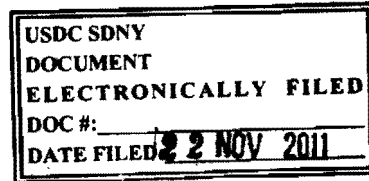


Dettmer, J

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UNILEVER SUPPLY CHAIN, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNILEVER SUPPLY CHAIN, INC.,	:	Case No. 11 CV 3241 (JPO)
	:	
Plaintiff,	:	STIPULATED FINAL JUDGMENT AND
	:	PERMANENT INJUNCTION
v.	:	
	:	
KOOLPETS PRODUCTS, INC. a/k/a	:	
PRODUITS KOOLPETS, INC.,	:	
FRANCOIS MAROIS and DANY K.	:	
KOURI,	:	
Defendants.	:	
	:	
	:	x

WHEREAS, Plaintiff Unilever Supply Chain, Inc. ("Plaintiff") commenced the above-captioned action on May 12, 2011 by the filing of a Summons and Complaint against Defendants Koolpets Products, Inc. a/k/a Produits Koolpets, Inc. ("Koolpets"), Francois Marois ("Marois") and Dany K. Kouri ("Kouri") (sometimes collectively referred to herein as "Defendants"), alleging claims of federal trademark infringement, unfair competition and dilution and related claims under New York statutes and the common law relating to Defendants' unauthorized use or intended use of the term BONESICLE as a trademark and otherwise; and

WHEREAS, Plaintiff was merged into Conopco, Inc., a related company, effective as of September 30, 2011; and

WHEREAS, the parties to this action have agreed to resolve it by the entry of this Stipulated Final Judgment and Permanent Injunction.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

FINDINGS OF FACT

1. At the time this action was commenced, Plaintiff was a Delaware corporation, with a place of business at 1 John Street, Clinton, Connecticut 06413. Effective as of September 30, 2011, Plaintiff was merged into its related company, Conopco, Inc., which is now Plaintiff's successor-in-interest with respect to the claims set forth in this action.
2. Defendant Koolpets is a Canadian company with a place of business at 1100 Rene-Levesque Boulevard West, Montreal, Quebec H3B 5C9 Canada.
3. Defendant Marois is an individual residing at 8930 Croissant de Louve, #4, Brossard, Quebec J4Y 0B2 Canada.
4. Defendant Kouri is an individual residing at 38 de Sorel Rue, Blaineville, Quebec J7B 2A2 Canada.
5. This Court has jurisdiction over this action under Section 39 of the Lanham Act, 15 U.S.C. § 1121, Sections 1332(a), 1338(a), 1338(b) and 1367(a) of the Judicial Code, 28 U.S.C. §§ 1332(a), 1338(a), 1338(b) and 1367(a), and under principles of supplementary jurisdiction.
6. Defendants consent to this Court's personal jurisdiction over them for this action and permanent injunction, and to venue in this district.
7. Plaintiff is the owner of all right, title and interest in and to a family of trademarks incorporating the suffix "SICLE" ("SICLE Family of Marks"), including the famous trademarks

POPSICLE[®], CREAMSICLE[®] and FUDGSICLE[®], for frozen confections, all of which are valid, subsisting and enforceable.

8. Plaintiff's SICLE Family of Marks are covered by numerous federal trademark registrations and pending applications, including, but not limited to: POPSICLE (Reg. No. 2,421,400), POPSICLE THE ORIGINAL BRAND & Design (Reg. No. 1,840,718), CREAMSICLE (Reg. No. 1, 839,541), CREAMSICLE THE ORIGINAL BRAND & Design (Reg. No. 1,840,719), FUDGSICLE (Reg. No. 434,594), FUDGSICLE THE ORIGINAL BRAND & Design (Reg. No. 1,840,717), CHOCSICLE (Reg. No. 3,178,063), YOSICLE (Ser. No. 85/136228), SUPERSICLE (Serial No. 85/261745) and SICLE (Serial No. 85/299678).

9. Plaintiff's registrations for the SICLE Family of Marks provide constructive notice of Unilever's claim of ownership and constitute prima facie evidence of Plaintiff's ownership of such registrations and of Plaintiff's exclusive right to use such registered trademarks in commerce on and in connection with the goods specified in such registrations.

10. Plaintiff's registrations Nos. 2,421,400 for POPSICLE, 8,840,718 for POPSICLE THE ORIGINAL BRAND & Design, 1,839,541 for CREAMSICLE, 1,840,719 for CREAMSICLE THE ORIGINAL BRAND & Design and 1,840,717 for FUDGSICLE THE ORIGINAL BRAND & Design are incontestable pursuant to 15 U.S.C. § 1065 and constitute conclusive evidence of Plaintiff's exclusive right to use the marks covered by such registrations in commerce in connection with the goods specified in the registrations.

