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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNIVERSAL PROTECTION SERVICE,
LP d/b/a ALLIED UNIVERSAL
SECURITY SERVICES; and
UNIVERSAL PROTECTION
SECURITY SYSTEMS, LP,

Plaintiffs,

v.

COASTAL FIRE AND INTEGRATION
SYSTEMS, INC; DENNIS DON
STOVER, JR.; GARY HUTCHESON;
and DOES 1-5, inclusive,

Defendants.

Case No.: 22-cv-1352-JES-KSC

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS**

[ECF No. 15]

On October 25, 2022, Defendants filed a motion to dismiss counts 1, 2, and 8 of Plaintiffs’ First Amended Complaint (“FAC”). ECF No. 15. On November 15, 2022, Plaintiffs filed an opposition. ECF No. 17. On November 22, 2022, Defendants filed a reply. ECF No. 21. The matter was taken under submission. After due consideration and for the reasons discussed below, the motion to dismiss is **GRANTED IN PART** and **DENIED IN PART**.

//

I. BACKGROUND

On September 8, 2022, Plaintiffs Universal Protection Service LP, doing business as Allied Universal Security Services, and Universal Protection Security Systems, LP (collectively, “Allied Universal”) instituted this lawsuit against Defendants Coastal Fire and Integration Systems, Inc. (“Coastal Fire”), Don Stover, Jr. (“Stover”), and Gary Hutcheson (“Hutcheson”). ECF No. 1. On October 4, 2022, Allied Universal filed their FAC, the operative complaint, alleging facts as follows. ECF No. 14 (“FAC”).

Allied Universal is a security services company operating in North America. FAC ¶ 13. Part of the services that it provides through one of its divisions is electronic access control, video surveillance, fire/life safety, alarm monitoring, emergency communications, and hosted/managed services. *Id.* ¶ 17. In building up its brand, Allied Universal owns several trademarks, including the following six trademarks:

- No. 5,136,006: the mark Allied Universal, filed May 6, 2016 and issued February 7, 2017; (*id.* ¶ 20)
- No. 5,302,678: the mark Allied Universal and Design as shown below, filed on June 24, 2016 and issued October 3, 2017; (*id.* ¶ 21)



- No. 5,136,112: the mark Allied Universal Security Services, filed on May 26, 2016 and issued February 7, 2017; (*id.* ¶ 22)
- No. 5,150,269: the mark “Allied Universal Security Services and Design as shown below, filed on June 30, 2016 and issued February 28, 2017; (*id.* ¶ 23)



- No. 5,146,530: the mark Allied Universal there for you and Design as shown below, filed on July 18, 2016 and issued February 21, 2017; (*id.* ¶ 24)



- No. 5,136,162: the mark Allied Universal Security Systems, filed on May 31, 2016 and issued on February 7, 2017 (*id.* ¶ 25).

In addition, Allied Universal owns several copyrights. One of its divisions uses computer-assisted drafting (AutoCAD) to prepare engineering designs of its services. *Id.* ¶ 56. To facilitate this, Allied Universal developed custom AutoCAD templates, which are drawings that contained components unique to Allied Universal. Two of these templates are at issue here and are copyrighted:

- 2017 Technical Drawing; (*id.* ¶ 33, Exh. A)
- 2021 Technical Drawing (*id.* ¶ 34, Exh. B).

In addition, Allied Universal developed Quote Builder, which it used to prepare and present estimates and generate proposal of its designs and services, and is also copyrighted:

- Quote Builder (*id.* ¶ 35, Exh. C).

On May 30, 2014, Allied Universal acquired City-Wide Electronic Systems, Inc. (“City-wide”), another security services company. *Id.* ¶ 40. At that time, Defendant Stover was City-wide’s President and Defendant Hutcheson was a System Engineer at City-wide. *Id.* ¶ 41. After the acquisition, Stover continued to serve as Executive Vice President at Allied Universal until June 1, 2020 and Hutcheson in Systems Estimating and Engineering until November 2020. *Id.* ¶¶ 42-43. Allied Universal alleges that during their employment, both defendants executed agreements that prohibited them from disclosing confidential information and required them to return Allied Universal’s property upon termination. *Id.* ¶¶ 44-48, Exhs. D, E.

