

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

BEST BUY STORES, L.P., et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 06-0498-CV-W-DW
GEEK BRIGADE, LLC and JAMES D.)	
SPENCER,)	
)	
Defendants.)	

CONSENT JUDGMENT

Before the Court is the parties’ Joint Motion for Consent Judgment (Doc. 28). The parties have reached agreement on terms of settlement and mutually consent to the following findings of fact, conclusions of law and relief. This Court has considered these findings, conclusions and relief granted and concludes that they are appropriate and should be entered as a final judgment in this action.

PARTIES AND JURISDICTION

1. Best Buy Stores, L.P. (“Best Buy Stores”) is a Virginia Limited Partnership, with its principal place of business in Richfield, Minnesota. Best Buy Stores operates a portion of its business under the trade name and trademark Geek Squad.
2. BestBuy.com, L.L.C. (“BestBuy.com”) is a Delaware Limited Liability Company, with its principal place of business in Richfield, Minnesota.
3. Best Buy Enterprise Services, Inc. (“Best Buy Enterprise Services”) is a Minnesota Corporation, with its principal place of business in Richfield, Minnesota.
4. Defendant Geek Brigade, L.L.C., f/k/a GeekSquad, L.L.C. (“Geek Brigade”), is a Missouri limited liability company. The address of its registered agent, James D. Spencer, is 13126 8th Street, Grandview, Missouri 64030. Defendants do business in this District and therefore are subject to the jurisdiction of this Court.

5. Defendant James D. Spencer (“Spencer”) is a Missouri resident with a residence at 13126 8th Street, Grandview, Missouri 64030. Spencer owns and operates Geek Brigade and has participated in and directed its activities.
6. This Court has jurisdiction over the subject matter of this action under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338 (a) and (b), and has supplemental jurisdiction under 28 U.S.C. § 1367(a) over Best Buy’s claims under state law. In addition, this Court has subject matter jurisdiction over the claims herein pursuant to 28 U.S.C. § 1332 because this is a civil action between two citizens of different states and the amount in controversy is in excess of \$75,000, exclusive of interest and costs.

FACTUAL BACKGROUND

The Geek Squad Trademarks

7. Best Buy Stores is a company operating with one or more of an affiliated group of companies under the mark BEST BUY. The Best Buy affiliated companies own and operate a chain of consumer electronics, computers, and household goods and services stores throughout the United States. Through their store locations and through BestBuy.com’s website located at www.bestbuy.com, the Best Buy stores sell a variety of consumer electronics, computer products, and household products, and each provides an array of services to its customers.
8. On or around October 14, 2002, Best Buy Stores purchased Geek Squad, Inc., a computer services company. As a result of the purchase, Geek Squad, Inc. became a wholly-owned subsidiary of Best Buy Stores. After a series of corporate mergers and legal name changes, the successor company of Geek Squad, Inc. merged with and into Best Buy Stores, which operates a portion of its business under the mark GEEK SQUAD. As part of that transaction, Best Buy Stores acquired all right, title and interest in and to Geek Squad, Inc.’s intellectual property rights, including the name and trademark GEEK SQUAD. Through a subsequent transfer, Best Buy Enterprise Services, Inc. is now the owner of the GEEK SQUAD name and mark and associated intellectual property rights.

9. Prior to the acquisition of Geek Squad by Best Buy Stores, Geek Squad engaged in, and is now engaged in – under the ownership of Best Buy Stores – providing services including computer installation and repair, and design of computers, computer software, and computer networks. Geek Squad has been engaged in these services since at least 1994.
10. Best Buy Enterprise Services is the owner of certain United States Trademark Registrations for the mark GEEK SQUAD, including the following:

U.S. Registration Number	Mark	Date of Registration
1,943,643	GEEK SQUAD (+ design)	December 26, 1995
2,023,380	GEEK SQUAD (+ design)	December 17, 1996
2,744,658	GEEK SQUAD	July 29, 2003
2,834,408	GEEK SQUAD 24 HOUR COMPUTER SUPPORT TASK FORCE	April 20, 2004

These registrations are valid and subsisting. U.S. Registrations Nos. 1,943,643 and 2,023,380 are incontestable pursuant to 15 U.S.C. § 1065. These registered marks and all common law rights to them are referred to collectively in this Consent Judgment as the “Plaintiffs’ Marks.”

11. Best Buy Enterprise Services licenses the Plaintiffs’ Marks to Best Buy Stores and BestBuy.com. Best Buy Stores, BestBuy.com, Best Buy Enterprise Services and their predecessors in interest are referred to collectively hereinafter as “Geek Squad” or Plaintiffs.
12. Geek Squad has continuously used the mark GEEK SQUAD for its computer services and products since at least 1994, and is known to consumers of services and products in the areas of design, installation and repair of computers, computer software and computer networks and to others.
13. As a result of Plaintiffs’ pervasive use and extensive advertising, Plaintiffs’ Marks

are now well-known and famous throughout the United States.

14. Geek Squad's website is located at www.geeksquad.com. Geek Squad uses the Plaintiffs' Marks on this website and on the BestBuy.com website located at www.bestbuy.com to market its products and services.

