

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SHAKESPEARE COMPANY, LLC,

Plaintiff,

v.

SILSTAR CORPORATION OF
AMERICA, INC., LFS, INC., and
STEPHEN WILTON d/b/a
SHINYSCREEN SOLUTIONS INC.,

Defendants.

Civil Action No. CV-06-0090-RSL

CONSENT JUDGMENT AND
PERMANENT INJUNCTION

Plaintiff Shakespeare Company, LLC (“Plaintiff”) and Defendant Silstar Corporation of America, Inc. (“Silstar”) have agreed to settle this matter and, as part of their Settlement Agreement, have consented to entry of this Consent Judgment. Therefore, upon the consent of the parties, it is hereby ORDERED:

1. JURISDICTION: This Court has jurisdiction over the subject matter of this action and over each of the parties consenting hereto.

2. NATURE OF ACTION: Plaintiff has filed a Complaint against Silstar alleging trademark infringement, trade dress infringement, unfair competition, and false advertising arising under the common law and the Lanham Act, 15 U.S.C. § 1051 et seq., and alleging

violations of the Washington State Consumer Protection Act, RCW 19.86 et seq. all arising out of Silstar's sale and marketing of the PowerTip Pro fishing rod. Plaintiff's Complaint also alleged trademark infringement, trade dress infringement, and unfair competition against LFS, Inc. ("LFS") based solely on LFS's distribution and sale of Silstar's PowerTip Pro fishing rod.

3. DEFINITIONS: This Consent Judgment is governed by the following definitions:

(a) "Clear Tip Mark" means a fishing rod that includes (1) a whitish translucent (i.e., clear) tip between approximately the end of the rod and the second line guide, in combination with (2) an opaque shaft from approximately the second line guide down to the rod base, as used on Ugly Stik fishing rods sold and distributed by Shakespeare.

(b) "786 Registration" means United States Trademark Registration No. 1,261,786, issued December 20, 1983 to Shakespeare for the Clear Tip Mark.

(c) "Red-Gold Diamond Marks" means the diamond weave patterns formed by a combination of red and gold lines located on the area of a fishing rod immediately above the handle, as currently used on Ugly Stik rods sold and distributed by Shakespeare.

(d) "Ugly Stik Trade Dress" means the total combination of the Clear Tip Mark, in addition to Red-Gold Diamond Marks similar to the current usage on the Ugly Stik rods, red and gold bands below each line guide, and dark-colored line guides, as used on Ugly Stik fishing rods sold and distributed by Shakespeare.

(e) "Shakespeare Label" as used herein means the label attached as Exhibit C to the Complaint filed in this action.

(f) "Silstar Hangtag" means the hangtag attached as Exhibit E to the Complaint filed in this action.

4. PERMANENT INJUNCTION: Silstar and its servants, agents, employees,

successors and assigns, and all persons acting in concert with them, as of the date of the execution of this Order are enjoined from all of the following:

- (a) distributing, selling, marketing, or advertising its PowerTip Pro fishing rods that have a Clear Tip or any other mark that is confusingly similar to the mark shown by the '786 registration with the sole exception that until March 31, 2007 Silstar may sell its current Power Tip Pro inventory located at 1141 Silstar Road, West Columbia, SC and Silstar owned inventories in any of Silstar's customer's warehouses, stores, or outlets;
- (b) except as allowed by this Order, using in any manner Shakespeare's Clear Tip mark (including the mark shown by the '786 Registration) or any other mark confusingly similar thereto;
- (c) except as allowed by this Order, using in like manner Shakespeare's Red-Gold Diamond Marks or any other mark confusingly similar thereto;
- (d) except as allowed by this Order, using in any like manner Shakespeare's Ugly Stik Trade Dress or any other trade dress confusingly similar thereto;
- (e) using in any like manner the Silstar Hangtag or any other hangtag confusingly similar to the Shakespeare Label;
- (f) except as allowed by this Order, infringing any of Shakespeare's trademarks and trade dress rights identified in this Agreement;
- (g) disseminating, using, or distributing any advertising or promotional materials, electronic or otherwise that state or imply that Silstar's

current PowerTip Pro fishing rod contains a graphite core or an unbreakable tip; and

- (h) using or disseminating any false or misleading statements as to the nature, quality, or characteristics of Silstar's PowerTip Pro fishing rod.

The terms of this injunction do not prohibit continued sale of inventory by Silstar's customers or distributors (including LFS) and does not include any obligation to recall any product owned by Silstar's customers.

5. DISMISSAL: Plaintiff's Complaint against Silstar is dismissed with prejudice. Plaintiff's Complaint against LFS, which was based solely on LFS's sale and distribution of Silstar's PowerTip Pro rod, is dismissed with prejudice. Silstar's Counterclaim against Plaintiff is dismissed with prejudice.

6. Each party shall be responsible for its own costs and attorneys fees in this action.

AGREED AND ACCEPTED AS TO TERMS AND CONDITIONS:

Plaintiff Shakespeare Company, LLC:

Dated: April 10, 2006

By: /s/

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Dated: April 10, 2006

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Defendant LFS, Inc.:


Dated: April 10, 2006

/s/ by Chris Carraway with permission
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Attorneys for Defendant LFS, Inc.

IT IS SO ORDERED.

DATED this 17th day of April, 2006.


Robert S. Lasnik
United States District Judge