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

KURAPIA INC.,
Plaintiff,
v.
SOD AND SEED INC., et al.,
Defendants.

Case No. 24-cv-05200-CRB

**ORDER GRANTING DEFENDANT
GEORGE BRAVOS'S MOTION TO
DISMISS**

Kurapia Inc. sues Sod and Seed Inc. and George Bravos, alleging that they infringed on its KURAPIA trademark. Bravos, Sod and Seed's CEO, moves to dismiss Kurapia's suit against him. He argues that Kurapia failed to allege that he personally infringed on Kurapia's trademark and that Kurapia has not alleged facts sufficient to impute Sod and Seed's liability onto him.

The Court finds this matter suitable for resolution without oral argument pursuant to Local Civil Rule 7-1(b), vacates the hearing set for January 17, 2025, and grants Bravos's motion to dismiss with leave to amend.

I. BACKGROUND

Kurapia is a corporation that sells drought-tolerant groundcover plants. Compl. (dkt. 1) ¶¶ 2, 12. Kurapia was founded in 2013, and the KURAPIA trademark was licensed in 2014. *Id.* ¶¶ 13, 17. In 2021, Defendants started to create social media pages using the KURAPIA mark, such as a "Kurapia Lawn Care" page on Facebook. *Id.* ¶ 19. Defendants also created a website, www.KurapiaDelivery.com, which states: "Kurapia Delivery – An innovative groundcover delivered straight to your doorstep." *Id.* ¶ 19, Ex. 2.

1 In December 2021, Kurapia sent a cease-and-desist letter addressed to Bravos to the
2 physical address listed on Defendants’ California resale license. Id. ¶ 20, Ex. 3. A Sod
3 and Seed employee (not Bravos) responded asking Kurapia to use a different address,
4 which Kurapia alleges to be Bravos’s home address. Id. ¶ 21, Ex. 5. Despite Kurapia’s
5 letter, Defendants continued to operate its website and social media pages until January
6 2022, when they took down www.KurapiaDelivery.com and paused (but did not remove)
7 their social media pages. Id. ¶¶ 22–23. Defendants resumed operation of
8 www.KurapiaDelivery.com in August 2023 and again in April 2024. Id. ¶¶ 24–29.

9 Kurapia filed its Complaint alleging trademark infringement in August 2024. Id. at
10 13. Sod and Seed filed its answer on December 3, 2024, and Bravos filed the instant
11 motion to dismiss the same day. Answer (dkt. 29); Mot. (dkt. 28).

12 **II. LEGAL STANDARD**

13 To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), “a
14 Complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief
15 that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell
16 Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). The Court must “accept [] plaintiffs’
17 allegations as true and construe them in the light most favorable to [] plaintiffs,” but it
18 need not accept as true “allegations that are merely conclusory, unwarranted deductions of
19 fact, or unreasonable inferences.” In re Gilead Scis. Sec. Litig., 536 F.3d 1049, 1055 (9th
20 Cir. 2008) (citations omitted). “Threadbare recitals of the elements of a cause of action,
21 supported by mere conclusory statements, do not suffice.” Iqbal, 556 U.S. at 678.

22 **III. DISCUSSION**

23 Bravos moves to dismiss on the grounds that Kurapia failed to allege that he
24 personally engaged in any conduct that violated the trademark laws. Mot. at 3. Kurapia
25 responds that Bravos can be held liable because he personally directed, authorized, or
26 participated in infringement, or in the alternative because he is an alter ego of Sod and
27 Seed. Opp. (dkt. 30) at 3. Neither of Kurapia’s arguments is sound, however.

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1 **Personal Involvement.** As support for its first argument, that Bravos cannot use the
 2 corporate form of Sod and Seed as a shield against personal liability, Kurapia cites the
 3 uncontroversial legal principle that “corporate officers are personally liable for their torts
 4 even if the torts were committed on behalf of the corporation.” Mone v. Dranow, 945 F.2d
 5 306, 308 (9th Cir. 1991) (per curiam); see Opp. at 4 (collecting cases). That is true as far
 6 as it goes. But it is equally uncontroversial that a corporate officer’s “mere ‘status as an
 7 officer of a corporation that has allegedly [] infringed ... without more, is not a basis for
 8 liability.” OTR Wheel Eng’g, Inc. v. W. Worldwide Servs., Inc., No. 14-cv-85-LRS, 2014
 9 WL 11514767, at *3 (E.D. Wash. Aug. 1, 2014) (citation omitted).

