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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

TART OPTICAL ENTERPRISES,
LLC, a California Limited Liability
Company,

vs.

Yao Hsuan Wang, an individual, Wei
Cheng Lin, an individual, Hot Ice
Optical Company, a Taiwan
Corporation, China Vision Co., Ltd., a
Taiwan Corporation, Tart Optical Asia
Co., Ltd., a Taiwan Corporation, TVR
OPT Co. Ltd., a Taiwan Corporation,
TVR Online Services, LLC, a Florida
Limited Liability Company, and DOES
1-10.

CASE NO. 2:16-cv-08628-PA-SK

ORDER GRANTING

**THE PARTIES JOINT MOTION
FOR ENTRY OF STIPULATED
PERMANENT INJUNCTION AND
DISMISSAL WITH PREJUDICE
REGARDING PLAINTIFF TART
OPTICAL ENTERPRISES, LLC
AND DEFENDANT TVR ONLINE
SERVICES, LLC**

**THE HONORABLE
PERCY ANDERSON**

1 WHEREAS, this action was commenced on November 18th, 2016, by
2 the filing of the Summons and Complaint;
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4 WHEREAS, this Joint Stipulation seeking Permanent Injunction and
5 Dismissal with prejudice was electronically filed on June 30th, 2017.
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7 WHEREAS, in the Complaint, Plaintiff TART OPTICAL
8 ENTERPRISES, LLC ("Plaintiff") seeks injunctive relief and monetary
9 damages against defendant TVR ONLINE SERVICES, LLC, ("Defendant")
10 for infringement of Plaintiff's federally-registered Trademarks and common
11 law trademarks under Section 32(1) of the Lanham Act, 15 U.S.C. §
12 1114(1), for unfair competition and false designation of origin under Section
13 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and for substantial and related
14 claims of State Law Claims under the statutory and common laws of the
15 State of California.
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20 WHEREAS, Defendant and Plaintiff now stipulate and consent to this
21 Consent Judgment and Permanent Injunction, to its prompt entry by the
22 Court, and to each and every provision, order, and decree herein.
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24 NOW THEREFORE, upon consent of the parties hereto, it is
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26 **HEREBY ORDERED, ADJUDGED, AND DECREED:**
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1 1. This Court has jurisdiction over the subject matter of this case
2 and jurisdiction over Defendant.

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4 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

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6 3. Plaintiff is the owner of valid and subsisting United States
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8 Trademarks as follows:

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10 • ARNEL which has become incontestable within the meaning of
11 Section 8 & 15 of the Lanham Act, 15 U.S.C. § 1065; U. S.
12 Registration No. 3859489;
- 13 • COUNTDOWN – Common law trademark
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15 • F.D.R. which has become incontestable within the meaning of Section
16 8 & 15 of the Lanham Act, 15 U.S.C. § 1065
- 17 • TART - U. S. Serial No. 86890318
- 18 • TART OPTICAL – Pursuant to U. S. Serial Nos. 86890318;
19 86890357;
- 20 • TART OPTICAL ENTERPRISES - U. S. Serial No. 86890357;
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22 • T-ROUND – Common law trademark;
- 23 • BRYAN – Common law trademark;
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25 • P3 Fulvue - Common law trademark;
- 26 • Ex-Man - Common law trademark;
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2 • which has become incontestable within the meaning of Section 8
3 & 15 of the Lanham Act, 15 U.S.C. § 1065; U.S. Trademark Registration
4 No. 3869604;

