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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RED BRIDGE LAW, P.C.,  
Plaintiff,  
v.  
LEGAL EXPERTS INC., et al.,  
Defendants.

Case No. [5:20-cv-08527-EJD](#)

**ORDER GRANTING IN PART AND  
DENYING IN PART MOTION TO  
DISMISS**

Re: Dkt. No. 40

Plaintiff Red Bridge Law, P.C. (“Plaintiff”) is a law firm that provides legal services out of its Northern California office. Defendant Legal Experts Inc. is a California Corporation that was operated by decedent and former defendant Steven Larry Kimmel. Plaintiff alleges that Defendant Kimmel operated Legal Experts as “Red Bridge Legal” and/or “Red Bridge Mortgage Firm” from a virtual office in Encino, California. Plaintiff filed suit, contending that Defendants use of “Red Bridge Legal” or “Red Bridge Mortgage Firm” constituted trademark infringement, false designation of origin, dilution of trademark, and unfair competition. Defendants moved to dismiss the action. *See* Notice of Motion and Motion to Dismiss (“Mot.”), Dkt. No. 40; *see also* Request to Take Judicial Notice (“RJN re Mot.”), Dkt. No. 41. On September 21, 2021, Plaintiff filed an opposition to Defendants’ motion to dismiss. *See* Plaintiff’s Opposition to Motion to Dismiss (“Opp.”), Dkt. No. 43; *see also* Plaintiff’s Request for Judicial Notice (“Opp. RJN”), Dkt. No. 44. Having considered the Parties’ papers, the Court **GRANTS in part and DENIES in part** Defendants’ motion to dismiss.<sup>1</sup>

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<sup>1</sup> The Court found this motion appropriate for decision without oral argument pursuant to Civil Local Rule 7-1(b). Dkt. No. 54.

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1           **I.       BACKGROUND**

2           Plaintiff provides legal services in several areas of law, including real property and  
3 intellectual property, out of its Northern California office. *See* First Amended Complaint (“FAC”)  
4 ¶ 1, Dkt. No. 27. Plaintiff, Red Bridge Law, P.C., is owned by Christian J. Martinez. FAC ¶ 1.  
5 Defendant Legal Experts operates out of Los Angeles County, but often does business as “Red  
6 Bridge Legal” and/or “Red Bridge Mortgage Firm.” FAC ¶ 2. The other named Defendants,  
7 Michael Cohen, Richard Long, and Steven White, work for Defendant Legal Experts. FAC ¶¶ 4–  
8 6. Defendants and their agents are engaged in a large-scale operation of finding, and purporting to  
9 help, homeowners who are delinquent on their mortgage payments and are on the verge of  
10 foreclosure. FAC ¶ 30; *see* FAC ¶¶ 30–34 (describing Defendants’ practice of calling  
11 homeowners, engaging them in a fee agreement, and using “Red Bridge Legal” as its operating  
12 name).

13           On September 23, 2015, Mr. Martinez filed a U.S. trademark application for “Red Bridge  
14 Law” and, on June 7, 2016, “Red Bridge Law” was successfully registered as registration number  
15 4972381 in International Class 45, for Attorney Services. FAC ¶ 12. Mr. Martinez then assigned  
16 all rights, title, and interest in and to the trademark and related goodwill and causes of action to  
17 Plaintiff. FAC ¶ 12. Plaintiff maintains that based on its extensive use and promotion of Red  
18 Bridge Law, the mark has become distinctive and known in the United States and global  
19 marketplace as a place for attorney services. FAC ¶ 13–14.

20           Defendant Legal Experts began using the mark “Red Bridge Legal” and “Red Bridge  
21 Mortgage Firm” (the “Infringing Marks”) after Plaintiff commenced using its mark. FAC ¶ 15.  
22 Defendant Legal Experts’ website claims that it is a “multistate mortgage firm offering services to  
23 consumers, mortgage servicers, lenders and other related entities.” FAC ¶ 15. Defendants  
24 allegedly use the Infringing Marks to identify themselves in phone calls, correspondence, client  
25 fee agreements, and authorization forms. FAC ¶ 16.

