



NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

RIVERSIDE DIVISION

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In re:)
CALVIN KWONG MANN,)
Debtor.)
_____)
SYMANTEC CORPORATION,)
Plaintiff,)
v.)
CALVIN KWONG MANN,)
Defendant.)
_____)

Case No. 6:08-bk-11363-PC
Adversary No. 6:08-ap-01178-PC
Chapter 7

MEMORANDUM DECISION

Date: March 31, 2009
Time: 9:30 a.m.
Place: United States Bankruptcy Court
Courtroom # 304
3240 Twelfth Street
Riverside, CA 92501

Plaintiff, Symantec Corporation (“Symantec”) seeks a summary judgment against Defendant, Calvin Kwong Mann (“Mann”) determining that Mann’s debt to Symantec is nondischargeable under 11 U.S.C. § 523(a)(6). The court, having considered the pleadings, evidentiary record, and arguments of counsel, makes the following findings of fact and conclusions of law¹ pursuant to F.R.Civ.P. 52(a)(1), as incorporated into FRBP 7052 and applied to adversary proceedings in bankruptcy cases.

¹ The court also adopts and incorporates by reference into this Memorandum Decision the Separate Statement of Undisputed Facts and Conclusions of Law in Support of Symantec Corporation’s Motion for Summary Judgment, except Conclusion of Law No. 145. To the extent that any finding of fact is construed to be a conclusion of law, it is hereby adopted as such. To the extent that any conclusion of law is construed to be a finding of fact, it is hereby adopted as such.

1 I. STATEMENT OF FACTS

2 Symantec designs, manufactures, publishes, and distributes software including Norton
3 System Works, Norton Antivirus, Norton Utilities, pcAnywhere, Norton Ghost, WinFax PRO,
4 Partition Magic, and Norton Internet Security. It owns a registered trademark for each of these
5 products. Symantec owns registered copyrights for Norton Antivirus, Norton Utilities, Norton
6 Internet Security, NortonGhost, and CleanSweep. Symantec contracts with a third-party,
7 DisCopy Laboratories (“DCL”) to manufacture the software. DCL ensures that all products are
8 produced to Symantec’s standards. Symantec sells its software only to authorized dealers, and
9 produces software to be included with new computers as “original equipment manufacturer” or
10 “OEM” disks. OEM disks are sold only to vendors and not to retail customers. Symantec’s
11 software contains certain characteristics that are not present in unauthorized replications of the
12 software. If the software does not contain these characteristics, the software is not authorized by
13 Symantec and is counterfeit.

14 Mann, who has also used the name Calvin Chik, operated a fictitious business entity
15 known as Rowcal Distribution. Mann was in charge of ordering all Symantec software for the
16 business. Mann’s suppliers were Ted Wu (“Wu”) and Lily Zheng (“Zheng”), who operated Hi-
17 Tech Computer Services and Tedly Electronics, LLC. Mann advertised, marketed, and sold
18 Symantec software primarily on the website www.rowcal.com. Mann purchased counterfeit
19 copies of Symantec’s proprietary works. Each disk obtained by Mann contained unauthorized
20 copies of Symantec’s copyrighted material. Mann admits that he was banned from selling
21 Symantec products on eBay. Mann testified by deposition that he remembered clearly not being
22 able to sell Symantec software on eBay because he was banned. On March 24, 2005, Mann was
23 visited by William R. Baird (“Baird”), a Symantec employee, who informed Mann that the
24 products that he was selling were counterfeit. Mann turned over 45 CDs to Baird on March 24,
25 2005. Each of these disks bore one or more of Symantec’s registered trademarks. Each of these
26 disks were determined by Symantec to be counterfeit and made to look exactly like authorized
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1 products of Symantec. On March 25, 2005, Symantec sent a letter to Mann informing him that
2 he was selling counterfeit Symantec products and demanding that he immediately cease and
3 desist from further sales of counterfeit software. Mann stopped selling the counterfeit Symantec
4 software products for a few days, but then resumed marketing the counterfeit software for
5 approximately a year. Mann did not contact Symantec to confirm whether the software he was
6 continuing to sell was authentic. On June 21, 2005, Symantec sent written notice to Tedley
7 Computer, Hi-Tech Computer Services, Tedley Electronics, LLC, Wu, and Zheng informing
8 them that they were selling counterfeit copies of Symantec software products. Symantec's
9 written demand that they cease and desist from doing so was ignored.

10 On January 29, 2007, Symantec filed a Complaint against Mann, Rowcal Distribution,
11 and other non-debtor third-parties in Case No. 07-00676 –ODW (FFMx), styled Symantec
12 Corporation v. Mann, et al., in the United States District Court, Central District of California,
13 seeking damages for alleged 1) trademark infringement; 2) false designation of origin under the
14 Lanham Act; 3) copyright infringement; 4) fraud; 5) trafficking in counterfeit labels,
15 documentation and/or packaging in violation of 18 U.S.C. § 2318; 6) unfair competition; 7)
16 common law unfair competition; 8) state law false advertising; 9) intentional interference with
17 prospective economic advantage; and 10) negligent interference with prospective economic
18 advantage. A default judgment was entered against the non-debtor defendants.

19 On February 29, 2008, Mann filed a voluntary petition under chapter 7 of the Bankruptcy
20 Code.² Mann received a discharge on May 28, 2008, and the case was closed as a “no-asset”
21 case on June 12, 2008.

22 On May 19, 2008, Symantec timely filed its complaint in this adversary proceeding

24 ² Unless otherwise indicated, all “Code,” “chapter” and “section” references are to the
25 Bankruptcy Code, 11 U.S.C. §§ 101-1330 after its amendment by the Bankruptcy Abuse and
26 Consumer Prevention Act of 2005, Pub. L. 109-8, 119 Stat. 23 (2005). “Rule” references are to
27 the Federal Rules of Bankruptcy Procedure (“F.R.Civ.P.”), which make applicable certain
Federal Rules of Civil Procedure (“FRBP”).

1 seeking a determination that Mann’s debt to Symantec is nondischargeable under 11 U.S.C. §§
2 523(a)(2), (a)(4), and (a)(6). Mann filed an answer to Symantec’s complaint on August 18, 2008.
3 On January 13, 2009, Symantec moved for summary judgment on its cause of action under 11
4 U.S.C. § 523(a)(6). On February 3, 2009, Mann filed his response in opposition to the motion.
5 Symantec filed its reply to Mann’s opposition on February 12, 2009. After a hearing on March
6 31, 2009, the matter was taken under submission.

7 II. DISCUSSION

8 This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§
9 157(b) and 1334(b). This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (I), and
10 (O). Venue is appropriate in this court. 28 U.S.C. § 1409(a). To prevail under 11 U.S.C. §
11 523(a)(2)(A), (a)(4), or (a)(6), the plaintiff must establish the allegations of the complaint by a
12 preponderance of the evidence. Grogan v. Garner, 498 U.S. 279, 291 (1991). Objections to the
13 dischargeability of a debt are to be literally and strictly construed against the objector and
14 liberally construed in favor of the debtor. Quarre v. Saylor (In re Saylor), 108 F.3d 219, 221 (9th
15 Cir. 1997).

16 A. Summary Judgment Standard.

17 Summary judgment is appropriate “if the pleadings, the discovery and disclosure
18 materials on file, and any affidavits show that there is no genuine issue as to any material fact
19 and that the movant is entitled to judgment as a matter of law.” F.R.Civ.P. 56(c). “The purpose of
20 summary judgment is to avoid unnecessary trials when there is no dispute as to the [material]
21 facts before the court.” Nw. Motorcycle Ass’n v. U.S. Dep’t of Agric., 18 F.3d 1468, 1471 (9th
22 Cir. 1994). Under Rule 56(c), the moving party bears the initial burden to establish that there are
23 no genuine issues of material fact to be decided at trial. Celotex Corp. v. Catrett, 477 U.S. 317,
24 322-23 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-50 (1986). “A ‘material
25 fact’ is one that is relevant to an element of a claim or defense and whose existence might affect
26 the outcome of the suit. The materiality of a fact is thus determined by the substantive law
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1 governing the claim or defense.” T.W. Elec. Serv. v. Pac. Elec. Contractors Ass’n, 809 F.2d 626,
2 630 (9th Cir. 1987). Genuine issues of material fact are those “factual issues that make a
3 difference to the potential outcome and ‘that properly can be resolved only by a finder of fact
4 because they may reasonably be resolved in favor of either party.’” Svob. v. Bryan (In re Bryan),
5 261 B.R. 240, 243 (9th Cir. BAP 2001) (quoting Anderson, 477 U.S. at 250). If the movant
6 bears the burden of persuasion, the motion must be supported by evidence establishing the
7 existence of each and every element essential to its case. See Daubert v. Merrell Dow
8 Pharmaceuticals, Inc., 43 F.3d 1311, 1315 (9th Cir. 1995), *cert. denied*, 516 U.S. 869 (1995).

9 The burden then shifts to the nonmoving party to produce “significantly probative
10 evidence” of specific facts showing there is a genuine issue of material fact requiring a trial.
11 T.W. Elec. Serv., 809 F.2d at 630 (*citing* F.R.Civ.P. 56(e)). The nonmoving party cannot
12 “withstand a motion for summary judgment merely by making allegations; rather, the party
13 opposing the motion must go beyond its pleadings and designate specific facts by use of
14 affidavits, depositions, admissions, or answers to interrogatories showing there is a genuine issue
15 for trial.” In re Ikon Office Solutions, Inc., Sec. Lit., 277 F.3d 658, 666 (3d Cir. 2002). If the
16 nonmoving party fails to establish a triable issue on an essential element of the movant’s case,
17 the moving party is entitled to judgment as a matter of law. See United States v. Shumway, 199
18 F.3d 1093, 1104 (9th Cir. 1999).

19 **B. Trademark Infringement & False Designation of Origin.**

20 The elements necessary to establish a trademark infringement claim under § 32 of the
21 Lanham Act are: 1) the existence of a mark; and 2) the subsequent use of that mark by another in
22 a manner likely to create consumer confusion. 15 U.S.C. § 1114(1); Comedy III Productions,
23 Inc. v. New Line Cinema, 200 F.3d 593, 594 (9th Cir. 2000). False designation of origin claims
24 under § 43(a) of the Lanham Act apply to both registered and unregistered marks and protect
25 against a wider range of practices. 15 U.S.C. § 1125(a)(1); Brookfield Communications, Inc. v.
26 West Coast Entertainment Corp., 174 F.3d 1036, 1046 n.6 & 1047 n.8 (9th Cir. 1999). The
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1 elements necessary to establish a false designation of origin claim are identical to those for
2 trademark infringement. Id.

3 Symantec has established the first element—the existence of a mark. Symantec owns a
4 registered trademark for Symantec, Norton System Works, Norton Antivirus, LiveUpdate,
5 Goback, CleanSweep, Norton Utilities, pcAnywhere, Norton Ghost, and WinFax Pro. Mann
6 admits that Symantec owns these trademarks. These facts are undisputed.

7 Symantec has also established that Mann used one or more of these trademarks in a
8 manner likely to create consumer confusion. To determine whether there is a likelihood of
9 confusion, a court considers the following eight factors: (1) similarity of marks; (2) relatedness of
10 the plaintiff's and defendant's products or services; (3) marketing methods; (4) strength of
11 plaintiff's marks; (5) defendant's intent in selecting the mark; (6) evidence of actual confusion;
12 (7) likelihood of expansion into other markets; and (8) the degree of care likely to be exercised
13 by purchasers. Downing v. Abercrombie & Fitch, 265 F.3d 94, 1008 (9th Cir. 2001) (citing
14 AMF v. Sleekcraft Boats, 599 F.2d 341, 348 (9th Cir. 1979)). Some of these factors are more
15 important than others and they must be reviewed on a case-by-case basis. Brookfield Comm'n,
16 174 F.3d at 1058. In applying the factors to this case, the court finds that Mann's actions created
17 a likelihood of consumer confusion.

18 1. Similarity of Marks

19 Mann admits turning over 45 CDs to Baird. Mann also admits that each of these disks
20 contained copies of Symantec's copyrighted material, including copyrighted software and
21 manuals contained in different versions of Symantec's products. Each of these CDs bore one or
22 more of Symantec's registered trademarks. The CDs were counterfeit and made to look exactly
23 like Symantec's authorized products. Symantec has established that Mann sold software with
24 marks similar to those registered by Symantec. Because there is a likelihood that consumers
25 were confused by the similarity of the products, the court finds that this factor weighs against
26 Mann.

1 2. Relatedness of Symantec’s and Mann’s Products or Services

2 Mann admits that all of the CDs sold were produced to look exactly like genuine
3 Symantec products. Because it is likely that the public would believe that Mann was selling an
4 authentic Symantec product when, in fact, the product was counterfeit, this factor weighs against
5 Mann

6 3. Marketing Methods

7 Mann admits that he advertised, marketed, and sold the counterfeit Symantec products on
8 the Internet at www.rowcal.com. Symantec also has a website through which consumers are
9 directed to authorized distributors. Rowcal Distribution is not an authorized dealer of Symantec
10 products, but Mann engaged in the business of advertising, marketing, and selling products
11 through Rowcal Distribution purporting to be genuine Symantec products. There is a likelihood
12 that consumers could be confused that Rowcal Distribution was authorized to sell Symantec
13 products when, in fact, it was merely a distributor of counterfeit software.

