

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKASTONE STRONG, LLC, a Nebraska
limited liability company,

Plaintiff,

vs.

STONE STRONG OF TEXAS, LLC, a
Texas limited liability company,

Defendant.

4:21-CV-3160

ORDER

The plaintiff in this case has moved for a temporary restraining order and preliminary injunction against the defendant's use of the plaintiff's federally registered marks. *See* [filing 1](#); [filing 8](#). The Court has been advised that the defendant's counsel is aware of the pending case and motion and will be entering an appearance on the defendant's behalf once their *pro hac vice* registration is complete.

Because a temporary restraining order is issued without notice, *see* Fed. R. Civ. P. 65(b), and the defendant now has notice and intends to appear, the plaintiff's request for a temporary restraining order is now moot, and the issue presented to the Court is whether a preliminary injunction should enter. *See* [filing 8](#). Based on the plaintiff's evidence, it appears that the defendant licensed the plaintiff's marks in 2016, and allegedly breached the license agreement no later than March of this year. [Filing 10-1 at 3-4, 15-19](#). The plaintiff claims to have sent a cease-and desist letter in March terminating the license agreement and demanding that the defendant cease using the plaintiff's marks by May 15. [Filing 10-1 at 4, 20-22](#).

Given that the defendant used the plaintiff's marks permissively for over five years and has allegedly been using them without permission for several months since then, the Court is not persuaded that it is necessary for briefing on the plaintiff's motion to be expedited beyond the schedule already provided for by the Court's rules. See [NECivR 7.1\(b\)\(a\)\(B\) & \(c\)\(1\)](#). In their briefs, the parties shall address whether oral argument or an evidentiary hearing is required on the motion. See [NECivR 7.1\(e\) & \(f\)](#). And in the meantime, the parties are encouraged to consider amicable resolution of this dispute.

IT IS ORDERED:

1. The defendant may respond to the plaintiff's motion for preliminary injunction ([filing 8](#)) on or before September 17, 2021.
2. The plaintiff may reply in support of its motion on or before September 24, 2021.
3. The Clerk of the Court shall email a copy of this order to the defendant's counsel at dhafer@curnutthafer.com and pwadlington@curnutthafer.com.

Dated this 7th day of September, 2021.

BY THE COURT:



John M. Gerrard
United States District Judge