

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

Louisiana Tech University
Foundation, Inc.

Plaintiff,

v.

Bel-Mac Roofing, Inc.

Defendant.

CIVIL ACTION NO. _____

JUDGE _____

MAGISTRATE _____

Jury Trial Requested

COMPLAINT

LTF Louisiana Tech University Foundation, Inc. (“LTF” or “Plaintiff”), for its Complaint against defendant Bel-Mac Roofing, Inc. (“Bel-Mac” or “Defendant”), alleges, on knowledge as to its own actions, and otherwise on information and belief, as follows:

1. LTF brings this action seeking injunctive and monetary relief for Defendant’s intentional infringement of LTF’s copyright, infringement of Plaintiff’s famous federally-registered trademark under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), for unfair competition and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), for dilution under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and for substantial and related claims of unfair trade practices, trademark infringement, trademark dilution, and continuing torts under the laws of the State of Louisiana, all arising from the Defendant’s unauthorized use of the trademarked and copyrighted Tech Bulldog Mark.

JURISDICTION AND VENUE

2. This court has jurisdiction over this copyright infringement action pursuant to 15 U.S.C. 1121 § 28 U.S.C., §§ 1331, 1332(a), and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

3. Venue is proper in this district under 28 U.S.C. § 1400(a) because Defendant may be found in this district. On information and belief, Defendant is directing its marketing efforts at the State of Louisiana, and in particular the District and purports to perform services in the District.

4. Venue is also proper in this district under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim occurred in this district, or 28 U.S.C. § 1391(b)(3), because Defendant is subject to personal jurisdiction in this district regarding this action, and there is no other district in which the action may otherwise be brought.

PARTIES

5. LTF is a corporation that is incorporated under the laws of Louisiana and has its principal place of business in Ruston, Louisiana.

6. LTF is a private, non-profit 501(c)(3) organization created to solicit, manage, and steward private resources given in support of Louisiana Tech University, and participates in entrepreneurial and other activities that benefit the University, such as intellectual property, licensing agreements, real estate projects, and campus improvements. LTF is part of the Division of Louisiana Tech University Advancement.

7. On information and belief, Defendant is a corporation that is incorporated under the laws of Florida and has its principal place of business in Santa Rosa Beach, Florida.

8. On information and belief, Defendant is licensed to do business in the state of Louisiana with the Louisiana Secretary of State.

9. Upon information and belief, Defendant maintains at least one license to operate and conduct business in Louisiana. Defendant maintains a Louisiana Contractor Certification # 36929.

FACTS

LTF's intellectual property rights in the Tech Bulldog Logo.

10. Louisiana Tech is a public institution that was founded in 1894. It has a total undergraduate enrollment annually of over 10,000 students. The University has been using the bulldog as its mascot since 1899 and the current iteration of the bulldog logo for over a decade on countless apparel goods and advertisements throughout Louisiana and wherever Louisiana Tech's alumni and sports teams travel. Through that use, La. Tech has gained valuable intellectual property rights, including trademark protection and copyright protection, in the Tech Bulldog Logo branding (the "Tech Bulldog Mark") and artistic rendering (the "Copyrighted Work"), which is shown below:

TECH BULLDOG LOGO



11. In 2008, LTF contracted with a third-party graphic designer, to design the current iteration of the Tech Bulldog Logo that is embodied in the Copyrighted Work and the Tech Bulldog Mark. At the time, the Parties intended for the work to be considered a Work Made For Hire.

12. The third-party graphic designer based the logo off a rendering of a live University bulldog mascot.

13. Shortly thereafter, the University adopted and unveiled the new Tech Bulldog Logo in the summer of 2008. *See* Exhibit 3.

14. On March 8, 2021, LTF and the third-party graphic designer entered into an agreement pursuant to which the designer assigned *nunc pro tunc* to LTF all copyright rights in the Copyrighted Work.

15. A true and correct copy of the Copyrighted Work is attached hereto as Exhibit 1.

16. The Copyrighted Work is wholly original, and LTF is the exclusive owner of all right, title, and interest, including all rights under copyright, in the Copyrighted Work.

17. LTF is the owner of valid and subsisting United States Copyright Registration No. VA-2-257-056 for the Copyrighted Work, issued by the United States Copyright Office on May 7, 2021.

