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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Perfumebay.com, Inc.
a California corporation
Plaintiff,
Counterclaim Defendant

No. CV 04-1358-WDK (SSx)

vs.

JUDGMENT

eBay, Inc.,
a Delaware corporation
Defendant,
Counterclaimant

ENTERED
CLERK, U.S. DISTRICT COURT
NOV 14 2005
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

This matter having been tried to the Court and, after due consideration, the Court having rendered its Findings of Fact and Conclusions of Law on September 21, 2005, as amended, November 10, 2005, supporting the issuance of an injunction as set forth below, **IT IS HEREBY ORDERED, ADJUDGED, and DECREED** that:

1. Plaintiff and Counterclaim Defendant PERFUMEBAY.COM, INC. ("PB") is entitled to judgment against Defendant and Counterclaim Plaintiff EBAY, INC. ("EBAY") on the following counts:
 - a. As to PB's claims:

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

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- 1 i. Count I, for Declaratory Relief re Trademark Infringement, as to the
2 use of the two word iteration of its mark "Perfume Bay," and to the
3 "starfish logo," (with or without the accompanying slogan, "where
4 perfume lovers go"):



- 9 ii. Count II, for Declaratory Relief re Trademark Dilution as to all
10 iterations of PB's name and mark.
- 11 b. As to EBAY's counterclaims:
- 12 i. EBAY's First Count for Federal Trademark Infringement as to the use
13 of the two word Perfume Bay mark, and the logo set out above.
- 14 ii. EBAY's Second Count for Federal Trademark Dilution.
- 15 iii. EBAY's Third Count for False Designation of Origin as to the use of
16 the two word Perfume Bay mark, and the logo set out above.
- 17 iv. EBAY's Fourth Count for Breach of Contract.
- 18 v. EBAY's Fifth Count for Refusal of Trademark Registration.
- 19 vi. EBAY's Sixth Count for Common-Law Trademark Infringement as to
20 the use of the two word Perfume Bay mark, and the logo set out
21 above.
- 22 vii. EBAY's Ninth Count for California State Law Trademark Dilution.
- 23 2. EBAY is entitled to judgment against Plaintiff and Counterclaim Defendant PB on
24 the following counts:
- 25 a. As to PB's claims:
- 26 i. PB's Count I for Declaratory Relief re Trademark Infringement as to
27 any use of the Perfume Bay mark when depicted as a single word
28

1 (e.g., PERFUMBAY.COM, INC.; PerfumeBay; PerfumeBay.com;
2 perfumebay.com).

- 3 b. As to EBAY's counterclaims:
 - 4 i. EBAY's First Count for Federal Trademark Infringement as to the use
 - 5 of the Perfume Bay mark when depicted as a single word.
 - 6 iii. EBAY's Third Count for False Designation of Origin as to the use of
 - 7 the Perfume Bay mark when depicted as a single word.
 - 8 vi. EBAY's Sixth Count for Common Law Trademark Infringement as to
 - 9 the use of the Perfume Bay mark when depicted as a single word.

10 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that PB, its
11 officers, agents, servants, employees, and attorneys, and those persons or entities under
12 their control and in active concert and participation with them who receive actual notice
13 of this Order by personal service or otherwise, are hereby **PERMANENTLY**
14 **ENJOINED** from the commercial use of Perfume Bay when depicted as a single word.
15 It is provided, however, that PB shall not be precluded from the use of the words
16 PERFUME and BAY when those words are not conjoined. Further, the words
17 PERFUME and BAY may be used as part of an Internet address or Uniform Resource
18 Locator ("URL"), provided the words are separated by a space or underscore (i.e.
19 "www.perfume_bay.com").

20 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that EBAY, its
21 officers, agents, servants, employees, and attorneys, and those persons or entities under
22 their control and in active concert and participation with them who receive actual notice
23 of this Order by personal service or otherwise, are hereby **PERMANENTLY**
24 **ENJOINED** from displaying the name, mark, or word "Perfume Bay," regardless of
25 capitalization, font, or stylization, in the heading or text of any advertisement, including
26 but not limited to, a sponsored link or banner advertisement that is generated as a result
27 of a search on an Internet search engine. It is provided, however, that this injunction
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1 shall not prohibit EBAY's use of the Perfume Bay mark in truthful, non-confusing,
2 comparative advertising.

3 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that the parties
4 shall have until December 2, 2005 to comply with these respective injunctions.
5 Provided, however, that Perfume Bay may continue make commercial use of the URL
6 "www.perfumebay.com" solely as a "forwarding URL" until March 21, 2006.

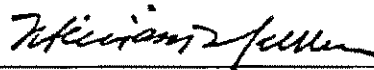
7 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that the parties
8 shall deliver a copy of this Order for Permanent Injunction to each of their employees,
9 agents, and representatives (including, without limitation, Internet advertising
10 "affiliates") having responsibility with respect to the subject matter of the injunctions
11 contained herein.

12 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that the each party
13 shall bear its own fees and costs in this action.

14 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that each party
15 shall provide the Court with a detailed report, explaining the measures taken to comply
16 with the injunctions contained herein, by January 21, 2006.

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18 **IT IS SO ORDERED.**

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20 DATED: This 10th day of November, 2005

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24 WILLIAM D. KELLER
United States District Judge