26           Starting on or around September 1, 2020, Mr. Martinez began receiving phone calls from  
27 individuals that were confusing Plaintiff’s mark with Defendants’ Infringing Marks and were

1 calling to confirm contact information for sending funds, to complain about service, or to  
2 determine whether Plaintiff, mistaken to be Defendants, was legitimate. FAC ¶ 17. Many callers  
3 complained that there was no information on the Defendants’ website other than a contact form, a  
4 street address, and a general phone number. FAC ¶ 18. Plaintiff believes that these consumers  
5 confused Plaintiff with Defendant due to Defendant’s use of “Red Bridge.” FAC ¶ 21. On or  
6 around September 1, 2020, Mr. Martinez called Defendants to alert them to the confusion they  
7 were causing and demanded that they cease using “Red Bridge” in conjunction with their services.  
8 FAC ¶ 22. However, Plaintiff continued to receive “dozens” of calls and messages from  
9 individuals who believed they were contacting Defendants about legal services. FAC ¶ 25. Many  
10 of these individuals wanted to determine whether “Red Bridge” was a legitimate operation. FAC  
11 ¶ 25.

12 On or around September 20, 2020, Plaintiff sent Defendant Cohen a letter that again  
13 demanded that Defendants stop using the term, “Red Bridge.” FAC ¶ 26. Plaintiff did not receive  
14 any substantive response from Defendants. FAC ¶ 26. Instead, Plaintiff continued to receive (1)  
15 complaints regarding Defendant’s services, (2) calls seeking reassurance that Defendant’s business  
16 was legitimate, and (3) calls responding to Defendant’s sales outreach. FAC ¶ 26.

17 On or around October 19, 2020, Plaintiff sent another letter to Defendant Legal Experts  
18 demanding that Defendants cease and desist from using the Infringing Marks. FAC ¶ 27. On or  
19 around October 29, 2020, Defendant Legal Experts responded using a letterhead that bore the  
20 infringing mark, “Red Bridge Legal,” stating that they were “diligently working” on Plaintiff’s  
21 request and that they would respond in full by November 4, 2020. FAC ¶ 28. However, Plaintiff  
22 never received a future response. FAC ¶ 29. Plaintiff alleges that Defendant continues to use the  
23 Infringing Marks with the intent to mislead and confuse customers, particularly those in debt and  
24 in need of mortgage relief, into believing that Plaintiff was associated with Defendant. FAC ¶ 29.

25 Plaintiff filed suit alleging infringement of a federally-registered trademark, common law  
26 trademark infringement, false designation of origin, dilution of mark and injury to business  
27 reputation, and unfair business practices. Defendants moved to dismiss the complaint.

1           **II.     LEGAL STANDARD**

2           To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), a  
3 complaint must plead “sufficient factual matter to state a facially plausible claim to relief.”  
4 *Shroyer v. New Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1042 (9th Cir. 2010) (citing  
5 *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). Dismissal for failure to state a claim is “proper only  
6 where there is no cognizable legal theory, or an absence of sufficient facts alleged to support a  
7 cognizable legal theory.” *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). That is, a  
8 complaint can only survive a motion to dismiss for failure to state a claim “when the plaintiff  
9 pleads factual content that allows the court to draw the reasonable inference that the defendant is  
10 liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. “Threadbare recitals of the elements of  
11 a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

12           **III.    DISCUSSION**

13           Defendants move to dismiss Plaintiff’s five causes of action. The Court addresses each  
14 cause in turn.

15                   **A. Trademark Infringement**

16           In its FAC, Plaintiff alleges statutory and common law trademark infringement, contending  
17 that Defendants are liable for infringement. FAC ¶¶ 35–48. The Court analyzes the statutory and  
18 common law trademark infringement claims together. *See Spy Optic, Inc. v. Alibaba.Com, Inc.*,  
19 163 F. Supp. 3d 755, 764 (C.D. Cal. 2015).