18. Attached as Exhibit 2 is a true and correct copy of the registration certificate and assignment records for LTF's Registration No. VA-2-257-056.

19. The Copyrighted Work has been used throughout the entire country to advertise for Louisiana Tech academics. *See* Exhibit 4.

20. In addition to the expansive geographic reach and volume of advertisements that the academic use of the Tech Bulldog Logo provides, the Tech Bulldog Logo has just as much, if not more, notoriety through athletic use.

21. The University fields over a dozen varsity NCAA Division I sports teams and is a member of Conference USA of the Football Bowl Subdivision.

22. An example of the national reach of the LTF Tech Bulldog Logo through sports includes that during the 2021 Football Season, the University's football games will be aired nationally on CBS Network, ESPN Networks, and the ACC Network at least 9 times. The football team has also appeared in a nationally televised bowl game in all seven of the past seven years.

23. Thus, the Copyrighted Work has been featured on nationally televised sporting activities on a regular basis for over a decade. The public has had tremendous opportunity to view the Copyrighted Work.

24. As more fully discussed below, the Copyrighted Work is of significant value to LTF.

25. In addition to the copyright in the Tech Bulldog Logo, LTF is also the owner of valid and subsisting United States Trademark Registration No. 6193214 on the Principal Register in the United States Patent and Trademark Office for the Tech Bulldog Logo (hereinafter “the Mark” or “the Tech Bulldog Mark”) for the following goods and services: (a) dresses; Hats; Hoodies; Jackets; Jerseys; Pajamas; Pants; Shorts; Socks; Underwear; Wearable garments and clothing, namely, shirts and (b) Educating at university or colleges.

26. Attached as Exhibit 5 is a true and correct copy of the registration certificate for LTF’s United States Mark Registration No. 6193214 which was issued by the United States Patent and Trademark Office on November 10, 2020.

27. LTF has used the Tech Bulldog Mark in commerce throughout the United States continuously since June 18, 2008 in connection with the manufacture, distribution, provision, offering for sale, sale, marketing, advertising, and promotion of the above listed goods and services.

28. Attached hereto as Exhibit 4 are photographs and copies of representative samples of apparel, marketing materials, and athletic jerseys showing LTF’s use of the Tech Bulldog Mark in connection with these goods and services.

29. As a result of LTF’s longstanding use of the Tech Bulldog Mark, the Mark has become widely known and famous throughout Louisiana and the United States. Undoubtedly the image is closely identified with the University, and represents substantial, valuable goodwill of LTF.

30. As a result of its widespread, continuous, and exclusive use of the Tech Bulldog Mark to identify its goods and services and LTF as their source, LTF owns valid and subsisting federal statutory and common law rights to the Tech Bulldog Mark.

31. LTF's Tech Bulldog Mark is distinctive to both the consuming public and LTF's trade. These rights are further compounded when coupled with one or more of LTF's traditional colors, red or blue.

32. LTF has expended substantial time, money, and resources marketing, advertising, and promoting the goods and services sold under the Tech Bulldog Mark. The goods and services sold under the Mark are distributed through multiple channels, including direct transaction between the University and a member of the general public (such as its academic and athletic services and on-campus bookstore goods), through authorized distributors, and/or authorized retailers.

33. LTF uses a multitude of advertisements, promotional materials, and marketing materials through print and online media in connection with the Mark in order to advertise country-wide its academic and athletic services.

34. LTF provides extensive online advertising, which is available and directed to members of the public across the country, that use the Tech Bulldog Mark. LTF also uses signage (such as billboards and yard signs) in Louisiana with the Tech Bulldog Mark, as well as paper mailers that are sent out across the country to advertise its academic and athletic services.

35. LTF has established a licensing program in an effort to protect and control LTF's intellectual property, including the Copyrighted Work and the Tech Bulldog Mark, and maximize the exposure and royalties it receives through the sale of merchandise in the retail marketplace.

36. The goods and services LTF offers under the Tech Bulldog Mark are of high quality. The University is nationally ranked in the U.S. News Best Colleges Ranking system (<https://www.usnews.com/best-colleges>) and was recognized as Louisiana's highest-ranked public institution for 2022 by niche.com.

37. As a result of LTF's expenditures and efforts, the Tech Bulldog Mark has come to signify the high quality of the goods and services designated by the Tech Bulldog Mark, and acquired incalculable distinction, reputation, and goodwill belonging exclusively to LTF.

