

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SYDNEY NICOLE LLC and
SYDNEY NICOLE GIFFORD,

Plaintiffs,

V.

ALYSSA SHEIL LLC and
ALYSSA SHEIL,

Defendants.

1:24-cv-423-RP

ORDER

Before the Court is the report and recommendation of United States Magistrate Judge Dustin Howell concerning Defendants' Motion to Dismiss Counts 2, 3, 5, 6, 7, & 8 of Plaintiffs' Complaint, (Dkt. 13). (R. & R., Dkt. 27). In his report, Judge Howell recommends granting in part and denying in part Defendants' motion. He recommends granting dismissal of Plaintiffs' claims of tortious interference, unfair competition, and unjust enrichment, but denying dismissal of Plaintiffs' claims of vicarious copyright infringement, DCMA violations, and misappropriation of likeness. Defendants timely filed objections to the report and recommendation. (Objs., Dkt. 28). Defendants object to Judge Howell's recommendation to deny dismissal of the DCMA violations and misappropriation of likeness claims. (*Id.*).

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because Defendants timely objected to the report and recommendation, the Court reviews the report and recommendation *de novo*. Having done so and for the reasons given in the

report and recommendation, the Court overrules Defendants' objections and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Dustin Howell, (Dkt. 27), is **ADOPTED**.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss Counts 2, 3, 5, 6, 7, & 8 of Plaintiffs' Complaint, (Dkt. 13), is **GRANTED IN PART** and **DENIED IN PART**. The motion is **DENIED** as to Plaintiffs' claims of vicarious copyright infringement, DCMA violations, and misappropriation of likeness.

IT IS FINALLY ORDERED that Plaintiffs' claims of tortious interference, unfair competition, and unjust enrichment are **DISMISSED with prejudice**.

SIGNED on December 10, 2024.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE