

ENTERED

July 25, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STOLLERUSA, INC. and,)
STOLLER ENTERPRISES, INC.,)
)
Plaintiffs,)
v.)
)
AGRI-SCIENCE TECHNOLOGIES, LLC)
and DAVID ALEXANDER,)
)
Defendants.)

Civil Action No. 18-3572

AGREED PERMANENT INJUNCTION AND JUDGMENT

Plaintiffs StollerUSA, Inc. and Stoller Enterprises, Inc. (“Stoller”) filed its Original Complaint and Application for Preliminary Injunction and Request for Permanent Injunction against Defendants Agri-Science Technologies, LLC and David Alexander on October 3, 2018. The Court accepted Stoller’s First Amended Complaint for filing on April 25, 2019.

Having considered the parties’ Joint Motion to Enter Agreed Permanent Injunction and Judgment, the Court hereby enters and renders this Agreed Permanent Injunction and Judgment as follows:

I. STIPULATIONS

1. The Court has jurisdiction over this matter and parties for purposes of this action.
2. The First Amended Complaint alleges claims for breach of contract, quantum meruit, violations of the Lanham Act, 15 U.S.C. § 1051, et seq., unfair competition, and trade secret misappropriation under the Federal Defend Trade Secrets Act, 18 U.S.C. § 1836, et seq. and the Texas Uniform Trade Secrets Act, Tex. Civ. Prac. & Rem. Code § 134A.001, et seq.
3. Defendants waive all rights to appeal or otherwise challenge or contest the validity or enforceability of this Agreed Permanent Injunction and Judgment.

4. All references to Stoller or Stoller products or Stoller product formulations in this Agreed Permanent Injunction and Judgment include Plant Power Products, Inc. (“P3”), P3 products or P3 formulations.

5. Daniel Swanson was formerly employed by Stoller, Michael Wright formerly worked as a consultant for Stoller and Swanson and Wright performed analysis for Defendants related to Stoller products in conjunction with MegaLabs.

II. ORDER AND PERMANENT INJUNCTION

The Court ORDERS as follows:

6. Defendants shall not represent that they are authorized Stoller dealers or distributors or that Defendants were involved in designing or developing Stoller product formulations or selecting Stoller product ingredients or otherwise involved in Stoller product development or research (other than participation in field trials).

7. Defendants shall not represent that Defendants have or had knowledge of ingredients in Stoller products not disclosed on Stoller labels or registration documentation (notices of registration, amendments, etc.) publicly available through federal or state regulatory websites (such as the Pesticide Product and Label System for products registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act).

8. Defendants shall not represent without personal knowledge or documentary evidence that Stoller made false or misleading statements to Defendants or anyone else about the formula/composition of any Stoller products.

9. Defendants shall not represent that the formula/composition of any of Stoller products have changed except as set forth on the applicable Stoller labeling or registration documentation (notices of registration, amendments, etc.) publicly available through federal or state regulatory websites.

10. Defendants shall not disclose or utilize any confidential information obtained from current or former Stoller employees, consultants, or contractors. For purposes of this Agreed Permanent Injunction and Judgment, confidential information is defined as information regarding product ingredients or formulation not disclosed on product labels or registration documentation (notices of registration, amendments, etc.) publicly available through federal or state regulatory websites.

11. Defendants shall not represent that Defendants have or had the knowledge or ability to make products utilizing Stoller technology.

12. Defendants shall not: (i) sell or offer for sale, directly or indirectly, any product not made or manufactured by Stoller utilizing a product name used at any time by Stoller, or any substantially similar name; (ii) make, manufacture, sell, or disclose information to others on how to make or manufacture any product that consists of a Stoller knock-off or a counterfeit Stoller product (meaning substantially similar to both the ingredients disclosed and not disclosed on the Stoller product label) or made with Stoller technology.

13. Defendants shall return to Stoller, destroy, or cause to be destroyed: (i) all Stoller product labels; (ii) all boxes or containers bearing Stoller labels; (iii) all recipes or formulas bearing Stoller names or Stoller ingredients; and (iv) copies of all work product performed by Michael Wright, Daniel Swanson, and/or MegaLabs related to Stoller products (other than as provided in paragraph 14). Defendants will provide verified proof of destruction to Stoller.

14. Defendants shall cause all work product performed by Michael Wright, Daniel Swanson, and/or MegaLabs related to Stoller products to be deposited into the depository of the U.S. District Court of the Southern District of Texas. Such work product may only be removed

upon subpoena or other process from the Environmental Protection Agency or similar state regulatory agency or by agreement of the parties.

15. Defendants shall not solicit or induce others to sue Stoller.

III. MONETARY JUDGMENT

It is FURTHER ORDERED that:

16. Judgment in the amount of \$2,250,000 is entered in favor of Plaintiffs against Defendants, jointly and severally, as monetary relief.

17. Each party shall bear its own attorneys' fees and costs.

IV. RETENTION OF JURISDICTION AND FINALITY

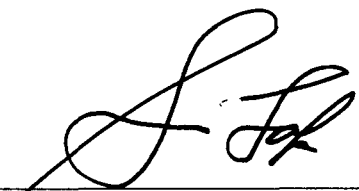
It is FURTHER ORDERED that:

18. The Court retains jurisdiction of this matter for purposes of any and all disputes arising out of the construction or enforcement of this Agreed Permanent Injunction and Judgment.

19. This Agreed Permanent Injunction and Judgment is a final judgment for purposes of this action. All relief as to all parties not expressly granted herein is denied.

IT IS SO ORDERED.

Signed this 25th day of July 2019.



SIM LAKE
UNITED STATES DISTRICT COURT JUDGE