38. As a result of its distinctiveness and widespread use and promotion throughout the United States, LTF's Tech Bulldog Mark is a famous trademark within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. 1125(c), and became famous prior to the acts of the Defendant alleged herein.

39. LTF further licenses third parties the rights to sponsor certain activities and aspects related to the University. For example, sponsors are often entitled to use certain intellectual property belonging to the LTF, like the Tech Bulldog Mark or the Copyrighted Work, in their advertisements. Sponsors are traditionally vetted as the use of the mark in connection with the sponsor's promotional activities typically implies an endorsement of the sponsor by the University.

Defendant's Infringing Conduct

40. On information and belief, Defendant is engaged in roofing contracting.

41. Defendant has and continues to copy, publicly display through its website and billboard advertising and reproduce on various apparel products a bull dog that is virtually identical to LTF's Copyrighted Work and Tech Bulldog Mark (the "Infringing Work" or the "Infringing Mark").

42. As can be seen from viewing and comparing the below images (and Exhibit 1 with Exhibit 6) the design of the Infringing Work is nearly identical/substantially similar to the Copyrighted Work and Tech Bulldog Mark:

**LTF's COPYRIGHTED
WORK/MARK**



**DEFENDANT's INFRINGING
WORK**



WORKS STACKED ON TOP OF EACH OTHER



43. The only differences between the two images are the added spikes and tag on the Infringing Work. All other design aspects from the skin fold lines, to the pointed visible tooth, to the shape of the nose and eyes are near identical.

44. LTF first became aware of Defendant's infringing use of LTF's Copyrighted Work and Tech Bulldog Mark when a University employee reported a billboard advertising Defendant's services and featuring the Tech Bulldog Logo embodied in the Copyrighted Work and Tech Bulldog Mark.

45. Defendant continued to infringe LTF's Copyrighted Work and Tech Bulldog Mark and, on information and belief, continues to infringe LTF's Copyrighted Work and Tech Bulldog Mark today.

46. Exhibit 7 is a true and correct copy of Defendants' application for a U.S. trademark for a logo that embodies the Copyrighted Work and Tech Bulldog Mark.

47. In the application, Defendant certifies that it has been using the mark in commerce continuously since May 17, 2014, in connection with roofing services. Defendant has never licensed or sought to license the right to use this design from LTF or any of its licensing agents.

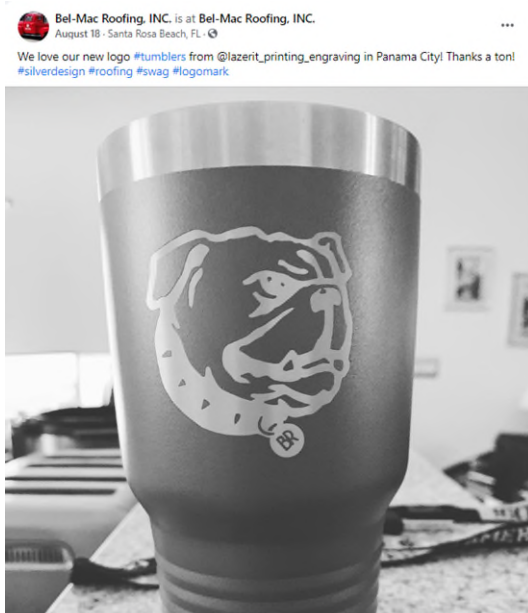
48. LTF has filed an official Opposition Proceeding with the U.S. Trademark Trial and Appeal Board against Defendant's trademark application.

49. On information and belief, Defendant has contracted to display and advertise through billboards featuring the Infringing Work and such billboards are currently displayed that feature the Infringing Work. On information and belief, those billboards have appeared in Louisiana.

50. On information and belief, Defendant has continuously contracted for and purchased over two-dozen different types of wearable garments, hats, and other accessories featuring the Infringing Work. On information and belief some of the designs are recent considering they are embodied on pandemic-era accessories such as hand sanitizer and face masks.

51. Upon information and belief, based on Defendant's internet postings, Defendant has continued to purchase and distribute merchandise employing the Mark. For example, as recently as August 18, 2021, Defendant posted about its "new logo #tumblers" on its Facebook page:

DEFENDANT’S 2021 “NEW LOGO”



LTF LOGO ON SIMILAR PRODUCT



52. As shown in the comparison of the images above, the “new logo” being used by Defendant is a substantial copy of the LTF Copyrighted Work and Mark, which is used in connection with nearly identical merchandise.