10 Thus, Kurapia’s argument begs the question whether Bravos personally engaged in
 11 infringing conduct in the first instance. It is here that Kurapia’s Complaint falls short.
 12 Kurapia asserts in its opposition brief that “Bravos clearly had knowledge of the trademark
 13 infringement and control over the trademark infringing activities as Chief Executive
 14 Officer and sole director of Sod and Seed, Inc.” Opp. at 5. But Kurapia points to no
 15 nonspeculative factual basis in its Complaint for this conclusory remark.¹ Rather,
 16 Kurapia’s argument appears to be that because Bravos is Sod and Seed’s CEO, he must
 17 have knowledge and control sufficient to establish personal liability. That is exactly the
 18 kind of assumption that is insufficient to pierce the corporate veil and impose personal
 19 liability. Kurapia has thus failed to allege that Bravos is personally liable for trademark
 20 infringement based on his own conduct.

21 **Alter Ego Liability.** Kurapia argues in the alternative that the Court should “pierce
 22 the corporate veil” and hold Bravos liable for Sod and Seed’s conduct on a theory of alter
 23 ego liability. Opp. at 5, 7–9. Courts within the Ninth Circuit traditionally look to three

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 25 ¹ Kurapia attaches to its opposition two emails from a Sod and Seed employee, but these
 26 are not properly before the Court on the motion to dismiss. See Outdoor Media Grp., Inc.
 27 v. City of Beaumont, 506 F.3d 895, 899 (9th Cir. 2007) (courts may “generally consider
 28 only allegations contained in the pleadings, exhibits attached to the complaint, and matters
 properly subject to judicial notice” (emphasis added)). Even if the Court considered these
 emails, though, they establish only that Sod and Seed could control the infringing
 activity—not that Bravos was personally involved. See Opp. Ex. A (email from other
 employee suggesting that an undefined “we” can control www.KurapiaDelivery.com).

1 factors to determine whether to hold a corporate officer liable for actions of the
2 corporation: (1) whether “there is such a unity of interest and ownership between the
3 corporation and the shareholder that the two no longer exist as separate entities,”
4 (2) whether a “failure to disregard the corporation would result in fraud or injustice,” and
5 (3) whether “either the incorporators of the corporation formed the corporation with
6 fraudulent intent or the corporate form was fraudulently misused following incorporation,
7 or both.” OTR Wheel Engineering, 2014 WL 11514767, at *1 (citations omitted).

8 Kurapia’s allegations are too speculative to support alter ego liability. Kurapia
9 primarily relies on the fact that Sod and Seed’s corporate status was suspended from
10 November 2021 to September 2024—a month after Kurapia filed its Complaint. Opp. at
11 7–9. This, Kurapia argues, shows that Bravos fraudulently misused the corporate form of
12 Sod and Seed as a liability shield even though he actually operated Sod and Seed as a sole
13 proprietor, so it would be appropriate not to impose personal liability on Bravos for his
14 conduct. To be sure, “a corporation’s failure to pay its franchise tax may be evidence that
15 the shareholders do not view the corporation as having a separate existence and that the
16 corporation should possibly be regarded as the alter ego of its shareholders.” United States
17 v. Std. Beauty Supply Stores, Inc., 561 F.2d 774, 777 (9th Cir. 1977). But “it is of
18 doubtful, if any, relevance to” the question whether failure to disregard the corporate form
19 would result in fraud or injustice. Id. Thus, if Kurapia wants to hold Bravos personally
20 liable for Sod and Seed’s conduct, it must allege a factual basis for its assertion that fraud
21 or injustice will result from failure to disregard the corporate form. See id. (requiring both
22 unity of interest and resulting fraud or injustice before permitting alter ego liability).

23 **IV. CONCLUSION**

24 For these reasons, the Court **GRANTS** Bravos’s motion to dismiss. Kurapia has 30
25 days from the entry of this order to file an amended complaint against Bravos, if any.

26 **IT IS SO ORDERED.**

27 Dated: January 6, 2025



CHARLES R. BREYER
United States District Judge