

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 10-cv-01664-CMA-KMT

CHEVRON INTELLECTUAL PROPERTY LLC,
a Delaware limited liability company, and
CHEVRON U.S.A. INC., a Pennsylvania corporation,

Plaintiffs,

v.

MUN CHA FRAUSTO, an individual, and
JOSE A. FRAUSTO, an individual,

Defendants.

**ORDER ENTERING DEFAULT JUDGMENT
AGAINST DEFENDANT MUN CHA FRAUSTO**

This matter comes before the Court on Plaintiffs' Amended Motion for Default Judgment Against Defendant Mun Cha Frausto (Doc. # 30). On January 4, 2011, an Entry of Default was entered by the Clerk of the Court (Doc. # 24). Plaintiffs seek a permanent injunction prohibiting Defendant Mun Cha Frausto from offering or selling any goods or services bearing or in connection with the Plaintiffs' TEXACO trademarks, or any other mark confusingly similar thereto. Plaintiffs also seek damages and recovery of their attorneys' fees in bringing this action.

Having reviewed the record in this case, the Court makes the following findings and enters this permanent injunction against Defendant Mun Cha Frausto.

I. FINDINGS

1. This Court has jurisdiction over the subject matter of this case and over Mun Cha Frausto.
2. Venue as to Mun Cha Frausto in the District of Colorado is proper.
3. The Complaint states a claim upon which relief may be granted against Mun Cha Frausto pursuant to 15 U.S.C. §§ 1114(a) and 1125(a) and the common law of the State of Colorado.
4. Plaintiffs filed a proof of service showing Mun Cha Frausto was served a copy of the Complaint on October 6, 2010.
5. Mun Cha Frausto failed to file an Answer to the Complaint, plead, or otherwise appear in this action.
6. On December 13, 2010, Plaintiffs filed a Request for Clerk's Entry of Default.
7. Mun Cha Frausto has not opposed Plaintiffs' Request for Clerk's Entry of Default.
8. On January 4, 2011, the Clerk of the Court entered default against Mun Cha Frausto.
9. Mun Cha Frausto has not moved to set aside the Default.
10. Because Mun Cha Frausto has failed to appear, there is no indication the default was due to excusable neglect.

11. There is nothing of record that shows Mun Cha Frausto is an infant or incompetent.

12. There is nothing of record that shows Mun Cha Frausto is in the military service.

13. On March 4, 2011, Plaintiffs filed the at-issue Amended Motion for Default Judgment Against Defendant Mun Cha Frausto (Doc. # 30).

14. Among other things, the Complaint alleges that Defendant continued to display the Plaintiffs' TEXACO trademarks on the gasoline service station located at 102 North Santa Fe Avenue, Fountain, Colorado, 80817, even though she is no longer an authorized TEXACO dealer.

15. By means of the Complaint, Plaintiffs request the Court to permanently enjoin Mun Cha Frausto, her agents, servants, employees, representatives, and all other persons in active concert or participation, from further infringing any of Plaintiffs' federally registered trademarks, as well as to award damages, attorneys' fees and costs in this action, pursuant to 15 U.S.C. § 1117(a), which allows an award of attorneys' fees and costs for violation of §§ 1125(a), (c), or (d).

16. The Court has reviewed the Complaint, including exhibits thereto, and finds all material facts concerning Defendant Mun Cha Frausto appear to be adequately pleaded and that it sufficiently states a cause of action against Mun Cha Frausto.

17. Defendant Mun Cha Frausto has been and still is infringing Plaintiffs' TEXACO marks.

18. Defendant Mun Cha Frausto's conduct is likely to dilute by blurring or tarnishment of Plaintiffs' TEXACO marks.

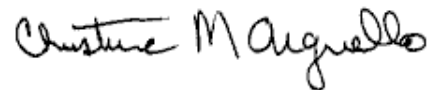
Based on the foregoing findings and for good cause shown, the Court ORDERS:

1. That Defendant Mun Cha Frausto be permanently ENJOINED from offering or selling any goods or services bearing or in connection with the Plaintiffs' TEXACO trademarks, or any other trademark confusingly similar thereto;
2. That Plaintiffs have permission to enter the site to remove and destroy all signage or other elements of the facilities at 102 North Santa Fe Avenue, Fountain, Colorado, 80817, that contain TEXACO's marks or elements of its marks;
3. That Defendant Mun Cha Frausto shall pay to Plaintiffs damages in the amount of \$1,518.00 representing the cost to remove and destroy all signage or other elements of the facilities at 102 North Santa Fe Avenue, Fountain, Colorado, 80817, that contain Plaintiffs' TEXACO trademarks or elements of the marks;
4. That Defendant Mun Cha Frausto shall pay to Plaintiffs reasonable attorneys' fees and costs in the amount of \$9,860.40 pursuant to 15 U.S.C. § 1117(b); and

5. That this Court retain jurisdiction over construction, modification, and enforcement of as well as any matter pertaining to this judgment.

DATED this 10th day of March, 2011.

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge