

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

SECURITY CHAIN COMPANY, a  
division of BURNS BROS. INC., an  
Oregon corporation,  
Plaintiff,

CV 10-1257-PK

OPINION AND ORDER

QUALITY CHAIN CORPORATION, an  
Oregon corporation,  
Defendant.

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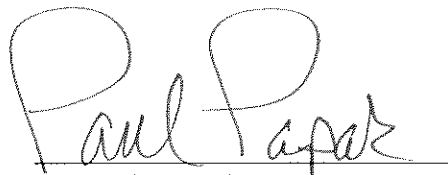
PAPAK, Judge:

Plaintiff Security Chain Company ("Security Chain") filed this action against defendant Quality Chain Corporation ("Quality Chain") arising from a dispute over the advertising and production of tire chains. Security Chain alleges patent infringement in violation of 35 U.S.C. §§271, 281, 283-285; false advertising, trade dress infringement, unfair competition, and false designation of origin in violation of the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*; trade dress infringement in violation of Oregon common law; and passing off and creating a likelihood of confusion in violation of the Oregon Unlawful Trade Practices Act, Or. Rev. Stat. 646.608.

Quality Chain asserts three counterclaims for attorneys fees and three counterclaims for false patent marking pursuant to 35 U.S.C. §292. Now before the court is Security Chain's motion to dismiss Quality Chain's false patent marking counterclaims and strike Quality Chain's affirmative defenses of patent unenforceability and invalidity. (#85.) Also before the court is Quality Chain's motion to dismiss Security Chain's false patent marking claim. (#97.)

During oral argument held on August 30, 2011, the parties stipulated to dismissal of Security Chain's false patent marking claim and Quality Chain's false patent marking counterclaims, both with prejudice. Additionally, Quality Chain stipulated to withdrawal of its affirmative defenses of patent unenforceability and invalidity, without prejudice. Accordingly, Plaintiff's Motion to Dismiss Counterclaims of False Patent Marketing (#85), Plaintiff's Motion to Strike Affirmative Defenses of Patent Unenforceability and Invalidity (#85) and Defendant's Motion to Dismiss Count 'V' (False Marketing) of Amended Complaint (#97) are denied as moot.

Dated this 30<sup>th</sup> day of August, 2011.

  
Honorable Paul Papak  
United States Magistrate Judge