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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIB GROUP LLC, a California limited liability company,

Plaintiff-ctr-defendant - Appellee,

v.

DOES, 1 through 10, inclusive, MIB SHIELD LLC, a Nevada limited liability company,

Defendants,

STEVEN R. AGUILAR, an individual,

Defendant-ctr-claimant - Appellant,

v.

TYRONE WILKERSON,

Third-pty-defendant.

No. 24-5032

D.C. No.
5:23-cv-01597-SVW-SHK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Submitted October 26, 2026[**]
Pasadena, California

Before: PAEZ, OWENS, and SANCHEZ, Circuit Judges.

Steven Aguilar, owner of MIB-Shield, appeals from the district court's grant of summary judgment in favor of M.I.B. Group on its trademark infringement claim. Aguilar also challenges the district court's award of disgorgement of MIB-Shield's profits and decision to make Aguilar jointly and severally liable. We review summary judgment decisions de novo. *Suzuki Motor Corp. v. Consumers Union of U.S., Inc.*, 330 F.3d 1110, 1131 (9th Cir. 2003). In doing so, we consider "whether, viewing the evidence in the light most favorable to the nonmoving party, any genuine issues of material fact exist, and whether the district court correctly applied the relevant substantive law." *Wapato Heritage, L.L.C. v. United States*, 637 F.3d 1033, 1037 (9th Cir. 2011) (citation omitted). We review the district court's award of damages under the Lanham Act (the "Act") for abuse of discretion. *Jason Scott Collection, Inc. v. Trendily Furniture, LLC*, 68 F.4th 1203, 1212 (9th Cir. 2023) . As the parties are familiar with the facts, we do not recount them here. We affirm.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

1. To prevail on its trademark infringement claim, M.I.B. Group must establish "(1) that it has a protectible ownership interest in [its] mark; and (2) that the defendant's use of the mark is likely to cause consumer confusion." *Dep't of Parks & Recreation v. Bazaar Del Mundo Inc.*, 448 F.3d 1118, 1124 (9th Cir. 2006) (citation omitted). Priority of use in commerce is the standard test of ownership, with a certificate of registration constituting "prima facie evidence . . . of the owner's ownership of the mark." 15 U.S.C. § 1057(b); *see also Sengoku Works Ltd. v. RMC Int'l, Ltd.*, 96 F.3d 1217, 1219 (9th Cir. 1996). The presumption of ownership conferred by a certificate of registration can be rebutted if the non-registrant shows first use in commerce by a preponderance of the evidence. *Sengoku Works*, 96 F.3d at 1219–20.

Here, M.I.B. Group holds valid registrations, presumptively establishing its ownership of the registered marks. To attempt to rebut this presumption, Aguilar contends that he established first use in commerce by creating the mibsecuritygroup.com website in 2008. But he has not challenged the jury's finding that he was acting as an employee of Tyrone Wilkerson, M.I.B. Group's owner, when he did so. This undisputed finding supports the district court's

conclusion that M.I.B. Group's corporate predecessors established first use of its registered marks.[1]

Aguilar's argument that the assignment of unregistered marks from Wilkerson to M.I.B. Group was invalid consists of just two sentences summarizing the law without any developed reasoning. It is therefore forfeited. *Olea-Serefina v. Garland*, 34 F.4th 856, 867 (9th Cir. 2022). This argument also fails on the merits given the undisputed chain of business goodwill of Wilkerson's various companies from 2001 until M.I.B. Group's incorporation in 2015. *See Russell Rd. Food & Beverage, LLC v. Spencer*, 829 F.3d 1152, 1155–57 (9th Cir. 2016); *E. & J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1289 (9th Cir. 1992). And contrary to Aguilar's argument, a writing is not required to transfer unregistered trademarks. *Yuga Labs, Inc. v. Ripps*, 144 F.4th 1137, 1161 (9th Cir. 2025).

It is undisputed that, between 2001 and 2011, Wilkerson was the sole owner of M.I.B. 220, Inc. and M.I.B. 2nd II None, Inc., both of which used the MIB Security Group mark as well as other M.I.B. branding. From 2011 to 2015, Wilkerson continued providing security services under a "doing business as" arrangement without a formal corporation, preserving his chain of business

[1] The disclaimer does not affect this determination. It merely provides that the mark does not cover the phrases "security group" or "group" on their own. Nor has Aguilar shown that the categories listed on the certificate of registration affect M.I.B. Group's ability to sure for infringement on these facts, especially given M.I.B. Group's first use in commerce.

goodwill and ability to transfer the mark to M.I.B. Group. *See, e.g.*, *Comm. for Idaho's High Desert, Inc. v. Yost*, 92 F.3d 814, 820–21 (9th Cir. 1996) (finding that a nonprofit had acquired ownership of its mark as "the direct and immediate successor of any individuals who used" the mark before incorporation). Thus, the district court correctly concluded that M.I.B. Group owns both its registered and unregistered marks.

2. A likelihood of confusion exists when "a reasonably prudent consumer . . . is likely to be confused as to the origin or source of . . . services" associated with a mark. *Rearden LLC v. Rearden Com., Inc.*, 683 F.3d 1190, 1209 (9th Cir. 2012). When assessing likelihood of confusion, we consider: (1) the mark's strength, (2) the proximity of the goods, (3) the marks' similarity, (4) evidence of actual confusion, (5) overlapping marketing channels, (6) the type of goods and likely degree of consumer care, (7) the defendant's intent, and (8) the likelihood of expansion. *AMF Inc. v. Sleekcraft Boats*, 599 F.2d 341, 348–49 (9th Cir. 1979).