11. Defendants intended to use the mark BONESICLE as a trademark for pet food, specifically, food for dogs (the "Infringing Mark").

12. On February 24, 2011, Defendant Koolpets filed an intent-to-use application with the United States Patent and Trademark Office (PTO) to register BONESICLE, under Ser. No.

85/250796 as a trademark for “food products for animals, dietary and nutritional supplements for animals, food supplements for medical use for animals, veterinary products and veterinary pharmaceutical preparations”, in International Class 5 (the “Application”).

13. Defendants, or one of them, own the domain name www.bonesicle.com (the “Domain Name”) and Defendants own and operate a website corresponding to the Domain Name (the “Website”).

14. Defendants owned and operated a BONESICLE page on the www.facebook.com website (the “Facebook Page”).

15. Plaintiff objected by way of letter to the Application, the Domain Name, the Website, the Facebook Page and Defendants’ other use and/or planned use of the Infringing Mark.

16. Defendants failed to abandon the Application and discontinue their use of the Infringing Mark prior to the filing of this action.

PERMANENT INJUNCTION

Defendants Koolpets, Marois and Kouri, and their representatives, associates, employees, agents, licensees, attorneys, successors, assigns and/or all those in active concert or participation with them and/or any person and/or entity controlled directly or indirectly by Defendants, are permanently enjoined and restrained from, directly or indirectly:

a. using and/or authorizing any third party to use in any manner, as a trademark, service mark, domain name, business name, trade name and/or other symbol of origin, and/or on or in connection with any social media website, including but not limited to Facebook and/or Twitter, the term BONESICLE, any name and/or mark incorporating BONESICLE and/or otherwise incorporating SICLE, and/or any other counterfeit, copy,

simulation, confusingly similar variation and/or colorable imitation of Plaintiff's SICLE Family of Marks, collectively or individually, in any manner or form, on or in connection with any business, products and/or services, and/or in the marketing, advertising and/or promotion of same anywhere in the world. Notwithstanding the generality of the foregoing, Defendants, or any of them, may (i) retain ownership of the Domain Name provided that Defendants, individually or collectively, do not use the Domain Name in connection with any active website or otherwise and/or do not sell, assign, transfer, license or otherwise authorize and/or permit the use of the Domain Name by any third party and (ii) continue, for a period of six (6) months from the date of the entry of order of this Stipulated Final Judgment and Permanent Injunction, to use the email address "@bonesicle.com" solely for the purpose of receiving and sending email, provided, however, that Defendants shall use reasonable commercial efforts to transition to a different email address as soon as reasonably practicable during such six (6) month period, following which Defendants shall no longer use the "@bonesicle.com" email address;

b. imitating, copying or making any unauthorized use of Plaintiff's SICLE Family of Marks, collectively or individually, and/or any copy, simulation, variation and/or imitation thereof;

c. making and/or displaying any statement and/or representation that is likely to lead the public and/or trade to believe that Defendants, or any of them, and/or Defendants' goods and/or services are in any manner associated and/or affiliated with and/or approved, endorsed, licensed, sponsored, authorized and/or franchised by and/or are otherwise connected with Plaintiff;

d. making any false and/or misleading claims and/or statements concerning Plaintiff and/or Plaintiff's products and/or brands;

e. using and/or authorizing any third party to use in connection with the rendering, offering, advertising, and/or promotion of any goods, products and/or services, any false description, false representation, and/or false designation of origin, and/or any marks, names, words, symbols, devices and/or trade dress which falsely associate or tend to falsely associate such goods, products and/or services with Plaintiff;

f. diluting the distinctive quality of Plaintiff's SICLE Family of Marks, collectively or individually;

g. subject to the provisions of Paragraph (a) hereof, registering and/or applying to register as a trademark, service mark, domain name, Facebook page, Twitter handle, other social media address or account name, trade name and/or other source identifier and/or symbol of origin BONESICLE and/or any other name or mark incorporating SICLE, whether alone or in combination with any other words and/or designs, and/or any mark, trade dress and/or name that infringes or is likely to be confused with Plaintiff's SICLE Family of Marks, collectively or individually;

h. engaging in any other activity constituting unfair competition with Plaintiff, or constituting infringement of Plaintiff's POPSICLE[®], CREAMSICLE[®], FUDGSICLE[®], CHOCSICLE[®], SUPERSICLE, SICLE and/or YOSICLE trademarks and/or logos, and/or of Plaintiff's rights therein; and

i. aiding, assisting or abetting any other party in doing any act prohibited by Subparagraphs a. through h.