Defendants' Activities

15. In 2002, Defendants began providing on-site computer services and support first under the name "GeekSquad," and now under the name "Geek Brigade." Defendants names are collectively referred to as "Defendants' Marks."
16. Defendant Spencer registered the fictitious name "GeekSquad" with the Missouri Secretary of State on August 20, 2002, and received a Missouri certificate of organization for "GeekSquad, L.L.C." on August 22, 2003. Spencer subsequently canceled the fictitious name registration for "GeekSquad" and changed the corporate Defendants' name to "Geek Brigade, L.L.C."
17. The parties acknowledge that BRIGADE is synonymous with SQUAD.
18. The parties acknowledge that any unauthorized use of Plaintiffs' Marks, or marks substantially similar to Plaintiffs' Marks, by Defendants in the manner described above is likely to cause confusion of customers and potential customers of the parties, at least as to some affiliation, connection or association of Defendants with Geek Squad, or as to the origin, sponsorship, or approval of Defendants' services and/or website by Geek Squad.
19. The parties acknowledge that any unauthorized use by Defendants of other combinations of synonyms of GEEK" and SQUAD" (such as NERD PATROL) is likely to cause confusion of customers and potential customers of the parties and is likely to dilute the distinctive quality of the Geek Squad's famous GEEK SQUAD Marks.
20. The parties acknowledge that any unauthorized use of Plaintiffs' Marks, or marks substantially similar to Plaintiffs' Marks, by Defendants dilutes and is likely to dilute the distinctive quality of Geek Squad's famous GEEK SQUAD Marks.
21. Consistent with the parties' stipulations, the Court hereby finds that Defendants'

actions constitute trademark infringement and trademark dilution.

CONCLUSION

- A. Defendants and their agents, servants, employees, and attorneys, and all other persons in active concert or participation with them, are permanently enjoined and restrained from using the names and marks “GeekSquad,” “Geek Squad” and “Geek Brigade,” and any other mark, trade name, corporate name or domain name that is confusingly similar to Plaintiffs’ Marks or likely to dilute their distinctive quality.
- B. Defendants shall not use in advertising or promoting their business a logo confusingly similar to the Plaintiffs’ logo (such as presented in U.S. Registration No. 1,943,643), an orange-and-black or predominantly orange color scheme, black-and-white vehicles, or vehicles which simulate law enforcement vehicles, police badges, or depictions of employees resembling Geek Squad's Special Agents, or trade dress simulating a law enforcement theme.
- C. Within ten business days after the date of this Consent Judgment, Defendants shall file with the Missouri Secretary of State documents to effectuate an amendment of the corporate name for Geek Brigade, L.L.C. to a name in compliance with paragraph A. above and shall contemporaneously provide Plaintiffs’ counsel with a copy of such documents.
- D. Within ten business days after the date of this Consent Judgment, Defendants shall attempt to contact Allpages.com, Yellowpages.com, Switchboard.com, Yellowbook.com, Merchantcircle.com, Yahoo.com, Metacrawler.com, Superpages.com, Shopkansascity.com, Google.com, and any other online or print directories known to Defendants, or identified to Defendants by Geek Squad, as having listings for Defendants’ business as “Geek Squad,” “GeekSquad” or “Geek Brigade,” and shall instruct these directories to remove any such references. Defendants shall attempt to follow up with these directories on a periodic basis requesting removal of any known non-removed references.
- E. Pursuant to Rule 65(d), Fed. R. Civ. P., this Consent Judgment is binding upon

both of the Defendants, Plaintiffs, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice thereof by personal service or otherwise.

- F. The parties shall bear their own costs in this action.
- G. This judgment shall have res judicata and collateral estoppel effect as to all findings and conclusions contained herein and all claims and defenses asserted in the lawsuit.

Date: September 13, 2007

/s/ DEAN WHIPPLE
Dean Whipple
United States District Judge

The parties hereby agree to the terms of this Consent Judgment:

Approved as to form:

FOR PLAINTIFFS:

/s/ Mark D. Hinderks
Mark D. Hinderks, W.D. Mo. #KS000029
12 Corporate Woods
10975 Benson, Suite 550
Overland Park, Kansas 66210
Telephone: 913-451-8600
Facsimile: 888-221-9755
mhinderks@stinsonmoheck.com

**ATTORNEYS FOR BEST BUY
STORES, L.P., BESTBUY.COM, LLC
AND BEST BUY ENTERPRISE
SERVICES, INC.**

FOR DEFENDANTS:

**GEEK BRIGADE, L.L.C.
JAMES D. SPENCER**

/s/ Arthur K. Shaffer

By: Arthur K. Shaffer, MO #51229
INTELLECTUAL PROPERTY CENTER, LLC
9233 Ward Parkway, Suite 100
Kansas City, Missouri 64114
Telephone: (816) 363-1555
Facsimile: (816) 363-1201
ashaffer@theIPCenter.com

**ATTORNEY FOR JAMES D. SPENCER
AND GEEK BRIGADE, L.L.C.**