
11 agreement. The final judgment ultimately entered in this action for purposes of Rule 58 of
12 the Federal Rules of Civil Procedure shall include a judgment in favor of UL and against
13 Powell on the terms set forth in this Consent Decree and Permanent Injunction.

14 **SO ORDERED.**

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16 Dated: 2/12/2018

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Troy L. Nunley
United States District Judge