FURTHER RELIEF

a. On or before November 22, 2011, Defendants or their attorney shall provide Plaintiff's counsel with written confirmation that Defendants have, subject to the

provisions of Paragraph (a) of the Permanent Injunction herein, permanently ceased all use, directly or indirectly, of BONESICLE, and/or any other term incorporating "SICLE", in any format in any media in connection with the manufacture, marketing, advertising, promotion, distribution, importation, export and/or sale of any goods or services throughout the world;

b. On or before November 22, 2011, Defendants or their attorney shall provide Plaintiff's counsel with written confirmation that Defendants have permanently disabled and cancelled any registrations for the Website and the Facebook Page and/or any domain name other than the Domain Name, any website other than the Website and/or any other social media address or account name owned or controlled by Defendants, or any of them, which incorporates "Bonesicle", "sicle" and/or any other term which includes "sicle";

c. Within five (5) business days following the entry of order of this Stipulated Final Judgment and Permanent Injunction, Defendant Koolpets shall (i) execute an Express Abandonment (Withdrawal) of the Application with prejudice; (ii) file same electronically with the United States Patent and Trademark Office ("PTO") and (iii) notify Plaintiff's counsel of the filing of same;

d. Within five (5) business days following the entry of order of this Stipulated Final Judgment and Permanent Injunction, Defendants or their attorney shall provide Plaintiff's counsel with written confirmation that Defendants have withdrawn any and all actions and/or proceedings commenced by or on behalf of Defendants anywhere in the world challenging or seeking to cancel or expunge any trademark registrations for any of the SICLE Family of Marks owned by Plaintiff or any of Plaintiff's affiliated companies, including, but not limited to, Section 45 Proceeding No. 256037 in Canada, seeking expungement of Canadian

Registration No. TMA120876 for the mark SICLE owned by Plaintiff's affiliated company
Unilever Canada, Inc.;

e. Defendants, or any of them, shall not seek or assist others to seek to revive or re-file the Application following its abandonment;

f. Defendants, or any of them, shall not challenge Plaintiff's rights in the SICLE Family of Marks, collectively or individually, or Plaintiff's use of the SICLE Family of Marks, collectively or individually, for any products and/or services anywhere in the world;

g. Defendants shall not at any time make any statement, whether written or oral, in or to any media or otherwise, including, without limitation, to any customer, client, employee of Plaintiff or its direct or indirect parents, subsidiaries, affiliates and/or related companies, which in any way denigrates, disparages, tarnishes the image of, or otherwise conveys negative information about or reflects negatively upon (i) Plaintiff and/or its direct or indirect parents, subsidiaries, affiliates and/or related companies and/or each and all of their past and/or present officers, directors, employees and/or agents, (ii) the SICLE Family of Marks, collectively or individually, (iii) the products in connection with which such marks are used, (iv) any other trademarks, brands or products of Plaintiff or its affiliated companies, and/or (v) ice cream and/or frozen confections generally.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each of the parties shall bear its own costs and attorneys' fees; provided, however, that should any action by any of the parties be necessary to enforce any of the terms or conditions of this Stipulated Final Judgment and Permanent Injunction, the prevailing party shall be entitled to its reasonable attorneys' fees and costs in addition to other relief, and the party against whom enforcement was

sought agrees to pay the prevailing party's attorneys' fees and costs within forty-five (45) days of entry of judgment against it.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff hereby dismisses the above action, without prejudice and without costs against any party, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

THE UNDERSIGNED CONSENT TO THE IMMEDIATE ENTRY OF THIS STIPULATED FINAL JUDGMENT AND PERMANENT INJUNCTION:

CONOPCO, INC., as successor to UNILEVER SUPPLY CHAIN, INC.

By: Brian Chevillat
Name: BRIAN CHEVILLAT
Title: Deputy General Counsel
Date: 11/14/11

KOOLPETS PRODUCTS, INC. a/k/a PRODUITS KOOLPETS, INC.

By: [Signature]
Name: DANY K KOURI
Title: PRESIDENT
Date: NOVEMBER 7, 2011

FRANCOIS MAROIS

[Signature]
Date: November 1, 2011

DANY K. KOURI

[Signature]
Date: NOVEMBER 7, 2011

SO ORDERED, THIS 21 DAY OF Nov., 2011 in New York, New York:

[Signature]
Honorable J. Paul Oetken
United States District Judge