

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/01/15

DEPT. WEK

HONORABLE GERALD ROSENBERG

JUDGE

B. JEW

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. JUAREZ, CRT.ASST

Deputy Sheriff

JOSIANE GOLDMAN, CSR#13132 Reporter

8:30 am

SC120883

REESE WITHERSPOON
VS
MARKETING ADVANTAGES
INTERANTIONAL, INC

Plaintiff LAN VU (X)
Counsel CHARLES HARDER (X)

Defendant KIM ASHLEY (X)
Counsel KEITH ADAMS (X)
JAMIE FRIEDEN (X)
COURTNEY CONNER (X)
DANIEL MAYEDA (X)

NATURE OF PROCEEDINGS:

DEFENDANT'S (GEMVARA INC) MOTION FOR SUMMARY JUDGMENT
OR IN THE ALTERNATIVE FOR SUMMARY ADJUDICATION

MOTIONS OF SKYE ASSOCIATES LLC AND LAUTREC CORPORATION
FOR SEPARATE TRIALS

The Order Appointing Court Approved Reporter as
Official Reporter Pro Tempore is signed and filed
this date.

Matter is called for hearing.

The motion for separate trials is denied.

The motion for summary judgment/adjudication is
argued and taken under submission.

Later, the Court rules as follows:

The Motion for Summary Judgment filed by Defendant
Gemvara, Inc. is denied.

The Motion for Summary Adjudication filed by
Defendant Gemvara, Inc. is granted as to the 2nd,
3rd, 4th, and 5th Causes of Action.

There are triable issues as to the 1st Cause of
Action for right of publicity. Defendant fails to
show that their Uses 1-23 were only an incidental
use of Plaintiff's image, likeness, and name.

RECEIVED
12/13/15

MINUTES ENTERED
12/01/15
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/01/15

DEPT. WEK

HONORABLE GERALD ROSENBERG

JUDGE

B. JEW

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. JUAREZ, CRT.ASST

Deputy Sheriff

JOSIANE GOLDMAN, CSR#13132 Reporter

8:30 am

SC120883

REESE WITHERSPOON
VS
MARKETING ADVANTAGES
INTERANTIONAL, INC

Plaintiff LAN VU (X)
Counsel CHARLES HARDER (X)

Defendant KIM ASHLEY (X)
Counsel KEITH ADAMS (X)
JAMIE FRIEDEN (X)
COURTNEY CONNER (X)
DANIEL MAYEDA (X)

NATURE OF PROCEEDINGS:

Defendant capitalizes on Plaintiff's fan base. The ring is called "Reese" with references to how it looks like Plaintiff's ring.

Defendant fails to submit competent evidence regarding the first posting of Use Nos. 24, 25, 28, 32, and 37 for purposes of the defense of Statute of Limitations.

Defendant admits the Use of 11-12, 16-20, 23, and 30 after March 2013 (therefore not barred by the Statute of Limitations).

With the exception of Use No. 32-38, there is a question of fact as to whether the other uses are protected by the First Amendment. The uses range from advertisements depicting the ring and explaining it was inspired by Plaintiff and indicating the purchase of the ring would imitate Plaintiff's look, to "articles" regarding jewelry trends. What was the purpose of the blogs and articles: Issue of public interest or to capitalize on Plaintiff's commercial value?

As to the 2nd Cause of Action (right of privacy), Defendant establishes that Plaintiff is not asserting any emotional distress from Defendant's use. The photos and facts were generally known by the public and the photos were taken in public with Plaintiff's consent. See Plaintiff's Response to Separate Statement of Undisputed Material Facts No. 41.

MINUTES ENTERED 12/01/15 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/01/15

DEPT. WEK

HONORABLE GERALD ROSENBERG

JUDGE B. JEW

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. JUAREZ, CRT.ASST

Deputy Sheriff

JOSIANE GOLDMAN, CSR#13132 Reporter

8:30 am SC120883

REESE WITHERSPOON
VS
MARKETING ADVANTAGES
INTERANTIONAL, INC

Plaintiff LAN VU (X)
Counsel CHARLES HARDER (X)

Defendant KIM ASHLEY (X)
Counsel KEITH ADAMS (X)
JAMIE FRIEDEN (X)
COURTNEY CONNER (X)
DANIEL MAYEDA (X)

NATURE OF PROCEEDINGS:

As to the 3rd, 4th, and 5th Causes of Action, Defendant establishes that the trademark claims fail because Plaintiff failed to plead the existence of a trademark and there is no evidence to support a trademark. Also, Plaintiff fails to establish that her name has acquired a secondary meaning like McDonalds. See Franklin Mint Co. v. Mannatt, Phelps & Phillips (2010) 184 Cal.App.4th 313, 337. Also, the trade dress and slogan claims fail as a matter of law.