53. A “reverse image search”, or content-based image retrieval query technique in which the sample image formulates a search query, performed using Google TM image searching further demonstrates the similarities. As shown in Exhibit 8, when the Tech Bulldog Image is used as the search query, all of the results are associated with LTF, except for two – one being a link to the Defendant’s Infringing Work.

54. On information and belief, Defendant obtained physical possession of or otherwise viewed LTF’s Copyrighted Work, and intentionally copied and made a derivative work of the Copyrighted Work to create the Infringing Work.

55. That Defendant copied the Copyrighted Work when it created the Infringing Work is evidenced by the striking similarities between the Copyrighted Work and the Infringing Work, which cannot possibly be explained other than as a result of copying and Defendant’s access to the

Copyrighted Work as a result of the widespread dissemination of the Copyrighted Work in the United States, as discussed above, and the numerous and substantial similarities between the parties' works.

56. Defendant copied the Tech Bulldog Logo without LTF's authorization, consent, or knowledge, and without any remuneration to LTF.

57. Since Defendant copied the Copyrighted Work to create the Infringing Work, it has used the Infringing Work to advertise its business in at least Louisiana (LTF's home state), Texas, Mississippi, Alabama, and Florida. These are notably the key geographic areas in which the University's athletics teams play. On information and belief, Defendant continues to use the Infringing Work to advertise its business.

58. As a result of Defendant's actions described above, LTF has been directly damaged, and is continuing to be damaged, by the unauthorized reproduction, distribution, and public display of the Infringing Work. Defendant has never accounted to or otherwise paid LTF for its use of the Copyrighted Work.

59. Without LTF's authorization, Defendant adopted and began using a mark identical to LTF's Tech Bulldog Mark (hereinafter, the "Infringing Mark") in US commerce.

60. The Infringing Mark adopted and used by Defendant is confusingly similar to LTF's Tech Bulldog Mark.

61. Adding to the confusion is that Louisiana Tech's school colors are red and blue. Defendant uses the Infringing Mark along with a similar red coloring. For example, the below image features a truck advertising for Defendant's business, featuring the Infringing Mark in association with the red color:



62. Upon information and belief, Defendant has been engaged in the manufacture, distribution, provision, advertising, promotion, offering for sale, and sale of goods and services using the Infringing Mark, at least in Louisiana, Texas, Mississippi, Alabama, and Florida.

63. Attached hereto as Exhibit 6 is true and correct photos of representative apparel and other marketing goods and advertising showing Defendant's use of the Infringing Mark.

64. There are many instances in which a university enters a licensing deal with a third party to allow it to use its mark in advertising. However, LTF has not entered or even offered any such licensing deal to Defendant, and Defendant has not compensated LTF to trade on its good will.

65. Upon information and belief, Defendant has manufactured, distributed, provided, marketed, advertised, promoted, offered for sale, and sold its goods and services under the Infringing Mark through to the general public at large, and specifically, the general public in Louisiana.

66. Defendants' trade channels include its website and social media activities, branded clothing and other marketing materials, branded vehicles, and billboards.

67. Upon information and belief, Defendant specifically targeted its marketing efforts to Louisiana, LTF's home state, and throughout the southeast, from which LTF attracts at least a portion of its students.

68. Defendant is licensed to do business in Louisiana and advertises its services provided in Louisiana. Thus, upon information and belief Defendant advertised under the Infringing Mark on billboards in Louisiana, drove vehicles branded with the Infringing Mark in Louisiana, and provided its online presence under the Infringing Mark to Louisiana residents.

69. Defendants uses the same channels and media (online, promotional apparel, billboards, etc.) to attract the same types of consumers (the general public and, in particular, the general public residing in Louisiana and other southeastern states).

70. Defendant advertises itself on Twitter as "[t]he largest commercial roofing installers in the Southeast servicing Florida, Mississippi, Alabama, Louisiana, Georgia, Texas, & South Carolina." <https://twitter.com/belmacroofing?lang=en> (accessed September 21, 2021). Furthermore, Defendant's image on Twitter is just the bulldog logo with a red collar as shown below:



71. Thus, there is substantial overlap between the promotional channels of Defendant's Infringing Use and LTF's use and between the consumers to whom the Defendant's and LTF's goods and services are offered.

