

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

COLT DEFENSE LLC, )  
 )  
 Plaintiff, )  
 )  
 v. ) Docket No. 2:04-cv-240-P-S  
 )  
 BUSHMASTER FIREARMS, INC., )  
 )  
 Defendant. )

**FINAL JUDGMENT**

Plaintiff Colt Defense LLC [“Colt”] filed a Complaint in this action alleging claims against Defendant Bushmaster Firearms, Inc. [“Bushmaster”] of: (1) federal trademark infringement under 15 U.S.C. § 1114 (Count I); (2) false designation of origin under 15 U.S.C. § 1125(a) (Count III); (3) trade dress infringement under 15 U.S.C. § 1125(a) (Count V); (4) false advertising under 15 U.S.C. § 1125(a) (Count VII); (5) common law trademark infringement and unfair competition (Count IX); and (6) federal trademark dilution under 15 U.S.C. § 1125(c) (Count XI).

Bushmaster asserted four counterclaims seeking to cancel Colt’s Federal Trademark Registration No. 2,734,001. Count I sought cancellation based on a claim that the trademark at issue is generic. Count II sought cancellation based on 15 U.S.C. § 1052(e). Count III sought cancellation based on 15 U.S.C. § 1052(f). Count IV sought cancellation based on Bushmaster’s alleged prior adoption and use of a similar trademark.

By order dated December 6, 2005, this Court, affirming the recommended decision of the United States Magistrate Judge, granted Bushmaster’s motion for summary judgment as to (1) Counts I, III, V, IX, and XI of Colt’s Complaint; (2) Count I of Bushmaster’s Counterclaim; and (3) Count VII of Colt’s Complaint, but only as to Colt’s first claim of false advertising as to

the marks M4, COLT AR-15 and COLT AR-15 and design, and otherwise denied Bushmaster's motion as to Count VII. The Court further ruled that, to the extent Count VII survived summary judgment, Colt would be precluded from recovering damages on Count VII of its Complaint.

On March 14, 2006, the parties entered into a stipulation of dismissal, with prejudice, with respect to Count VII of the Complaint only, while reserving all of their respective appeal rights with respect to the Court's rulings and judgment regarding Counts I, III, V, IX, and XI of Colt's Complaint and Bushmaster's Counterclaims.

WHEREFORE, it is hereby **ORDERED and ADJUDGED** as follows:

1. Final judgment shall enter in favor of Bushmaster on Counts I, III, V, IX, and XI of Colt's Complaint and on Count I of Bushmaster's Counterclaim.

2. In light of the Court's entry of judgment for Bushmaster on Count I of its Counterclaim (seeking cancellation of Colt's Federal Trademark Registration No. 2,734,001), Counts II, III, and IV of Bushmaster's Counterclaim (seeking cancellation of the registration on alternative grounds) are dismissed as moot, without prejudice to renewal should the final judgment of this Court as to Count I of Bushmaster's Counterclaim be reversed, in whole or in part, and the case remanded to this Court for further proceedings.

3. Each party shall bear its own costs and expenses, including attorney fees, in connection with this action.

/s/ George Z. Singal  
Chief U.S. District Judge

Dated this 23<sup>rd</sup> day of March, 2006.

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