

Federal Court



Cour fédérale

Date: 20220518

Docket: T-1109-21

Citation 2022 FC 737

Ottawa, Ontario, May 18, 2022

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

LIBERTY STAFFING SERVICES INC.

Plaintiff

and

LIBERTY EMPLOYMENT GROUP INC.

Defendant

JUDGMENT

UPON *ex parte* motion for default judgment under Rule 210 of the *Federal Courts Rules*, SOR/98-106, heard via zoom platform on Tuesday, May 17, 2022,

AND UPON reviewing the Motion Record of the Plaintiff, the Affidavit of Sadaf Basharat, accepted for filing and filed May 13, 2022, and the Bill of Costs filed May 13, 2022;

AND UPON hearing the submissions of counsel for the Plaintiff;

AND UPON being satisfied that the Defendant is in default of filing a Statement of Defence;

AND UPON being satisfied that the Plaintiff is the owner of Canadian Trademark Registration No. TMA686184 for the Plaintiff's LIBERTY STAFFING SERVICES & DESIGN logo;

AND UPON being satisfied that the Plaintiff commenced using the trademark LIBERTY as early as May 1999, in connection with its personnel, staffing placement, and related services;

AND UPON being satisfied that the Defendant uses a trademark that is similar to the Plaintiff's registered trademark on the very same services;

AND UPON being satisfied that the Plaintiff has substantial goodwill in its trademarks and that the Defendant has traded on that goodwill;

AND UPON being satisfied that this motion ought to be granted, largely in the terms sought;

THIS COURT'S JUDGMENT is that:

1. The Court declares that, as among the parties, Canadian Trademark Registration No. TMA686184 for the mark LIBERTY STAFFING SERVICES & DESIGN [the 184 Registration] is valid;
2. The Court declares that the Defendant has infringed the Plaintiff's rights in and to the 184 Registration, contrary to section 20 of the *Trademarks Act*, RSC 1985 c T-13 [the Act];
3. The Court declares that the Defendant has depreciated the value of the goodwill attaching to the mark of the 184 Registration, contrary to section 22 of the Act;

4. The Court declares that the Defendant has directed public attention to its services and business in such a way as to cause or be likely to cause confusion between the Defendant's services and business and those of the Plaintiff, contrary to section 7(b) of the Act.
5. The Court permanently restrains the Defendant, its officers, directors, employees, agents and all those over whom they exercise control from:
 - i. infringing the Plaintiff's rights in and to the 184 Registration;
 - ii. depreciating the value of the goodwill attaching to the mark of the 184 Registration;
 - iii. directing public attention to their services and business in such a manner as to cause confusion between their services and business and those of the Plaintiff;
 - iv. using LIBERTY as a trademark in connection with personnel services;
6. The Court orders the Defendant to deliver up to the Plaintiff for destruction all documents, advertising materials, or any other tangible thing within the Defendant's possession, custody, or control the use of which is contrary to any injunction granted herein;
7. The Defendant is liable to the Plaintiff for damages, pursuant to section 53.2(1) of the Act, of \$25,000;
8. The Defendant shall forthwith pay to the Plaintiff its costs of this proceeding fixed at \$10,000, inclusive of fees, disbursements, and taxes; and

9. The foregoing amounts shall bear interest at an annual rate of 2.5% from the date of this Judgment.

"Russel W. Zinn"

Judge