

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:16-cv-00167-FDW-DCK

DAIMLER AG,)
)
Plaintiff,)
)
vs.)
)
AMERICAN TIRE DISTRIBUTORS, INC.,)
et al.,)
)
Defendants.)

ORDER

THIS MATTER is before the Court on the parties’ “Stipulated Motion for Dismissal” filed pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. (Doc. No. 22.) In that motion, the parties stipulate to the entry of an Order dismissing all claims in this action, with each party to bear its own cost and expenses. Pursuant to the Motion, Plaintiff Daimler AG (“Daimler”), Defendants American Tire Distributors, Inc. (“ATDI”), American Tire Distributors Holdings, Inc. (“ADTH”), and DOES 1–10 (collectively, “Defendants”), have agreed to the terms of a Settlement Agreement, dated October 18, 2016 (the “Settlement Agreement”), and to entry of this order of dismissal. For the reasons stated in the motion and the proposed order, it is GRANTED.

IT IS, THEREFORE, ORDERED that judgment be entered as follows:

1. This Court has jurisdiction over the subject matter of this action and has in personam jurisdiction over Daimler and Defendants.
2. ATDI and ATDH hereby acknowledge and agree that U.S. Design Patent No. D569,776 and U.S. Design Patent No. D544,823 (collectively, the “DAIMLER Patents”) are each valid and enforceable.

3. ATDI and ATDH hereby acknowledge Daimler's rights in and to the trademarks alleged in the Complaint, including its rights in U.S. Trademark Reg. No. 3,305,055, U.S. Trademark Reg. No. 1,807,353, and U.S. Trademark Reg. No. 1,660,727 (collectively, the "DAIMLER Marks"), and that the DAIMLER Marks are each valid and enforceable. ATDI and ATDH agree that they will not contest, or assist in the contest of, the validity or enforceability of the DAIMLER Patents and the DAIMLER Marks, in any forum, including Federal Courts, United States Patent and Trademark Office, and/or the United States International Trade Commission.

4. ATDI and ATDH are hereby enjoined from purchasing, selling, distributing, and marketing in the United States, and importing into the United States, automotive wheels that Daimler has alleged are infringing the DAIMLER Patents.

5. ATDI and ATDH shall not use in commerce in the U.S. any of the DAIMLER Marks or marks that reasonably may be deemed to be confusingly similar to the DAIMLER Marks in connection with automotive wheels or any goods and services related to automotive wheels.

6. Daimler, ATDI and ATDH shall each bear their own costs and expenses, including attorneys' fees, arising out of this case. This judgment shall be effective and enforceable to the fullest extent possible under the laws of the United States.

7. This Court shall retain jurisdiction of this action to enforce this judgment and the Settlement Agreement.

8. This judgment shall be effective and enforceable to the fullest extent possible under the laws of the United States.

IT IS SO ORDERED.

Signed: November 1, 2016



Frank D. Whitney
Chief United States District Judge