14 4. Strength of Symantec’s Marks

15 There is no dispute that Symantec’s marks are strong and recognizable. Mann admits that
16 Symantec has used their registered trademarks continuously to identify its products. These
17 trademarks are used both domestically and internationally. This factor is undisputed and weighs
18 against Mann.

19 5. Defendant’s Intent in Selecting the Mark

20 Mann admits that the counterfeit software sold was intended to look exactly like
21 Symantec’s software. Mann advertised, marketed and sold his counterfeit products to the same
22 pool of customers targeted by Symantec. In so doing, Mann sought to profit from the good will
23 and business reputation that had attached to Symantec, its trademarks and copyrighted products.
24 This factor weighs against Mann.

25 6. Evidence of Actual Confusion

26 According to the declaration of Marc Brandon, Symantec’s director of Global Brand
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1 Protection, Symantec received numerous inquiries and requests for support from consumers who
2 had purchased software from Mann. Symantec examined copies of the software purchased by a
3 number of these consumers from Mann and determined them to be counterfeit. The court infers
4 from this evidence that consumers were actually confused by Mann's actions.

5 7. Likelihood of Expansion into Other Markets

6 The summary judgment evidence establishes that Mann intended to advertise and sell the
7 counterfeit products to Symantec's target market. When the goods are closely related, any
8 expansion is likely to result in direct competition. Sleekcraft, 599 F.2d at 354. Symantec and
9 Mann sold their products to the same pool of customers. Mann's actions created direct
10 competition with Symantec thereby creating a likelihood of confusion as to the authenticity of the
11 product. This factor weighs against Mann.

12 8. The Degree of Care Likely to be Exercised by Purchasers

13 There is a strong likelihood that a reasonably prudent consumer would be confused given
14 the similarities existing between genuine Symantec's products and the counterfeit products sold
15 by Mann. The counterfeit CDs sold by Mann were produced to look exactly like Symantec's
16 registered software. This factor weighs against Mann.

17 Based on the foregoing, Symantec has established a *prima facie* case of infringement by
18 Mann of Symantec's registered trademarks in violation of 15 U.S.C. § 1114(1) and false
19 designation of origin in violation of 15 U.S.C. § 1125(a)(1).

20 C. Copyright Infringement.

21 Symantec owns registered copyrights for Norton AntiVirus, pcAnywhere, Norton Ghost,
22 Norton System Works, Norton Internet Security, WinFax PRO, and their component software
23 programs. The owner of a registered copyright has exclusive rights to authorize or distribute
24 copies of the copyrighted work to the public. 17 U.S.C. § 106(3); Parfums Givenchy, Inc. v.
25 Drug Emporium, Inc., 38 F.3d 477, 480 (9th Cir. 1994). Distribution of unauthorized
26 copyrighted materials is grounds for a cause of action for infringement. Id. at 479. The summary
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1 judgment evidence supports a finding that Mann advertised, marketed, and sold counterfeit
2 copies of Symantec’s copyrighted works to the public without Symantec’s authorization and in
3 violation of Symantec’s oral and written demand to cease and desist. Therefore, Symantec has
4 established a *prima facie* case of infringement by Mann of Symantec’s registered copyrights in
5 violation of 17 U.S.C. § 106(3).

6 D. Trafficking in Counterfeit Labels.

7 Any copyright owner who is injured, or threatened with injury, by one who knowingly
8 traffics in a counterfeit label affixed to, enclosing, or accompanying a copy of a computer
9 program in violation of 18 U.S.C. § 2318(a)(1)(B) may bring a civil action for reasonable
10 attorneys fees and costs together with actual damages and profits or, alternatively, statutory
11 damages. 18 U.S.C. § 2318(f). For the reasons previously stated, the court finds that Symantec
12 has established a *prima facie* case that Mann trafficked in counterfeit labels by Mann in violation
13 of 18 U.S.C. § 2318(a)(1)(B).