The *Sleekcraft* factors, applied to the undisputed facts in the light most favorable to Aguilar, overwhelmingly favor M.I.B. Group. Accordingly, summary judgment on the likelihood of confusion was appropriate. *Au-Tomotive Gold, Inc. v. Volkswagen of Am., Inc.*, 457 F.3d 1062, 1075 (9th Cir. 2006). First, the parties stipulated that the contested marks are inherently distinctive, so strength of the

mark favors M.I.B. Group. Second, M.I.B. Group and MIB-Shield offer proximate services because they both provide private security to businesses and high-net-worth individuals throughout Southern California. *See Network Automation, Inc. v. Advanced Sys. Concepts, Inc.*, 638 F.3d 1137, 1150 (9th Cir. 2011) (assessing proximity by whether the services were "(1) complementary; (2) sold to the same class of purchasers; and (3) similar in use and function"). Third, similarity of the marks strongly favors M.I.B. Group because Aguilar and MIB-Shield use an identical version of the registered "MIB Security Group" mark. *See Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp.*, 174 F.3d 1036, 1056 (9th Cir. 1999) ("In light of the virtual identity of marks, if they were used with identical products or services likelihood of confusion would follow as a matter of course.").

Fourth, a reasonable jury could find that evidence of actual confusion either favors M.I.B. Group, which presented evidence of misdirected complaints about MIB-Shield's services, or is neutral. *See, e.g.*, *Stone Creek, Inc. v. Omnia Italian Design, Inc.*, 875 F.3d 426, 433 (9th Cir. 2017) (finding evidence of actual confusion when customers of one company "requested information about product options and store locations" from another selling the same goods under an identical mark), *abrogated in part on other grounds by Romag Fasteners, Inc. v. Fossil, Inc.*, 590 U.S. 212 (2020). Construing the facts in Aguilar's favor, we treat this factor as neutral.

Fifth, M.I.B. Group and MIB-Shield have overlapping marketing channels, as both provide private security services across Southern California and advertise through the internet, uniforms, and other branded products. Sixth, a reasonable jury could find that the degree of customer care favors Aguilar. When a service is sophisticated or expensive, we expect that consumers will exercise a high standard of care. *See Yuga Labs*, 144 F.4th at 1172–73. M.I.B. Group and MIB-Shield offer specialized services to sophisticated consumers who are likely to exercise their due diligence when choosing a security provider.

Seventh, Aguilar's intent favors M.I.B. Group. When a defendant "knowingly adopts a mark identical or similar to another's mark," we presume that they are acting with an intent to deceive. *Hokto Kinoko Co. v. Concord Farms, Inc.*, 738 F.3d 1085, 1096 (9th Cir. 2013) (citation omitted). And when a defendant uses a mark with intent to deceive, we infer that they succeeded in causing confusion. *See Stone Creek*, 875 F.3d at 434. Here, the undisputed facts show that Aguilar knowingly adopted Wilkerson's M.I.B. marks. As a close friend and employee of Wilkerson's for over ten years, Aguilar was intimately familiar with Wilkerson's use of the M.I.B. marks. After his employment ended, Aguilar refused to turn over the mibsecuritygroup.com website despite Wilkerson's requests. Even after Wilkerson informed Aguilar of the marks' registration in 2022, Aguilar continued to use the marks, including by registering a new web

domain, mibsecuritygroup.org. Given these facts, we presume that (1) Aguilar intended to deceive the public through his knowing use of the MIB Security Group mark and (2) that confusion in fact resulted. Eighth, and finally, the likelihood of expansion is "unimportant" because the parties already directly compete. *Network Automation*, 638 F.3d at 1153.

While assessing the *Sleekcraft* factors is not as simple as tallying them up, the fact that a reasonable jury could find that only one favors Aguilar, most favor M.I.B. Group, and two are neutral or unimportant—combined with the applicable presumptions arising from Aguilar's intentional use of marks identical to M.I.B. Group's—convinces us that no reasonable jury could fail to find a likelihood of confusion. Thus, summary judgment was appropriate.

3. The Act permits plaintiffs to recover actual damages, litigation costs, and the defendant's profits. 15 U.S.C. § 1117(a). Aguilar's argument that there was insufficient evidence to establish MIB-Shield's profits as a matter of law is forfeited because it is not developed beyond one conclusory sentence in his summary of argument. *See Olea-Serefina*, 34 F.4th at 867 (holding that contentions that are "purely conclusory and devoid of supporting factual detail or legal argument" are forfeited). Thus, the district court did not abuse its discretion in awarding and calculating profits.

The Act imposes liability on "[a]ny person" who commits infringement. 15 U.S.C. § 1114(1). This extends to corporate officers, who can be liable for any damages arising from infringement that they personally authorize, direct, or participate in. *See Comm. for Idaho's High Desert, Inc.*, 92 F.3d at 823–24. Here, it is undisputed that "Aguilar is the sole owner, director, and corporate officer" of MIB-Shield and personally participated in or directed the infringing activities.

Aguilar's only argument against personal liability is that *Dewberry Group, Inc. v. Dewberry Engineers Inc.*, 604 U.S. 321 (2025), required M.I.B. Group to pierce the corporate veil to hold him personally liable. Not so. In *Dewberry*, the Supreme Court held that, because the Act provides that a plaintiff may recover the "defendant's profits," the defendant could not be liable for the profits of non-party corporate affiliates. *Id.* at 323. That scenario is clearly distinguishable from the one before us because Aguilar and MIB-Shield are both named defendants and Aguilar's liability is based on his own infringing actions. Therefore, the district court did not abuse its discretion in finding Aguilar liable for the profits.

AFFIRMED.