

United States District Court
For the Northern District of California

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E-FILED on 03/05/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ADOBE SYSTEMS INCORPORATED,

Plaintiff,

v.

JEFFREY BROOKS, a/k/a Sean Brooks,
MSM, Inc.,

Defendant.

No. 5:08-cv-04044RMW

JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AGAINST
JEFFREY BROOKS

[Re Docket No. 18]

For the reasons stated in the accompanying order granting plaintiff's motion for default judgment and permanent injunction, the court finds the following facts and conclusions of law pursuant to Fed. R. Civ. P. 52(a) and orders as follows:

- (1) This court has jurisdiction over the parties in this action and over the subject matter hereof pursuant to 15 U.S.C. § 1051 *et seq.*, 28 U.S.C. §§ 1331 and 1338, and 28 U.S.C. § 1367. Service of process was properly made on the defendant.

1 (2) Plaintiff is the owner of all rights in and to certain trademark registrations including,
2 but not limited to, the trademark listed below ("plaintiff's trademark"):

3 (1) 1475793 "(ADOBE)";

4 (3) Plaintiff has complied in all respects with the laws governing trademarks and secured
5 the exclusive rights and privileges in and to plaintiff's trademark.

6 (4) Defendant engages in the unauthorized business of importing, distributing,
7 promoting, selling and/or offering for sale unauthorized counterfeit merchandise featuring plaintiff's
8 trademark ("counterfeit product").

9 (5) Defendant's importing, advertising, displaying, promoting, marketing, distributing,
10 providing, offering for sale and selling of the counterfeit product was engaged in willfully and
11 intentionally, without leave or license from plaintiff, in violation of plaintiff's rights in and to
12 plaintiff's trademarks. The devices, emblems, and artwork on the counterfeit product are not only
13 "confusingly similar" to plaintiff's trademarks, they are almost identical.

14 (6) Defendant Jeffrey Brooks, his directors, principals, officers, agents, servants,
15 employees, representatives, successors, and assigns, and all those acting in concert or participation
16 with him shall be, and hereby are, PERMANENTLY ENJOINED and restrained from:

17 (a) Infringing, either directly or contributorily, in any manner, including generally, but
18 not limited to manufacturing, importing, distributing, advertising, selling and/or offering for sale any
19 merchandise now and hereafter protected by Adobe's registered trademarks and service marks,
20 including, but not limited to, the above listed trademark.

21 (b) Importing, manufacturing, distributing, advertising, selling and/or offering for sale in
22 connection thereto any unauthorized promotional materials, labels, packaging or containers which
23 picture, reproduce, copy or use the likenesses of or bear a confusing similarity to any of Adobe's
24 registered trademarks;

25 (c) Engaging in any conduct that tends falsely to represent that, or is likely to confuse,
26 mislead or deceive purchasers, the defendant's customers and/or members of the public to believe,
27 the actions of defendant, the products sold by defendant, or the defendant himself is connected with
28 plaintiff, is sponsored, approved or licensed by plaintiff, or is affiliated with plaintiff; and

1 (d) Affixing, applying, annexing or using in connection with the importation,
2 manufacture, distribution, advertising, sale and/or offer for sale and other use of any goods or
3 services, a false description or representation, including works or other symbols, tending to falsely
4 describe or represent such goods as being those of plaintiff.

5 (7) Defendant is ordered to deliver for destruction all counterfeit products, and any other
6 unauthorized products which picture, reproduce, copy or use the likenesses of or bear a substantial
7 similarity to any of plaintiff's trademarks and any labels, signs, prints, packages, dyes, wrappers,
8 receptacles, and advertisements relating thereto in their possession or under their control bearing any
9 of plaintiff's trademarks or any simulation, reproduction, counterfeit, copy or colorable imitations
10 thereof, and all plates, molds, heat transfers, screens, matrices, and other means of making the same.

11 (8) Defendant is ordered to pay damages to plaintiff pursuant to 15 U.S.C. § 1117 in the
12 sum of fifty thousand dollars (\$50,000.00).

13 (9) Defendant is ordered to pay interest on the principal amount of the judgment to
14 plaintiff at the statutory rate pursuant to 28 U.S.C. § 1961(a).

15 Final judgment is hereby entered in favor of plaintiff and against defendant. The clerk shall
16 close the file.

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18 IT IS SO ORDERED.

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20 DATED: 03/05/09



RONALD M. WHYTE
United States District Judge

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1 **Notice of this document has been electronically sent to:**

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3 **Counsel for Plaintiff:**

4 J. Andrew Coombs andy@coombsp.com
5 Nicole L. Drey nicole@coombsp.com

6 **Defendants:**

7 (no appearances)

8
9 Counsel are responsible for distributing copies of this document to co-counsel that have not
10 registered for e-filing under the court's CM/ECF program.

11 **Dated:** 03/05/09

12 JAS
Chambers of Judge Whyte

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