72. Defendant's infringing acts as alleged herein have caused and are likely to cause confusion, mistake, and deception among the relevant consuming public as to the source or origin

of the Defendant's goods and services and have and are likely to deceive the relevant consuming public into believing, mistakenly, that Defendant's goods and services originate from, are associated or affiliated with, or otherwise authorized by LTF.

73. Upon information and belief, Defendant's acts are willful with the deliberate intent to trade on the goodwill of LTF's Tech Bulldog Mark, cause confusion and deception in the marketplace, and divert potential sales of LTF's goods and services to the Defendant.

74. Defendant's acts are causing, and unless restrained, will continue to cause damage and immediate irreparable harm to LTF and to its valuable reputation and goodwill with the consuming public for which LTF has no adequate remedy at law.

COUNT I: FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. § 501)

75. LTF repeats and realleges paragraphs 1 through 74 hereof, as if fully set forth herein.

76. The Copyrighted Work is an original work of visual art containing copyrightable subject matter for which copyright protection exists under the Copyright Act, 17 U.S.C. § 101, et. seq. LTF is the exclusive owner of rights under copyright in and to the Copyrighted Work. LTF owns a valid copyright registration for the Copyrighted Work, attached as Exhibit 1.

77. Through Defendant's conduct alleged herein, including Defendant's reproduction, distribution, and public display of the Infringing Work, which is copied from, derivative of, and substantially similar to LTF's Copyrighted Work, without LTF's permission, Defendant has directly infringed LTF's exclusive rights in the Copyrighted Work in violation of Section 501 of the Copyright Act, 17 U.S.C. § 501.

78. On information and belief, Defendant's infringing conduct alleged herein was and continues to be willful and with full knowledge of LTF's rights in the Copyrighted Work and has enabled Defendant illegally to obtain profit therefrom.

79. As a direct and proximate result of Defendant's infringing conduct alleged herein, LTF has been harmed and is entitled to damages in an amount to be proven at trial. Pursuant to 17 U.S.C. § 504(b), LTF is also entitled to recovery of Defendant's profits attributable to Defendant's infringing conduct alleged herein, including from any and all sales of the Infringing Work and products incorporating or embodying the Infringing Work, and an accounting of and a constructive trust with respect to such profits.

80. Alternatively, LTF is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), and for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

81. Alternatively, LTF is entitled at minimum to an amount commensurate with the licensing royalties that LTF would have earned from the manufacture of products incorporating the Copyrighted Work.

82. LTF further is entitled to its attorneys' fees and costs pursuant to 17 U.S.C. § 505.

83. As a direct and proximate result of the Defendant's infringing conduct alleged herein, LTF has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. On information and belief, unless Defendant's infringing conduct is enjoined by this Court, Defendant will continue to infringe the Copyrighted Work. LTF therefore is entitled to preliminary and permanent injunctive relief restraining and enjoining Defendant's ongoing infringing conduct.

COUNT II: TRADEMARK INFRINGEMENT

84. LTF repeats and realleges paragraphs 1 through 83 hereof, as if fully set forth herein.

85. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of Defendant's goods and services, and is likely to cause consumers to believe, contrary to fact, that Defendant's goods and services are sold, authorized, endorsed, or sponsored by LTF, or that Defendant is in some way affiliated with or sponsored by LTF. Defendant's conduct therefore constitutes trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

86. Upon information and belief, Defendant has committed the foregoing acts of infringement with full knowledge of LTF's prior rights in the Tech Bulldog Mark and with the willful intent to cause confusion and trade on LTF's goodwill.

87. Defendant's conduct is causing immediate and irreparable harm and injury to LTF, and to its goodwill and reputation, and will continue to both damage LTF and confuse the public unless enjoined by this court. LTF has no adequate remedy at law.

88. LTF is entitled to, among other relief, injunctive relief and an award of actual damages, Defendant's profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

COUNT III: FEDERAL FALSE DESIGNATION OF ORIGIN

89. LTF repeats and realleges paragraphs 1 through 88 hereof, as if fully set forth herein.

90. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of Defendant's

goods and services, and is likely to cause consumers to believe, contrary to fact, that Defendant's goods and services are sold, authorized, endorsed, or sponsored by LTF, or that Defendant is in some way affiliated with or sponsored by LTF.

91. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein constitutes use of a false designation of origin and misleading description and representation of fact.

92. Upon information and belief, Defendant's conduct as alleged herein is willful and is intended to and is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendant with LTF.

93. Defendant's conduct as alleged herein constitutes unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

94. Defendant's conduct as alleged herein is causing immediate and irreparable harm and injury to LTF, and to its goodwill and reputation, and will continue to both damage LTF and confuse the public unless enjoined by this court. LTF has no adequate remedy at law.

95. LTF is entitled to, among other relief, injunctive relief and an award of actual damages, Defendant's profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

COUNT IV: FEDERAL TRADEMARK DILUTION

96. LTF repeats and realleges paragraphs 1 through 95 hereof, as if fully set forth herein.

97. LTF's Tech Bulldog Mark is distinctive and a "famous mark" within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

98. LTF's Tech Bulldog Mark became distinctive and famous prior to the Defendant's acts as alleged herein.

99. Defendant's acts as alleged herein have diluted and will, unless enjoined, continue to dilute and are likely to dilute the distinctive quality of LTF's famous Tech Bulldog Mark.

100. Defendant's acts as alleged herein are intentional and willful in violation of Section 43(c)(1) of the Lanham Act, and have already caused LTF irreparable damage and will, unless enjoined, continue to so damage LTF, which has no adequate remedy at law.

101. LTF is entitled to, among other relief, an award of actual damages, Defendant's profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

COUNT V: LOUISIANA TRADEMARK INFRINGEMENT (LA. R.S. 51:222)

102. LTF repeats and realleges paragraphs 1 through 101 hereof, as if fully set forth herein.

103. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of Defendant's goods and services, and is likely to cause consumers to believe, contrary to fact, that Defendant's goods and services are sold, authorized, endorsed, or sponsored by LTF, or that Defendant is in some way affiliated with or sponsored by LTF. Defendant's conduct therefore constitutes trademark infringement in violation of Louisiana state trademark infringement laws at La. R.S. 51:222.

104. Upon information and belief, Defendant has committed the foregoing acts of infringement with full knowledge of LTF's prior rights in the Tech Bulldog Mark and with the willful intent to cause confusion and trade on LTF's goodwill.

105. Defendant's conduct is causing immediate and irreparable harm and injury to LTF, and to its goodwill and reputation, and will continue to both damage LTF and confuse the public unless enjoined by this court. LTF has no adequate remedy at law.

106. LTF is entitled to, among other relief, injunctive relief and an award of actual damages, Defendant's profits, together with prejudgment and post-judgment interest.

COUNT VI: LOUISIANA TRADEMARK DILUTION (LA. R.S. 51:223.1)

107. LTF repeats and realleges paragraphs 1 through 106 hereof, as if fully set forth herein.

108. LTF's Tech Bulldog Mark is inherently distinctive or has acquired secondary meaning within the meaning of La. R.S. 51.223.1.

109. LTF's Tech Bulldog Mark became distinctive prior to the Defendant's acts as alleged herein.

110. Defendant's acts as alleged herein were willful and have diluted and will, unless enjoined, continue to dilute and are likely to dilute the distinctive quality of LTF's distinctive Tech Bulldog Mark.

111. Defendant's acts as alleged herein are intentional and willful in violation of La. R.S. 51.223.1, and have already caused LTF irreparable damage and will, unless enjoined, continue to so damage LTF, which has no adequate remedy at law.

112. LTF is entitled to, among other relief, injunctive relief and an award of actual damages, Defendant's profits, together with prejudgment and post-judgment interest.

COUNT VII: LOUISIANA UNFAIR TRADE PRACTICES (LA. R.S. 51:1409)

113. LTF repeats and realleges paragraphs 1 through 112 hereof, as if fully set forth herein.

114. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of Defendant's goods and services, and is likely to cause consumers to believe, contrary to fact, that Defendant's goods and services are sold, authorized, endorsed, or sponsored by LTF, or that Defendant is in some way affiliated with or sponsored by LTF.

115. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein constitutes use of a false designation of origin and misleading description and representation of fact.

116. Upon information and belief, Defendant's conduct as alleged herein is willful and is intended to and is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendant with LTF.