20           Defendants argue that Plaintiff’s first cause of action for trademark infringement under 15  
21 U.S.C. § 1114 fails because the complaint does not allege that Defendants used the exact terms  
22 “Red Bridge Law” and because “Red Bridge Legal” or “Red Bridge Mortgage” are not a  
23 “colorable imitations” of “Red Bridge Law.” Mot. at 8. The Court disagrees.

24           To prevail on a trademark infringement claim under section 32 of the Lanham Act,  
25 Plaintiff must show that Defendants used in commerce, without Plaintiff’s consent, any  
26 reproduction, counterfeit, copy, or colorable imitation of Plaintiff’s valid trademark “in connection  
27 with the sale, offering for sale, distribution, or advertising of any goods or services on or in

1 connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.”

2 15 U.S.C. § 1114(1)(a). Defendants are also liable for trademark infringement if they:

3 reproduce, counterfeit, copy, or colorably imitate [Plaintiff’s valid  
4 trademarks] and apply such reproduction . . . to labels, signs, prints,  
5 packages, wrappers, receptacles or advertisements intended to be used  
6 in commerce upon or in connection with the sale, offering for sale,  
distribution, or advertising of goods or services on or in connection  
with which such use is likely to cause confusion, or to cause mistake,  
or to deceive.

7 *Id.* § 1114(1)(b). “The core element of trademark infringement is the likelihood of confusion, *i.e.*,  
8 whether the similarity of the marks is likely to confuse customers about the source of the  
9 products.” *Abercrombie & Fitch Co. v. Moose Creek, Inc.*, 486 F.3d 629, 633 (9th Cir. 2007).

10 Plaintiff attached as exhibits to its request for judicial notice a federally registered  
11 trademark in Red Bridge Legal. Opp. RJN at 3. Defendants do not contest the validity of the  
12 trademark. Plaintiff therefore sufficiently alleges that it owns a valid trademark. *See Applied Info.*  
13 *Scis. Corp. v. eBay, Inc.*, 511 F.3d 966, 970 (9th Cir. 2007) (“Registration of a mark on the  
14 Principal Register in the Patent and Trademark Office constitutes prima facie evidence of the  
15 validity of the registered mark and of [the registrant’s] exclusive right to use the mark on the  
16 goods and services specified in the registration.”).

17 Plaintiff’s FAC also alleges that Defendants have engaged in an ongoing scheme to use  
18 either “Red Bridge Legal” or “Red Bridge Mortgage,” to confuse consumers into believing that  
19 Defendant Legal Experts has a relation to Plaintiff Red Bridge Law. *See* FAC ¶¶ 31–34. Indeed,  
20 multiple consumers have called Plaintiff to confirm that Plaintiff and Defendant are associated  
21 companies. Despite Plaintiff’s warnings to cease use of the Infringing Marks, Defendants have  
22 continued to use the confusing terms. Contrary to Defendants’ effort to focus on a secondary  
23 meaning<sup>2</sup> of the term “Red Bridge,” the issue is whether Plaintiff has properly pled that it owns a

24 \_\_\_\_\_  
25 <sup>2</sup> Marks are generally classified in five categories of distinctiveness: (1) generic, (2) descriptive,  
26 (3) suggestive, (4) arbitrary, and (5) fanciful. *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763,  
27 768 (1992). “Which category a mark belongs in is a question of fact.” *Zobmondo Ent., LLC v.*  
28 *Falls Media, LLC*, 602 F.3d 1108, 1113 (9th Cir. 2010). This fact-specific inquiry normally  
precludes courts from determining at the pleading stage whether a mark is generic. *See Pinterest,*  
*Inc. v. Pintrips Inc.*, 15 F. Supp. 3d 992, 998–99 (N.D. Cal. 2014) (“While some courts have  
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1 “valid, protectable trademark.” By using a mark similar to “Red Bridge Legal,” Defendants have  
2 created consumer confusion by invoking a false association between Red Bridge Legal and Legal  
3 Experts and have thus used Plaintiff’s mark, without consent, “in connection with the sale,  
4 offering for sale, or distribution” of goods or services. *See* 15 U.S.C. § 1141(a). For these  
5 reasons, Plaintiff’s claim for trademark infringement is sufficiently pleaded.

