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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Designer Skin, LLC, an)
Arizona limited liability)
company; et al.,)

Plaintiffs,)

vs.)

S & L VITAMINS, INC.,)
d/b/a BODY SOURCE d/b/a)
THESUPPLENET.COM, a New)
York corporation; and)
LARRY SAGARIN, an)
unmarried individual,)

Defendants.)

CIV 05-3699-PHX-JAT
Phoenix, Arizona
July 17, 2008
11:41 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(Jury Trial - Day 3 - Pages 405 - 415)

(Verdict)

BEFORE: THE HONORABLE **JAMES A. TEILBORG**, JUDGE

Official Court Reporter:

David C. German, RMR, CRR
Official U.S. Court Reporter
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, SPC-39
Phoenix, Arizona 85003-2151
(602) 322-7251

PROCEEDINGS TAKEN BY STENOGRAPHIC COURT REPORTER
TRANSCRIPT PREPARED BY COMPUTER-AIDED TRANSCRIPTION

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APPEARANCES :

FOR THE PLAINTIFFS :

Jennings, Haug & Cunningham, LLP
Attorneys at Law
2800 North Central Avenue, Suite 1800
Phoenix, Arizona 85004-1049
By: Elan S. Mizrahi, Esq.

FOR THE DEFENDANTS :

Hoffman, Polland & Furman, PLLC
Attorneys at Law
220 East 42nd Street, Suite 435
New York, New York 10017
By: Ronald D. Coleman, Esq.

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Phoenix, Arizona
July 17, 2008

(Proceedings convened at 11:41 a.m.)

THE COURT: Thank you. Please be seated.

The record will reflect the presence of the parties,
counsel, ladies and gentlemen of the jury.

11:41:00

Good morning.

Ladies and gentlemen, have you reached a verdict?

A JUROR: We have.

THE COURT: All right. I'll ask you to hand it to the
bailiff, please.

11:41:00

I'll ask the clerk to please read and record the
verdict.

THE DEPUTY CLERK: We, the Jury, duly impaneled and
sworn in the above-entitled action, upon our oaths, do hereby
find as follows:

11:42:00

Did defendant S & L Vitamins, Inc. infringe any of
plaintiff Designer Skin, LLC's copyrights?

Answer: Yes.

Which copyrights were infringed by defendant
S & L Vitamins, Inc.?

11:42:00

Ultimate Love Junkie.

Secret Rapture.

Revival.

Sheer Wisdom.

11:43:00

1	Ray of Light.	
2	Vanishing Act.	
3	Designer Skin Intrigue.	
4	Tao.	
5	Designer Skin Mood.	11:43:
6	Designer Skin Worship.	
7	Worship Me.	
8	Designer Skin Goddess.	
9	Halo.	
10	Designer Skin Spellbound.	11:43:
11	Designer Skin Speed of Light.	
12	Designer Skin Shine.	
13	Designer Skin Saving Face.	
14	Amazing Face.	
15	Addicted to Love.	11:43:
16	Designer Skin Drama Queen.	
17	Enamor.	
18	Flare.	
19	Undercover Angel.	
20	Designer Skin Bombshell.	11:43:
21	Designer Skin Believe.	
22	Splash Get Down Brown.	
23	Ritual.	
24	Shrine.	
25	Dolce.	11:43:

1 Whisper.

2 Veritas.

3 Boutique Bronze Camouflage.

4 Bohemia.

5 Bronze Bondage. 11:44:00

6 Smolder.

7 Siren.

8 Angel.

9 Gold Digger.

10 Ego Maniac. 11:44:00

11 Triple Play.

12 Splash Hustle.

13 Bipolar.

14 Signed by the Presiding Juror on July 17th, 2008.

15 Is this your true verdict and verdict of the jury? 11:44:00

16 (The jury affirms their verdict.)

17 THE COURT: Does either counsel wish the jury polled?

18 MR. MIZRAHI: No, Your Honor.

19 MR. COLEMAN: No, Your Honor.

20 THE COURT: All right. 11:44:00

21 Ladies and gentlemen, thank you very much for your

22 services in this case. Brief as it was, I know it was an

23 intricate and somewhat challenging task, and I -- but I hope in

24 the course of these two days you've come to realize even more

25 so the importance of trial by jury to our system of government 11:44:00

1 and the fair enforcement of our laws and preservation of our
2 liberties.

