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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEGALFORCE RAPC WORLDWIDE,
P.C, et al.,

Plaintiffs,

v.

LEGALZOOM.COM, INC., et al.,

Defendants.

Case No. [17-cv-07194-MMC](#)

**ORDER GRANTING LEGALZOOM'S
MOTION TO DISMISS; AFFORDING
PLAINTIFF LEGALFORCE LEAVE TO
AMEND**

Before the Court is defendant LegalZoom.com, Inc.'s ("LegalZoom") motion, filed February 20, 2018, "to Dismiss Plaintiffs' First Amended Complaint." The motion has been fully briefed. Having read and considered the papers filed in support of and in opposition to the motion, the Court hereby rules as follows.¹

LegalZoom argues that each claim asserted against it by plaintiff LegalForce, Inc. ("LegalForce") is subject to dismissal.² The Court considers in turn each of LegalForce's claims, which are the First, Third, Fourth and Fifth Causes of Action.³

¹By order filed April 2, 2018, the Court took the matter under submission.

²The motion also seeks dismissal of claims asserted by Raj V. Abhyanker ("Abhyanker"), who, at that time, was a named plaintiff; after the motion had been briefed, however, plaintiffs filed a notice dismissing Abhyanker's claims. (See Notice, filed March 22, 2018.) The motion also seeks dismissal of claims asserted by plaintiff LegalForce RAPC Worldwide, P.C. ("LegalForce RAPC"); by separate order filed concurrently herewith, the Court has granted LegalZoom's motion to compel LegalForce RAPC to arbitrate each of its claims against LegalZoom. Consequently, to the extent the instant motion is brought against Abhyanker and LegalForce RAPC, the motion is moot.

³Plaintiffs have voluntarily dismissed the Second Cause of Action (see Notice, filed March 5, 2018), and the Sixth and Seventh Causes of Action are not brought on behalf of LegalForce (see FAC ¶¶ 174, 186).

1 **A. First Cause of Action (Declaratory Relief)**

2 In the First Cause of Action, titled "Declaratory Judgment," LegalForce seeks a
3 declaration as to the type of conduct in which "licensed attorney[s]," "licensed law firm[s],"
4 "legal technology C corporation[s]," and "foreign law firm[s] organized as an Alternative
5 Business Structure" are permitted to engage in connection with the submission of
6 trademark applications to the United States Patent and Trademark Office ("USPTO").
7 (See First Amended Complaint ("FAC") ¶¶ 100.)

8 LegalZoom argues LegalForce has failed to identify a controversy between
9 LegalZoom and LegalForce upon which LegalForce can base a claim for declaratory
10 relief. See 28 U.S.C. § 2201(a) (providing, "[i]n the case of actual controversy within its
11 jurisdiction," court may "declare the rights and other legal relations of any interested party
12 seeking such declaration"). The Court agrees.

13 In particular, given that neither LegalZoom nor LegalForce is alleged to be any of
14 the above-listed entities, LegalForce fails to allege it "suffered an injury in fact" that is
15 "likely to be redressed" by issuance of a declaration addressing the rights of any such
16 entity. See Center for Biological Diversity v. Mattis, 868 F.3d 803, 816 (9th Cir. 2017)
17 (setting forth elements necessary to establish standing to seek declaratory relief).

18 Accordingly, to the extent such claim is alleged against LegalForce,⁴ the First
19 Cause of Action is subject to dismissal.

20 **B. Third Cause of Action (Lanham Act)**

21 In the Third Cause of Action, titled "Federal False & Misleading Advertising and
22 Unfair Competition in Violation of the Lanham Act," LegalForce alleges LegalZoom has
23 made false and/or misleading statements in its advertisements. (See FAC ¶¶ 129-37.)
24 According to LegalForce, LegalZoom, which, LegalForce alleges, is not a "law firm" (see
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26 ⁴The First Cause of Action is also asserted against the USPTO. As the question of
27 whether LegalForce has sufficiently alleged a controversy between itself and the USPTO
28 is addressed in a motion to dismiss filed by the USPTO, which motion is scheduled for
hearing on May 11, 2018, the Court does not address that question herein.

