

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

NEAL TECHNOLOGIES, INC.,

Plaintiff,

v.

UNIQUE MOTORSPORTS, INC.,
et al.,

Defendants.

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CIVIL ACTION No. 4:15-CV-385

JUDGE RON CLARK

AFC

VERDICT FORM

Question No. 1

For each mark in question in this suit, check the appropriate classification (choose only one classification for each):

a. "BulletProof"

Generic _____ Descriptive yes Suggestive _____

b. "Bullet Proof"

Generic _____ Descriptive yes Suggestive _____

c. "Bullet Proof Diesel"

Generic _____ Descriptive yes Suggestive _____

d. U.S. Registration No. 4,235,578 (“BULLETPROOFDIESEL.COM”)

Generic _____ Descriptive _____ Suggestive

e. U.S. Registration No. 4,262,825 (“BULLETPROOFDIESEL.COM
(with a star design)”)

Generic _____ Descriptive _____ Suggestive

Question No. 2

If you answered “Descriptive” to “BulletProof,” “Bullet Proof,” or “Bullet Proof Diesel” in Question No. 1, please answer the following question as to only those marks you classified as “Descriptive.” If you did not answer “Descriptive” to “BulletProof,” “Bullet Proof,” or “Bullet Proof Diesel” in Question No. 1, do not answer this question.

Did Plaintiff show by a preponderance of the evidence that, prior to the date of Defendants’ first use of “BulletProof,” “Bullet Proof,” or “Bullet Proof Diesel,” that such marks had been used by Plaintiff and had acquired secondary meaning in Texas?

Answer “Yes” or “No” for each of “BulletProof,” “Bullet Proof,” or “Bullet Proof Diesel” to which you answered “Descriptive” in Question No. 1:

a. “BulletProof”

Answer: No

b. “Bullet Proof”

Answer: No

c. “Bullet Proof Diesel”

Answer: No

Question No. 3

If you answered “Descriptive” for U.S. Registration No. 4,235,578 (“BULLETPROOFDIESEL.COM”) or U.S. Registration No. 4,262,825 (“BULLETPROOFDIESEL.COM (with a star design)”) in Question No. 1, please answer the following question as to only those marks you classified as “Descriptive.” If you did not answer “Descriptive” to U.S. Registration No. 4,235,578 (“BULLETPROOFDIESEL.COM”) or U.S. Registration No. 4,262,825 (“BULLETPROOFDIESEL.COM (with a star design)”) in Question No. 1, do not answer this question.

Did Plaintiff show by a preponderance of the evidence that, prior to the date of Defendants’ first use of U.S. Registration No. 4,235,578 (“BULLETPROOFDIESEL.COM”) or U.S. Registration No. 4,262,825 (“BULLETPROOFDIESEL.COM (with a star design)”), such marks had acquired secondary meaning in the United States of America?

Answer “Yes” or “No” for each of U.S. Registration No. 4,235,578 (“BULLETPROOFDIESEL.COM”) or U.S. Registration No. 4,262,825 (“BULLETPROOFDIESEL.COM (with a star design)”) to which you answered “Descriptive” in Question No. 1:

1. U.S. Registration No. 4,235,578

("BULLETPROOFDIESEL.COM")

Answer: NA

2. U.S. Registration No. 4,262,825

("BULLETPROOFDIESEL.COM (with a star design))

Answer: NA

Question No. 4

Please answer the following question for any of the marks to which you answered “Suggestive” in Question No. 1, or to which you answered “Yes” to in Question No. 2 or No. 3. Otherwise, do not answer the following question.

Did Plaintiff show by a preponderance of the evidence that one or more of the Defendants infringed one or more of Plaintiff’s trademarks?

Answer “Yes” or “No” as to each Defendant for each mark:

a. “BulletProof”

Unique Motorsports, Inc.: N/A

Dustin Helms: N/A

Nathan Hall: N/A

b. “Bullet Proof”

Unique Motorsports, Inc.: N/A

Dustin Helms: N/A

Nathan Hall: N/A

c. “Bullet Proof Diesel”

Unique Motorsports, Inc.: N/A

Dustin Helms: N/A

Nathan Hall: N/A

d. U.S. Registration No. 4,235,578 (“BULLETPROOFDIESEL.COM”)

Unique Motorsports, Inc.: NO

Dustin Helms: NO

Nathan Hall: NO

e. U.S. Registration No. 4,262,825

(“BULLETPROOFDIESEL.COM (with star design)”)

Unique Motorsports, Inc.: NO

Dustin Helms: NO

Nathan Hall: NO

Question No. 5

Did Plaintiff prove by a preponderance of the evidence that Defendants committed unfair competition?

Answer "Yes" or "No" as to each Defendant:

Unique Motorsports, Inc.: Yes

Dustin Helms: No

Nathan Hall: No

Question No. 6

If you answered "yes" to any part of Question Nos. 4 or 5, please answer the following question:

What amount of damages, if any, do you find by a preponderance of the evidence should be awarded to compensate Plaintiff?

\$ 0

Question No. 7

If you answered “Yes” to any part of Question Nos. 4 or 5, please answer the following question:

What amount of Defendants’ profits, if any, do you find by a preponderance of the evidence should be awarded for Defendants’ conduct?

\$ 100,000.⁰⁰

Question No. 8

If you answered “Yes” to any part of Question Nos. 4 or 5, please answer the following question:

Was Defendants’ conduct willful?

Answer “Yes” or “No” as to each Defendant:

Unique Motorsports, Inc.: Yes

Dustin Helms: No

Nathan Hall: No

Question No. 9

If you answered “Yes” to any part of Question Nos. 4 or 5, please answer the following question:

Have Defendants proved by a preponderance of the evidence that their use of the terms “bulletproof”, “bullet proof”, “bullet proof diesel”, or variations of those terms was a classic fair use?

Answer “Yes” or “No” as to each Defendant:

Unique Motorsports, Inc.: No

Dustin Helms: N/A

Nathan Hall: N/A

The foreperson is requested to initial and date this document in the space provided below as the unanimous verdict of the jury.

 08/05/2016
DATE

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FOREPERSON