

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Team Wendy LLC,

Plaintiff,

vs.

Zhongshan Mai Bu Mould Co., Ltd.  
and DOES 1-5

Defendants.

CASE NO. 1:13-CV-02006

JUDGE CHRISTOPHER BOYKO

**FINAL JUDGMENT AND  
PERMANENT INJUNCTION**

Plaintiff Team Wendy, LLC (“Team Wendy”), having made application pursuant to Federal Rule of Civil Procedure 55 by Motion and by supporting declarations and exhibits, and having submitted a Memorandum in Support of Motion for Default Judgment;

**THE COURT FINDS:**

1. This Court has subject matter jurisdiction of all counts in this action and personal jurisdiction over all the parties;
2. Judgment is entered in favor of Plaintiff Team Wendy;

3. Plaintiff's Complaint states a claim against Defendant Zhongshan Mai Bu Mould Co., Ltd. ("FMA") for Federal Infringement and Counterfeiting under Section 32 of the Lanham Act (15 U.S.C. § 1114 and 15 U.S.C. § 1125);

4. Plaintiff owns U.S. Trademark Registration Nos. 4,513,878 for TEAM WENDY in Class 009 for "Head protection devices, namely, ballistic, crash and sport helmets"; 4,253,531 for TEAM WENDY in Class 009 for "Head protection devices, namely, a padded impact liner and retention device for use in ballistic, crash and sport helmets"; and 4,497,849 for EXFIL in Class 009 for "Head protection system, namely, a helmet, impact protection liners and retention devices for use in military, search and rescue, law enforcement, crash and sporting applications" (the "Team Wendy Marks");

5. Plaintiff owns trade dress rights in and to each of the following design elements, each of which is non-functional and distinctive of Plaintiff's helmets: (a) an outer surface geometry having a rounded top, front, and side planes; (b) the distinctive isosceles shape, number, and placement of triangular air vents; and (c) a shroud having three "W" on the sides and top of the shroud, as shown below.





5. FMA has manufactured, had manufactured, offered for sale, sold, and/or distributed helmets falsely bearing the Team Wendy Marks and Team Wendy Trade Dress; is manufacturing, distributing, advertising, selling and/or offering for sale such items to the public in violation of the United States Trademark Act, 15 U.S.C. §§ 1114 and 1125; has committed such acts willfully and with knowledge of the counterfeit nature of such goods and of the wrongful nature of its actions; and will continue to carry on such acts unless restrained by Order of this Court.

**IT IS THEREFORE ORDERED** that Plaintiff Team Wendy recover from FMA \$200,000 in statutory damages. Such judgment is entered in the amount of \$200,000 against FMA.

**IT IS FURTHER ORDERED** that FMA, and all of FMA's successors, assigns, affiliates, agents, servants, employees and representatives, and all persons, firms, and corporations in active concert or participation with them who receive actual notice of this Order, are hereby permanently enjoined and restrained from:

- i. advertising, selling, shipping, delivering, distributing, importing, exporting, or offering for sale the Infringing Helmet depicted herein;
- ii. imitating, copying, duplicating and otherwise making any use of the Team Wendy Marks or Team Wendy Trade Dress in connection with any goods or services;
- iii. using any simulation, reproduction, or any unauthorized copy or colorable imitation of the Team Wendy Marks or Team Wendy Trade Dress in connection with the promotion, advertisement, display, sale, offering for sale, shipping, importing, exporting, delivery, distribution, transfer, returning, holding for sale, destruction, or other movement or marketing, of any product or service (including, but not limited to, helmets);
- iv. making any statement which can or is likely to lead the trade or public, or individual members thereof, to mistakenly believe that Defendant is an authorized dealer of Team Wendy products, an authorized seller of Team Wendy products, or is otherwise authorized by or affiliated with Team Wendy;
- v. causing likelihood of confusion or injury to Team Wendy's business reputation and to the distinctiveness of the Team Wendy Marks and Team Wendy Trade Dress by unauthorized use of the same;
- vi. engaging in any other activity constituting unfair competition or infringement of the Team Wendy Marks or Team Wendy Trade Dress, or Team Wendy's rights in, or to use or exploit, the same;
- vii. importing into the United States any goods bearing any simulation, reproduction, or any unauthorized copy or colorable imitation of the Team Wendy Marks or Team Wendy Trade Dress; and

- viii. assisting, aiding or abetting another person or business entity in engaging or performing any of the activities enumerated in subparagraphs (i) through (vii) above.

**IT IS FURTHER ORDERED** that FMA, and FMA's successors, assigns, affiliates, agents, servants, employees and representatives, and all persons, firms, and corporations in active concert or participation with them who receive actual notice of this Order, must upon receipt of this Order:

- i. immediately disable access to any website featuring any goods bearing any simulation, reproduction, or any unauthorized copy or colorable imitation of the Team Wendy Marks or Team Wendy Trade Dress or any other use of the Team Wendy Marks or Team Wendy Trade Dress;
- ii. remove all videos from YouTube and any other website that feature any goods bearing any simulation, reproduction, or any unauthorized copy or colorable imitation of the Team Wendy Marks or Team Wendy Trade Dress or any other use of the Team Wendy Marks or Team Wendy Trade Dress; and
- iii. remove from any social media accounts, including but not limited to Twitter and Facebook, references to any goods bearing any simulation, reproduction, or any unauthorized copy or colorable imitation of the Team Wendy Marks or Team Wendy Trade Dress or any other use of the Team Wendy Marks or Team Wendy Trade Dress.

FMA is further notified that any act by it in violation of any of the terms of this Permanent Injunction may be considered and prosecuted as contempt of this Court.

The Court shall retain jurisdiction to construe, enforce, or implement this Decree upon application of any party.

**IT IS SO ORDERED** at Cleveland, Ohio, this 27<sup>th</sup> day of August, 2014.

s/ Christopher A. Boyko  
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United States District Judge