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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAFEWORKS, LLC, a Washington limited liability company,

Plaintiff,

v.

TEUPEN AMERICAN, LLC, EXTREME ACCESS SOLUTIONS, INC., THE SPIDERLIFT COMPANY, INC., AND LEONARDO POLONSKI,

Defendants.

C08-1219Z

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendants’ motion for summary judgment, docket no. 37, as amended, docket no. 47, is DENIED. As to plaintiff’s various claims under the Lanham Act, the Court concludes that genuine issues of material fact exist as to (i) whether the term “spiderlift” is generic, and (ii) whether defendants’ use of the term, in light of plaintiff’s incontestable trademarks SPIDER, SPIDER-LINE, and SPIDER STAGING, “is likely to cause confusion, or to cause mistake, or to deceive.” 15 U.S.C. § 1114. As a result, genuine issues of material fact also preclude summary judgment concerning plaintiff’s claim under Washington’s Consumer Protection Act, which is predicated on the alleged violations of the Lanham Act. Defendants made an extraordinarily weak showing concerning the doctrine of laches, and if plaintiff had cross-moved for summary judgment, the Court might have stricken that affirmative defense. As to plaintiff’s breach of contract claim, defendants failed to establish that they are entitled to summary judgment.

(2) In light of the Court’s ruling on defendants’ motion for summary judgment, plaintiff’s motion to strike, docket no. 43, is STRICKEN as moot.

1 (3) Plaintiff's request for a scheduling conference, docket no. 42, is DENIED. The
2 parties are directed to conduct mediation as soon as practicable, and no later than the
3 deadline set forth in the Court's Minute Order Setting Trial Date and Related Dates, docket
4 no. 27.

5 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of
6 record.

7 Filed and entered this 8th day of December, 2009.

8 BRUCE RIFKIN, Clerk

9 s/ Claudia Hawney
10 By _____
11 Claudia Hawney
12 Deputy Clerk
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