

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Case No. 10-cv-00362-PAB

BIG O TIRES, LLC, a Nevada limited
liability company f/k/a BIG O TIRES, INC.,
a Colorado corporation,

Plaintiff,

v.

FELIX BROS., INC., a California corporation,
RALPH FELIX, an individual,
ARMIDA FELIX, an individual,
ANGEL FELIX, an individual, and
MARIA FELIX, an individual,

Defendants.

ORDER

This matter comes before the Court on plaintiff Big O Tires, LLC's renewed motion for temporary restraining order [Docket No. 9]. The Court took evidence on this motion on March 1 and 2, 2010. Jurisdiction is based on trademark infringement under 15 U.S.C. § 1051 and on the doctrine of supplemental jurisdiction. For the reasons stated at the conclusion of the hearing on March 2, 2010, it is

ORDERED that plaintiff Big O Tires, LLC's renewed motion for temporary restraining order [Docket No. 9] is granted in part and denied in part. It is further

ORDERED that the portions of plaintiff's motion seeking that defendants reassign to Big O Tires the telephone number defendants were and are using at the Quartz Hill, California location and that defendants provide Big O Tires with a copy of the customer list for the Quartz Hill, California location are granted. It is further

ORDERED that defendants Felix Bros., Inc., Ralph Felix, Armida Felix, Angel Felix, and Maria Felix, on or before March 9, 2010, shall take all steps necessary to reassign to Big O Tires the telephone number defendants were and are using at the Quartz Hill, California location and that defendants provide Big O Tires with a copy of the list of customers for the Quartz Hill, California location during the time that defendants operated the store at that location as a Big O Tires franchise. It is further

ORDERED that those portions of Big O Tires' renewed motion for temporary restraining order that seek removal of trade dress at the Quartz Hill location and that seek the return of certain Big O Tires manuals are deemed to be withdrawn, without prejudice, upon request of Big O Tires. It is further

ORDERED that the portion of plaintiff's renewed motion for temporary restraining order seeking to enforce the in-term covenant not to compete contained in the Lancaster and Palmdale franchise agreements against certain defendants is denied. It is further

ORDERED that, given the nature of the items that the Court is ordering defendants to provide, the Court does not believe that it is proper to require Big O Tires to provide security since any damages to defendants would be largely incapable of quantification. It is further

ORDERED that this temporary restraining order shall expire on March 16, 2010.

DATED March 5, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge