

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

VICTORIA'S SECRET STORES BRAND
MANAGEMENT, INC.,

Plaintiff,

v.

BOB'S STORES LLC,

Defendant.

CASE NO. 2:13-CV-1261

JUDGE GREGORY L. FROST

ORDER AND PERMANENT INJUNCTION

WHEREAS, Plaintiff Victoria's Secret Stores Brand Management, Inc. ("Victoria's Secret") and Defendant Bob's Stores LLC ("Bob's") have agreed to resolve this lawsuit in part by way of entry of the following Consent Judgment and Permanent Injunction.

Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED THAT:

1. This is an action for trademark infringement, false designation of origin, unfair competition, trademark dilution, and trade dress infringement pursuant to the Lanham Act, as amended, 15 U.S.C. §§ 1051, *et seq.*, as well as common law trademark infringement and unfair competition.

2. This Court has jurisdiction over the subject matter in issue based on 28 U.S.C. §§ 1331, 1338(a) and (b), and 1367(a), as well as 15 U.S.C. § 1121(a). This Court has personal jurisdiction over Victoria's Secret and, for purposes of this action only, Bob's agrees that the Court has personal jurisdiction over it. This Court has continuing jurisdiction to enforce the terms and provisions of this Consent Judgment and Permanent Injunction. Venue is also proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c).




3. Victoria’s Secret Stores Brand Management, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at Three Limited Parkway, Columbus, Ohio 43230.

4. Bob’s Stores LLC is a corporation organized and existing under the laws of the State of New Hampshire with its principal place of business at 160 Corporate Court, Meriden, Connecticut 06450.

5. Victoria’s Secret is well-known throughout the United States and beyond as a source of premium apparel, beauty and personal care products, and related goods and services. In connection therewith, and since at least as early as 2001, Victoria’s Secret has used the VICTORIA’S SECRET PINK trademark, and Victoria’s Secret has established the PINK trademark as a premier brand that is well-recognized throughout United States and elsewhere. Victoria’s Secret has also used the “86” trademark in connection with apparel and related products and services since at least as early as 2005.

6. Victoria’s Secret’s rights in and to the PINK and 86 trademarks are embodied, in part, in the following valid and enforceable United States Trademark Registrations:

Registration No.	Mark	Registration Date	Class(es)
2,820,380	VICTORIA’S SECRET PINK	Mar. 2, 2004	25
2,992,758	VICTORIA’S SECRET PINK	Sept. 6, 2005	25
3,226,760	VICTORIA’S SECRET PINK	April 10, 2007	20, 24
3,234,287	PINK DOG	April 24, 2007	25
3,386,282	PHI BETA PINK	Feb. 19, 2008	24, 25
3,502,263	VICTORIA’S SECRET PINK	Sept. 16, 2008	35
3,520,974	VICTORIA’S SECRET PINK	Oct. 21, 2008	3
3,544,100	DRENCHED IN PINK	Dec. 9, 2008	3
3,565,927	PINK IS LIFE	Jan. 20, 2009	35
3,631,914	SQUEAKY PINK	June 2, 2009	3
3,665,102	PINK UNIVERSITY	Aug. 4, 2009	16, 18, 25

Registration No.	Mark	Registration Date	Class(es)
3,726,618	PINK ME UP	Dec. 15, 2009	3
3,729,795	PINK NATION	Dec. 22, 2009	35
3,750,738	PINK U	Feb. 16, 2010	25
3,782,747	LIVE PINK	April 27, 2010	3
3,805,362	LOVE PINK  VICTORIA'S SECRET	June 22, 2010	25
3,840,101	PINK  NATION	Aug. 31, 2010	35
3,853,421	LIFE IS PINK	Sept. 28, 2010	3
3,883,774	HOPE PINK	Nov. 30, 2010	3
3,940,420	 Word portion: 1986 PINK NATION VICTORIA'S SECRET	Apr. 5, 2011	35
3,992,764	VICTORIA'S SECRET PINK	July 12, 2011	25
3,993,100	I ONLY SLEEP IN PINK	July 12, 2011	25
4,010,593	ALOHA PINK	Aug. 9, 2011	3
4,061,503	HOT FOR PINK	Nov. 22, 2011	3
4,061,574	MAKE ME PINK	Nov. 22, 2011	3
4,061,578	FOREVER PINK	Nov. 22, 2011	3
4,097,199	GIVE A LITTLE PINK	Feb. 7, 2012	3
4,097,220	MERRY MERRY PINK	Feb. 7, 2012	3
4,164,695	OH WHAT FUN IS PINK	June 26, 2012	3
4,219,269	PINK BEACH	Oct. 2, 2012	3
4,336,625	LIFE IS PINK IS LIFE	May 21, 2013	35

Registration No.	Mark	Registration Date	Class(es)
3,490,221	86	Aug. 19, 2008	25
3,684,473	86	Sept. 15, 2009	20, 24

The foregoing trademarks, along with Victoria's Secret's PINK trademark, are referred to herein collectively as the "VS Trademarks."

7. The VS Trademarks are distinctive and famous marks.

8. Victoria's Secret has rights in and to a number of designs as well as the design and overall appearance of certain apparel products which indicate to members of the consuming public that these products are of a high quality originating from Victoria's Secret. Common elements of the designs and lettering that encompass Victoria's Secret rights are attached hereto as Exhibit A and by this reference are herein incorporated.

9. Bob's, its officers, agents, servants, employees, and attorneys, and all other persons who are in active concert or participation with any of the foregoing, who receive actual notice of this Consent Judgment and Permanent Injunction, are hereby permanently enjoined from engaging in any of the following activities:

A. manufacturing, advertising, distributing, marketing, promoting, offering for sale, and/or selling any products bearing any of the VS Trademarks or confusing similar marks, unless such products are authorized by Victoria's Secret;

B. manufacturing, advertising, distributing, marketing, promoting, offering for sale, and/or selling any products bearing any of the graphic elements depicted in Exhibit A in connection with the word PINK or in connection with the numbers 80-86, unless such products are authorized by Victoria's Secret;

C. using the VS Trademarks, and/or any other designation that is a colorable imitation of and/or is confusingly similar to the VS Trademarks, in connection with the

manufacture, advertising, distribution, marketing, promotion, offering for sale, and/or sale of products neither originating from nor authorized by Victoria's Secret;

D. making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, or individual members thereof, to believe that any products manufactured, distributed or sold by Bob's are in any manner associated or sponsored by or connected with Victoria's Secret, or are sold, manufactured, licensed, sponsored, approved, or authorized by Victoria's Secret, or otherwise taking any action likely to cause confusion, mistake, or deception as to the origin, approval, sponsorship, or certification of such products;

E. effecting assignments or transfers, forming new entities, or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (A) through (D); and

F. aiding, abetting, contributing to, or otherwise assisting anyone with infringing or diluting the VS Trademarks.

10. Prior to commencing any litigation or contempt proceedings of any kind, or taking any other action to enforce the terms of this Consent Judgment and Permanent Injunction, Victoria's Secret shall provide written notice to Bob's detailing the factual basis for any allegations by Victoria's Secret that Bob's has violated the terms of this Consent Judgment and Permanent Injunction and/or otherwise engaged in conduct that infringed the VS Trademarks. Bob's shall then have ten (10) business days to respond to the written notice. Thereafter, Victoria's Secret may not initiate litigation and/or contempt proceedings unless Bob's does not voluntarily agree to cease and desist from engaging in the allegedly infringing conduct, including by ceasing to market and sell any accused product. Notice of this Consent Judgment and Permanent Injunction pursuant to Federal Rule of Civil Procedure 65 shall be effective by mailing of a copy of this Order to Bob's at 160 Corporate Court, Meriden, Connecticut 06450. It is not necessary for Bob's to sign any form of

acknowledgement of service.12. Each party to pay its own costs and fees.

IT IS SO ORDERED:

Dated: August 19, 2014

By: /s/ Gregory L. Frost
Hon. Gregory L. Frost
United States District Court Judge