5 4. Plaintiff has used the Trademarks in commerce continuously
6 since December 31, 1948, in connection with the manufacture, distribution,
7 provision, offering for sale, sale, marketing, advertising, and promotion of
8 eyewear, optometry and optician goods and services.
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10 5. As a result of its widespread, continuous, and exclusive use of
11 the Trademarks to identify its eyewear, optometry and optician goods and
12 services and Plaintiff as their source, Plaintiff owns valid and subsisting
13 federal statutory and common law rights to the Trademarks.
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15 6. Plaintiff's Trademarks are distinctive to both the consuming
16 public and Plaintiff's trade.
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18 7. As a result of Plaintiff's expenditures and efforts, the
19 Trademarks have come to signify the high quality of the goods and services
20 designated by the Trademarks, and acquired incalculable distinction,
21 reputation, and goodwill belonging exclusively to Plaintiff.
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1 8. As a result of its distinctiveness and widespread use and
2 promotion throughout the United States, Plaintiff's Trademarks are well
3 known.
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5 9. Without Plaintiff's authorization, and upon information and
6 belief, beginning after Plaintiff acquired protectable exclusive rights in its
7 Trademarks, Defendant adopted and began using Trademarks identical to
8 Plaintiff's Trademarks in US commerce.
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11 10. Defendant's acts have caused and are likely to cause confusion,
12 mistake, and deception among the relevant consuming public as to the
13 source or origin of Defendant's goods and services and have deceived and
14 are likely to deceive the relevant consuming public into believing,
15 mistakenly, that Defendant's goods and services originate from, are
16 associated or affiliated with, or are otherwise authorized by Plaintiff and are
17 likely to dilute the distinctive quality of Plaintiff's Trademarks.
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22 11. Defendant, together with all of Defendant's officers, agents,
23 servants, employees, representatives, and assigns, and all other persons,
24 firms, or companies in active concert or participation with Defendant are
25 permanently enjoined and restrained from directly or indirectly:
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(a) manufacturing, distributing/providing, selling, marketing, advertising, promoting, or authorizing any third party to manufacture, distribute/provide, sell, market, advertise, or promote Defendant's goods or services or any goods or services bearing the infringing Trademarks or any other Trademark that is a counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of Plaintiff's trademarks;

(b) engaging in any activity that infringes Plaintiff's rights in its trademarks;

(c) engaging in any activity constituting unfair competition with Plaintiff;

(d) engaging in any activity that is likely to dilute the distinctiveness of Plaintiff's trademarks;

(e) making or displaying any statement, representation, or depiction that is likely to lead the public or the trade to believe that (i) Defendant's goods and services are in any manner approved, endorsed, licensed, sponsored, authorized, or franchised by or associated, affiliated, or otherwise connected with Plaintiff or (ii)

1 Plaintiff's goods and services are in any manner approved, endorsed,
2 licensed, sponsored, authorized, or franchised by or associated,
3 affiliated, or otherwise connected with Defendant;
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6 (f) using or authorizing any third party to use in connection
7 with any business, goods, or services any false description, false
8 representation, or false designation of origin, or any trademarks,
9 names, words, symbols, devices, or trade dress that falsely associate
10 such business, goods, and/or services with Plaintiff or tend to do so;
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13 (g) registering or applying to register any trademark, service
14 mark, domain name, trade name, or other source identifier or symbol
15 of origin consisting of or incorporating the trademarks or any other
16 trademark that infringes or is likely to be confused with Plaintiff's
17 trademarks, or any goods or services of Plaintiff, or Plaintiff as their
18 source; and
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22 (h) aiding, assisting, or abetting any other individual or
23 entity in doing any act prohibited by paragraph 11(a) through
24 paragraph 11(g).
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1 12. This Consent Judgment and Permanent Injunction shall be
2 binding upon and shall inure to the benefit of the parties and their respective
3 heirs, successors, assigns, and acquiring companies.
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6 13. If Defendant is found by the Court to be in contempt of, or
7 otherwise to have violated this Consent Judgment and Permanent Injunction,
8 the parties agree that Plaintiff shall be entitled to all available relief which it
9 may otherwise request from the Court, including sanctions for contempt,
10 damages, injunctive relief, attorneys' fees, costs, and any other relief deemed
11 proper in the event of such violation.
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15 14. The Court retains jurisdiction of this matter for the purposes of
16 enforcing the terms of this Consent Judgment and Permanent Injunction.
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18 15. The permanent injunction shall remain in full force and effect
19 unless and until modified by order of this court.
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21 16. Future claims are unaffected. Nothing in this Stipulated
22 Permanent Injunction and order of Dismissal precludes Plaintiff or
23 Defendant from asserting any claims or rights that arise solely after entry of
24 this Stipulated Permanent Injunction and Order of Dismissal or that are
25 based upon any breach of, or inaccuracy of, any representation or warranty
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made by Plaintiff or Defendant in this Stipulated Permanent Injunction and Order of Dismissal or the settlement agreement reached by the Parties.

17. Each party shall bear all of its own attorney’s fees and costs.

SO ORDERED.

Dated: July 5, 2017



HONORABLE PERCY ANDERSON
UNITED STATES DISTRICT JUDGE