The punitive damages are a triable issue. Defendant does not dispute that it used Plaintiff's image, name, and likeness without her permission.

Plaintiff's Objections to Evidence:

1. Overruled
2. Overruled
3. Overruled
4. Overruled
5. Overruled
6. Overruled
7. Overruled
8. Overruled
9. Overruled
10. Overruled
11. Overruled
12. Overruled
13. Sustained
14. Overruled

<p align="center">MINUTES ENTERED 12/01/15 COUNTY CLERK</p>
--

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/01/15

DEPT. WEK

HONORABLE GERALD ROSENBERG

JUDGE

B. JEW

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. JUAREZ, CRT.ASST

Deputy Sheriff

JOSIANE GOLDMAN, CSR#13132 Reporter

8:30 am

SC120883

REESE WITHERSPOON
VS
MARKETING ADVANTAGES
INTERANTIONAL, INC

Plaintiff LAN VU (X)
Counsel CHARLES HARDER (X)

Defendant KIM ASHLEY (X)
Counsel KEITH ADAMS (X)
JAMIE FRIEDEN (X)
COURTNEY CONNER (X)
DANIEL MAYEDA (X)

NATURE OF PROCEEDINGS:

- 15. Sustained
- 16. Sustained
- 17. Sustained
- 18. Sustained
- 19. Sustained
- 20. Sustained
- 21. Overruled
- 22. Sustained
- 23. Sustained
- 24. Sustained
- 25. Overruled
- 26. Overruled
- 27. Overruled
- 28. Sustained
- 29. Sustained
- 30. Sustained

As to the 1st and 2nd causes of action, since plaintiff is not making a claim for emotional distress, these claims are the same, asking for the same relief.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the above minute order

MINUTES ENTERED 12/01/15 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/01/15

DEPT. WEK

HONORABLE GERALD ROSENBERG

JUDGE

B. JEW

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. JUAREZ, CRT.ASST

Deputy Sheriff

JOSIANE GOLDMAN, CSR#13132 Reporter

8:30 am SC120883

REESE WITHERSPOON
VS
MARKETING ADVANTAGES
INTERANTIONAL, INC

Plaintiff LAN VU (X)
Counsel CHARLES HARDER (X)

Defendant KIM ASHLEY (X)
Counsel KEITH ADAMS (X)
JAMIE FRIEDEN (X)
COURTNEY CONNER (X)
DANIEL MAYEDA (X)

NATURE OF PROCEEDINGS:

upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Santa Monica, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: 12-1-15

Sherri R. Carter, Executive Officer/Clerk

By: _____
B. Jew

LAN VU
132 S. RODEO DRIVE, STE 301
BEVERLY HILLS, CA 90212

KEITH ADAMS
550 S. HOPE STREET, STE 650
LOS ANGELES, CA 90071

MINUTES ENTERED
12/01/15
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/01/15

DEPT. WEK

HONORABLE GERALD ROSENBERG

JUDGE

B. JEW

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. JUAREZ, CRT.ASST

Deputy Sheriff

JOSIANE GOLDMAN, CSR#13132 Reporter

8:30 am

SC120883

REESE WITHERSPOON
VS
MARKETING ADVANTAGES
INTERANTIONAL, INC

Plaintiff LAN VU (X)
Counsel CHARLES HARDER (X)

Defendant KIM ASHLEY (X)
Counsel KEITH ADAMS (X)
JAMIE FRIEDEN (X)
COURTNEY CONNER (X)
DANIEL MAYEDA (X)

NATURE OF PROCEEDINGS:

DANIEL MAYEDA
2049 CENTURY PARK EAST, STE 3110
LOS ANGELES, CA 90067

COURTNEY CONNER
725 S. FIGUEROA STREET, STE 350
LOS ANGELES, CA 90017

KIM ASHLEY
VEATCH CARLSON LLP
1055 WILSHIRE BLVD., 11TH FLR
LOS ANGELES, CA 90017

MINUTES ENTERED
12/01/15
COUNTY CLERK