3 Our founding fathers, among their many foresighted
4 thoughts in forming our government, recognized that trial by
5 jury was a necessary part in our government. John Adams 11:45:
6 famously wrote, that, quote, representative government and
7 trial by jury are the heart and lungs of liberty.

8 So I'm proud and thankful that folks like you are
9 willing to serve on juries and ensure that our rights as
10 citizens are protected, and certainly your service here for 11:45:
11 these two days will serve to uphold the principles of our
12 constitution and preserve, as Adams said, the heart and lungs
13 of our liberty.

14 And again, for that, I'm grateful, I know the parties
15 are, and we appreciate it in the District of Arizona. 11:46:

16 You are dismissed. You are released from the
17 admonitions. You're now free to discuss the case or not
18 discuss the case, as you would like.

19 So at this time you're excused. I'll just see the
20 lawyers briefly. 11:46:

21 Thank you very much.

22 MR. MIZRAHI: Judge, we would like to have the
23 opportunity to speak to some of the jurors afterwards, and so
24 I -- just before everybody runs away, I'd -- if that's an
25 opportunity, I just wanted to let the jurors know that -- 11:46:

1 THE COURT: Well, let me say to them as I did say.
2 They are free to do so or not do so. I will excuse them to the
3 jury room. If they would like to remain then they can remain
4 in the jury room and my staff will usher them back into the
5 courtroom. But you're also free to go, as you may choose. 11:46:

6 Thank you.

7 (Jury out at 11:47 a.m.)

8 THE COURT: We'll order -- the record will reflect the
9 presence of the parties and counsel outside the presence of the
10 jury. 11:47:

11 You may be seated.

12 I'll order the plaintiffs to submit a form of judgment
13 slash injunction not later than Monday, 21 July. Any
14 objections by the defendant shall be filed by Friday, 25 July.
15 And if there's an objection to the language in the proposed 11:47:
16 form I expect you to identify exactly what language is objected
17 to and propose any alternative language so that the Court's not
18 met with just abstract general objections. And then any reply
19 to that by Tuesday, the 29th.

20 So it's a fairly short time frame, I realize, but I 11:48:
21 need to get this done.

22 MR. COLEMAN: May I be heard, Judge?

23 THE COURT: Yes, sir.

24 MR. COLEMAN: Not having researched the issue but my
25 impression would be that because this is an advisory jury I 11:48:

1 don't need to make the typical post-verdict motions for
2 judgment notwithstanding the verdict or judgment as a matter of
3 law, because ultimately it's Your Honor who is entering -- who
4 is making the -- who is making the decision. Otherwise, I make
5 that motion. 11:48:.

6 THE COURT: Pardon?

7 MR. COLEMAN: Otherwise, I am making that motion at
8 this time.

9 THE COURT: Well, you would make it -- you -- wouldn't
10 you have that right and opportunity after the form of judgment 11:48:.
11 has been entered?

12 MR. COLEMAN: In an excess of caution I just want to
13 make my record. I had always -- I've never actually lost a
14 jury verdict so -- my recollection had been, though, that you
15 wanted to make your motion after the verdict was entered in 11:49:.
16 order to maximize your appeal rights.

17 THE COURT: The record will reflect that you've made
18 it.

19 Pleasure to have you in court, gentlemen, and we're in
20 recess. 11:49:.

21 MR. MIZRAHI: Thank you very much, Your Honor.

22 MR. COLEMAN: Thank you, Your Honor.

23 (Proceedings recessed at 11:49 a.m.)
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C E R T I F I C A T E

I, DAVID C. GERMAN, Official Court Reporter, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the proceedings and testimony reported by me on the date specified herein regarding the afore-captioned matter are contained fully and accurately in the notes taken by me upon said matter; that the same were transcribed by me with the aid of a computer; and that the foregoing is a true and correct transcript of the same, all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 20th day of November, 2008.

s/David C. German
DAVID C. GERMAN, RMR, CRR