1 FAC ¶ 23), "prepar[es] and fil[es] trademarks" (see FAC ¶ 35) and, in advertising such
2 services, makes "false comparisons to attorney led services" (see FAC at 34:7-8).

3 LegalZoom argues the Third Cause of Action fails because LegalForce fails to
4 allege any facts to support a finding that it suffered any injury proximately caused by
5 LegalZoom's assertedly false advertising. Again, the Court agrees.

6 "To invoke the Lanham Act's cause of action for false advertising, a plaintiff must
7 plead (and ultimately prove) an injury to a commercial interest in sales or business
8 reputation proximately caused by the defendant's misrepresentations." Lexmark Int'l v.
9 Static Control Components, Inc., 134 S. Ct. 1377, 1395 (2014). The FAC includes no
10 factual allegations to support a finding that LegalZoom's advertising has had any effect
11 on LegalForce's commercial interests or its reputation. See id. Moreover, the FAC
12 contains an allegation that LegalForce "makes no revenue from [the] preparation and
13 filing [of] U.S. trademark applications" (see FAC ¶ 20), thus seemingly acknowledging
14 that its revenues are not affected by LegalZoom's advertising.

15 Accordingly, the Third Cause of Action is subject to dismissal.⁵

16 **C. Fourth Cause of Action (Business & Professions Code § 17500 et seq.**
17 **and § 17600 et seq.)**

18 In the Fourth Cause of Action, titled "California False & Misleading Advertising in
19 Violation of Cal. Bus. & Prof. Code § 17500 et seq. and § 17600 et seq.," LegalForce
20 alleges LegalZoom has made false and/or misleading statements in its advertisements.
21 (See FAC ¶¶ 144-47.)

22 As LegalZoom correctly points out, LegalForce lacks standing to assert a claim
23 under the cited provisions of the Business and Professions Code, as such claims may
24 only be asserted by a plaintiff "who has suffered injury in fact and has lost money or
25 property as a result of a violation," see Kwikset Corp. v. Superior Court, 51 Cal. 4th 310,
26 321 (2011) (internal quotation and citation omitted), and, as set forth above, LegalForce

27 ⁵LegalZoom is the only remaining defendant named in the Third, Fourth, and Fifth
28 Causes of Action.

1 has failed to allege any facts to support a finding that it suffered such an injury.

2 Accordingly, the Fourth Cause of Action is subject to dismissal.

3 **D. Fifth Cause of Action (California Business & Professions Code § 17200 et seq.)**

4 In the Fifth Cause of Action, titled "California Unfair Competition in Violation of Cal.
5 Bus. & Prof. Code § 17200 et seq.," LegalForce alleges LegalZoom's false advertising
6 constitutes "unfair competition." (See FAC ¶¶ 158-59.)

7 For the reasons stated above with respect to the Fourth Cause of Action, the Court
8 finds LegalForce lacks standing to assert this claim as well. See *Kwikset*, 51 Cal. 4th at
9 321 (holding "private standing" to bring claim under § 17200 is "limited to any person who
10 has suffered injury in fact and has lost money or property as a result of unfair
11 competition") (internal quotation and citation omitted).

12 Accordingly, the Fifth Cause of Action is subject to dismissal.

13 **E. Leave to Amend**

14 At LegalForce's request, the Court will afford LegalForce leave to amend to cure, if
15 it can do so, the above-discussed deficiencies. The Court will set a deadline to amend
16 after resolution of two other motions, specifically, a motion to amend, scheduled for
17 hearing on April 27, 2018, in which LegalForce seeks leave to, *inter alia*, add additional
18 claims, and the USPTO's motion to dismiss, which, as noted, is scheduled for hearing on
19 May 11, 2018.


20 **CONCLUSION**

21 For the reasons stated above, LegalZoom's motion to dismiss LegalForce's claims
22 against it is hereby GRANTED, and LegalForce's claims against LegalZoom are hereby
23 DISMISSED, with leave to amend to be provided by the Court after resolution of the two
24 motions identified above.

25 **IT IS SO ORDERED.**

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Dated: April 10, 2018


MAXINE M. CHESNEY
United States District Judge