6 **B. False Designation of Origin/Unfair Competition**

7 Plaintiff also asserts a false designation of origin claim and California claims for unfair  
8 competition. FAC ¶¶ 49–56. The Lanham Act “prohibits the use of false designations of origin,  
9 false descriptions, and false representations in the advertising and sale of goods and services.”  
10 *Jack Russell Terrier Networks of N. Cal. v. Am. Kennel Club, Inc.*, 407 F.3d 1027, 1036 (9th Cir.  
11 2005). The statute also prohibits unfair competition. *Cleary v. News Corp.*, 30 F.3d 1255, 1262  
12 (9th Cir. 1994) (noting that because the plaintiff had established false designation of origin and  
13 false representation claims, the plaintiff had also shown unfair competition).

14 To prevail on a claim of false designation of origin under 15 U.S.C. § 1125(a)(1), a  
15 plaintiff must show that “(1) defendant uses a designation (any word, term, name, device or  
16 combination thereof) or false designation of origin; (2) the use was in interstate commerce; (3) the  
17 use was in connection with goods or services; (4) the designation or false designation is likely to  
18 cause confusion, mistake, or deception as to (a) the affiliation, connection, or association of  
19 defendant with another person, or (b) as to the origin, sponsorship, or approval of defendant’s  
20 goods, services, or commercial activities by another person; and (5) plaintiff has been or is likely  
21 to be damaged by these acts.” *Summit Tech., Inc. v. High-Line Med. Instruments, Co.*, 933 F.  
22 Supp. 918, 928 (C.D. Cal. 1996).

23 The “ultimate test” for this claim is “exactly the same as for trademark infringement:  
24 ‘whether the public is likely to be deceived or confused by the similarity of the marks.’” *Century*

25  
26 \_\_\_\_\_  
27 decided fact-specific issues regarding trademark protection at the pleading stage, they generally  
28 have done so only where the complaint suffers from a complete failure to state a plausible basis  
for trademark protection.”). That is not the case here.

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ORDER GRANTING IN PART AND DENYING IN PART MOTION TO DISMISS

1 *21 Real Estate Corp. v. Sandlin*, 846 F.2d 1175, 1178 (9th Cir. 1988) (quoting *New W. Corp. v.*  
2 *NYM Co. of Cal.*, 595 F.2d 1194, 1201 (9th Cir. 1979)). “The elements for establishing unfair  
3 competition under California Business and Professions Code § 17200 by trademark infringement  
4 and common law trademark infringement are essentially the same as those for the Lanham Act.”  
5 *SV3, LLC v. GG Distrib., Inc.*, 2019 WL 1460621, at \*3 (C.D. Cal. Feb. 27, 2019); *see also*  
6 *Mallard Creek Indus., Inc. v. Morgan*, 56 Cal. App. 4th 426, 434 (1997) (analysis for state law  
7 trademark infringement is the same as under federal law).

8 As discussed, Plaintiff has adequately alleged that Defendants used a similar mark that is  
9 likely to cause confusion. Further, Plaintiff has adequately alleged that it was damaged by  
10 Defendants’ acts. Therefore, Plaintiff’s claims for false designation of origin and unfair  
11 competition are sufficiently pleaded.

12 **C. Dilution of Mark and Injury to Business Reputation**


13 While a dilution of mark and injury cause of action appears on first page of the FAC,  
14 Plaintiff fails to plead facts regarding this action in its complaint. *See* FAC 9 (pleading only four  
15 causes of action). Accordingly, the Court **GRANTS** Defendants’ motion to dismiss this cause of  
16 action **without leave to amend**.

17 **IV. CONCLUSION**

18 For the foregoing reasons, the Court **GRANTS in part and DENIES in part** Defendants’  
19 motion to dismiss.

20 **IT IS SO ORDERED.**

21 Dated: May 3, 2022

22  
23   
24 EDWARD J. DAVILA  
United States District Judge