117. This conduct offends established policy and is unethical, oppressive, unscrupulous, and substantially injurious to consumers.

118. Defendant's conduct as alleged herein constitutes unfair competition in violation of Louisiana's Unfair Trade Practices Act ("LUTPA") at La. R.S. 51:1409.

119. Defendant's conduct as alleged herein is causing immediate and irreparable harm and injury to LTF, and to its goodwill and reputation, and will continue to both damage LTF and confuse the public unless enjoined by this court. LTF has no adequate remedy at law.

120. LTF is entitled to, among other relief, injunctive relief and an award of actual damages, reasonable attorneys' fees, and costs of the action, together with prejudgment and post-judgment interest.

121. Furthermore, the Louisiana Attorney General sent a letter to Defendant putting Defendant on notice of its unfair or deceptive practices. Nevertheless, Defendant continued and

still continues to use knowingly LTF's intellectual property in manners that cause confusion and consumer deception. As such, LTF is entitled to treble damages pursuant to La. R.S. 51:1409.

COUNT VIII: LIBALITY FOR ACTS CAUSING DAMAGES
(LA. CIV. CODE 2315)

122. LTF repeats and realleges paragraphs 1 through 121 hereof, as if fully set forth herein.

123. Defendant's unauthorized use in commerce of the Infringing Mark as alleged herein has caused damage and continues to cause damage to LTF.

124. Defendant is liable under La. Civ. Code article 2315 for the damages caused by the above-described wrongful acts.

125. Defendant's conduct is the operating cause of LTF's injury and is continuous, giving rise to successive damages.

WHEREFORE, LTF requests judgment against Defendant as follows:

1. That Defendant has violated Section 501 of the Copyright Act (17 U.S.C. § 501).
2. That Defendant has violated Section 32 of the Lanham Act (15 U.S.C. § 1114); Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)); and Section 43(c) of the Lanham Act (15 U.S.C. § 1125(c)).
3. That Defendant has violated LTF's trademark under Louisiana law.
4. That Defendant has violated Louisiana's Unfair Trade Practices Act.
5. That Defendant has committed and continues to commit a tort against LTF.
6. Granting an injunction preliminarily and permanently enjoining the Defendant, its employees, agents, and assigns, from manufacturing, distributing, providing, offering for sale, selling, marketing, advertising, or promoting the Infringing Work and any products, works, or other materials that include, copy, are derived from, or otherwise embody the Copyrighted Work.

7. Granting an injunction permanently enjoining the Defendant, its employees, agents, and assigns, from manufacturing, distributing, providing, offering for sale, selling, marketing, advertising, or promoting its goods and services under the Infringing Mark or any other mark that is a counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of LTF's Tech Bulldog Mark; engaging in any activity constituting unfair competition with LTF; and engaging in any activity that is likely to dilute the distinctiveness of LTF's Tech Bulldog Mark.

8. Directing Defendant to formally abandon with prejudice any and all of its applications to register the Infringing Mark or any mark consisting of, incorporating, or containing LTF's Tech Bulldog Mark or any counterfeit, copy, confusingly similar variation, or colorable imitation thereof on any state or federal trademark registry.

9. That Defendant be ordered to provide an accounting of Defendant's profits attributable to Defendant's infringing conduct.

10. That Defendant be ordered to destroy or deliver up for destruction all materials in Defendant's possession, custody, or control used by Defendant in connection with Defendant's infringing conduct.

11. Awarding LTF:

(a) Defendant's profits obtained as a result of Defendant's infringing conduct enhanced as appropriate to compensate LTF for the damages caused thereby;

(b) damages sustained by LTF as a result of Defendant's infringing conduct, in an amount to be proven at trial;

(c) should LTF so elect, statutory damages pursuant to 17 U.S.C. § 504(c) instead of actual damages or profits;

(d) an amount up to three times the amount of its actual damages, in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)) and/or La. R.S. 51:1409.A.

and

(e) LTF's reasonable attorneys' fees and costs.

12. Awarding LTF interest, including pre-judgment and post-judgment interest, on the foregoing sums.

13. Awarding such other and further relief as the Court deems just and proper.

A Jury Trial is Herby Requested.

Respectfully submitted:

/s/ R. Devin Ricci

R. Devin Ricci (#34724)

Lauren J. Rucinski (#37047)

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