1 Allied Universal alleges that after the sale and during defendants' subsequent
2 employment, Stover and Hutcheson directly competed with Allied Universal through
3 their own company. *Id.* at ¶ 50. On June 13, 2014, Allied Universal alleges that Stover's
4 wife established and incorporated One-Eight, Inc., which later changed its name to
5 Coastal Fire and Integration Systems, the other named defendant in this lawsuit.
6 *Id.* ¶¶ 49, 51. Allied Universal alleges that Stover and Coastal Fire recruited Hutcheson
7 and other employees to perform "side work" for them of the exact or similar nature of
8 what they did for Allied Universal. *Id.* ¶ 53-55. Specifically, Allied Universal alleges
9 that in June 2022, it received a request for bid from an apartment complex in Los Angeles
10 that was looking to install a security system. *Id.* ¶ 59. Allied Universal alleges that
11 Coastal Fire had previously provided services for the same client and during the course of
12 that work, prepared and submitted an AutoCAD design. *Id.* ¶ 60. Allied Universal states
13 that when it received the June 2022 bid materials, the previous design from Coastal Fire
14 (hereinafter, "Coastal Fire design drawing") was included in the materials and bore the
15 initials "GWH," which stood for Defendant Hutcheson. *Id.* ¶ 61. Allied Universal alleges
16 that the Coastal Fire design drawing infringes on its copyrighted 2017 and 2021
17 Technical Drawings, and that text on the design drawing infringes on its trademarks.

18 Based on the facts above, Allied Universal alleges nine causes of action including
19 trademark infringement, copyright infringement, violation of the Computer Fraud and
20 Abuse Act, unfair competition, and various breaches of contractual obligations. *Id.* at
21 ¶¶ 73-138.

22 II. LEGAL STANDARDS

23 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to
24 state a claim tests the legal sufficiency of a plaintiff's claim. *Navarro v. Block*, 250 F.3d
25 729, 732 (9th Cir. 2001). When considering the motion, the court must accept as true all
26 well-pleaded factual allegations in the complaint. *Bell Atlantic Corp. v. Twombly*, 556
27 U.S. 544, 555 (2007). The court need not accept as true legal conclusions cast as factual
28

1 allegations. *Id.*; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“[t]hreadbare recitals of the
2 elements of a cause of action, supported by mere conclusory statements” are insufficient).

3 A complaint must “state a claim for relief that is plausible on its face.” *Twombly*,
4 550 U.S. at 570. To survive a motion to dismiss, a complaint must include non-
5 conclusory factual content. *Id.* at 555; *Iqbal*, 556 U.S. at 679. The facts and the
6 reasonable inferences drawn from those facts must show a plausible—not just a
7 possible—claim for relief. *Twombly*, 550 U.S. at 556; *Iqbal*, 557 U.S. at 679; *Moss v.*
8 *U.S. Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009). The focus is on the complaint, as
9 opposed to any new facts alleged in, for example, the opposition to a defendant’s motion
10 to dismiss. *See Schneider v. California Dep’t of Corrections*, 151 F.3d 1194, 1197 n.1
11 (9th Cir. 1998), *reversed and remanded on other grounds as stated in* 345 F.3d 716 (9th
12 Cir. 2003). “Determining whether a complaint states a plausible claim for relief [is] ... a
13 context-specific task that requires the reviewing court to draw on its judicial experience
14 and common sense.” *Iqbal*, 557 U.S. at 679. The “mere possibility of misconduct” or
15 “unadorned, the defendant-unlawfully-harmed me accusation[s]” fall short of meeting
16 this plausibility standard. *Id.*; *see also Moss*, 572 F.3d at 969.

17 III. DISCUSSION

18 In the instant motion, Defendants move to dismiss three causes of action: (1) first
19 cause of action for trademark infringement; (2) second cause of action under the
20 Computer Fraud and Abuse Act; and (3) eighth cause of action for copyright
21 infringement. The Court will address each of these in turn.

22 A. Trademark Infringement

23 In the first cause of action, Plaintiffs allege that Defendants used its registered
24 trademarks without permission. FAC ¶¶ 73-84. In order to state a claim for trademark
25 infringement, a plaintiff must show that (1) it has a valid, protectable trademark, and (2)
26 that the defendant is using the mark in a way that is likely to cause consumer confusion.
27 *Network Automation, Inc. v. Advanced Sys. Concepts, Inc.*, 638 F.3d 1137, 1144 (9th Cir.
28 2011).

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