

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

GET SMOKED, INC.,

Plaintiff,

v.

Case No: 8:12-cv-1697-T-30MAP

PATRICIA MCNEILL aka PATRICIA
MILLER dba TAMPA BAY TRADERS,
and GLOBAL IMPRESSIONS, INC.,

Defendants.

ORDER

This case came before the Court for a bench trial on October 27, 2014. After receiving the testimony of witnesses and reviewing the documentary evidence, and granting Defendant Global Impression, Inc.'s Oral Motion to Dismiss, the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On February 11, 2012, Defendant Patricia Miller was the owner and operator of the business known as Tampa Bay Traders, as an individual proprietorship.
2. On February 11, 2012, Tampa Bay Traders sold products from its flea market booth bearing the unauthorized use of Plaintiff's trademark and copyrighted images.
3. Plaintiff presented no evidence to show that Patricia Miller had personal knowledge that Tampa Bay Traders sold products bearing the unauthorized use of Plaintiff's trademark and copyrighted images.

CONCLUSIONS OF LAW

1. Tampa Bay Traders' act of selling products bearing the unauthorized use of Plaintiff's copyrighted images at the flea market constitutes copyright infringement under 17 U.S.C. § 501.

2. Tampa Bay Traders' act of selling products bearing the unauthorized use of Plaintiff's trademark at the flea market constitutes unfair competition and trademark infringement under 15 U.S.C. §1125.

3. Plaintiff is entitled to statutory damages and costs.

4. Permanent injunctive relief against Patricia Miller and Tampa Bay Traders is necessary to prevent continuing harm to Plaintiff.

Upon due consideration and pursuant to the Court's Findings of Fact and Conclusions of Law, it is therefore **ORDERED AND ADJUDGED** that:

1. A permanent injunction is hereby entered in favor of Plaintiff, Get Smoked, Inc. and against Defendants Patricia Miller and Tampa Bay Traders to cease and desist any present or future sale of products bearing the unauthorized use of Plaintiff's trademark and copyrighted images.

2. Plaintiff is awarded \$1,000.00 in statutory damages.


3. Plaintiff is entitled to costs.

4. The Clerk shall enter judgment in favor of Plaintiff Get Smoked, Inc. and against Defendants Patricia Miller and Tampa Bay Traders.

5. The Clerk shall enter judgment in favor of Defendant Global Impressions, Inc. and against Plaintiff, Get Smoked, Inc.

6. The Clerk shall deny any pending motions as moot and close the case.

DONE and **ORDERED** in Tampa, Florida, this 28th day of October, 2014.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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