14 D. Section 523(a)(6)

15 Section 523(a)(6) excepts from discharge debts resulting from “willful and malicious
16 injury by the debtor to another entity or to the property of another entity.” 11 U.S.C. § 523(a)(6).
17 A “deliberate or intentional injury” is required before § 523(a)(6) will render a debt
18 nondischargeable. *See Kawaaukau v. Geiger*, 523 U.S. 57, 61 (1998) (stating that
19 nondischargeability under § 523(a)(6) “takes a deliberate or intentional injury, not merely a
20 deliberate or intentional act that leads to injury”). Section 523(a)(6) requires separate findings on
21 the issues of “willful” and “malicious.” The “willful” injury requirement of § 523(a)(6) is met
22 “when it is shown either that the debtor had a subjective motive to inflict injury *or* that the debtor
23 believed that injury was substantially certain to occur as a result of his conduct.” *Carrillo v. Su*
24 *(In re Su)*, 290 F.3d 1140, 1144 (9th Cir. 2002) (quoting *Petralia v. Jercich (In re Jercich)*, 238
25 F.3d 1202, 1208 (9th Cir.), *cert. denied*, 533 U.S. 930 (2001)). A “malicious injury” involves
26 “(1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done
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1 without just cause or excuse.” Id. at 1146-47 (quoting Jercich, 238 F.3d at 1209). *See, e.g.*,
2 Diamond v. Kolcum (In re Diamond), 285 F.3d 822, 829 (9th Cir. 2002) (holding that a state
3 court jury finding that the debtors “intentionally caused injury” to the creditor “without just
4 cause” was entitled to preclusive effect for purposes of § 523(a)(6)); Murray v. Bammer (In re
5 Bammer), 131 F.3d 788, 791 (9th Cir. 1997) (en banc) (stating that malice under § 523(a)(6)
6 “does not require a showing of biblical malice, *i.e.*, personal hatred, spite or ill-will”).

7 1. Willful Injury

8 Symantec asserts that the willful requirement is satisfied because the evidence shows that:
9 (1) Mann advertised, marketed, and sold counterfeit Symantec products; (2) Mann continued to
10 advertise, market, and sell counterfeit Symantec products after being banned from eBay for doing
11 so; and (3) Mann continued to advertise, market, and sell counterfeit Symantec products after
12 receiving oral and written demands from Symantec to cease and desist selling the counterfeit
13 software.

14 Based on the summary judgment record, the court finds that Mann’s conduct was willful.
15 The evidence establishes that Mann sold counterfeit software that was produced to look exactly
16 like Symantec software. On March 24, 2005, Mann was notified in person by Baird, Symantec’s
17 representative, to stop purchasing and selling the counterfeit software. On March 25, 2005,
18 Mann was given written notice from Symantec demanding that he cease and desist selling the
19 counterfeit software. Mann admits that he was banned from selling Symantec products on eBay.
20 He testified by deposition remembering clearly not being permitted to sell Symantec software on
21 eBay because he was banned. Mann admitted that, despite being banned from selling Symantec
22 products on eBay and being instructed to stop selling counterfeit copies of Symantec software, he
23 continued to sell counterfeit software for approximately one year. Mann did not close his
24 business until March of 2006. In sum, Mann’s actions were deliberate and intentional. Mann
25 had a subjective motive to inflict injury on Symantec.

26 To defeat Symantec’s summary judgment motion, Mann had the burden of producing
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1 significantly probative evidence to establish a triable issue on an essential element of Symantec’s
2 case. Essentially, Mann argues that he only continued selling the counterfeit software after
3 March 2005 because Zheng, a Hi-Tech owner, assured him that the products were different from
4 Symantec products and not counterfeited. However, Mann’s opposition is not supported by
5 Zheng’s declaration or any evidence other than his own representation. Mann has not produced
6 significantly probative evidence to raise a genuine issue of fact regarding willfulness. The
7 summary judgment evidence supports a finding that Mann knew that he was selling counterfeit
8 software, and continued to do so despite a specific demand from Symantec to cease and desist.

9 2. Malicious Injury

10 A malicious injury involves: “(1) a wrongful act, (2) done intentionally, (3) which
11 necessarily causes injury, and (4) is done without just cause or excuse. Carrillo v. Su (In re Su),
12 290 F.3d 1146-47 (9th Cir. 2002) (citing Petralia v. Jerich (In re Jercich), 238 F.3d 1202, 1209
13 (9th Cir. 2001)). Malice cannot be implied from willfulness. In re Barbazona, 543 F.3d 712.
14 However, the facts used to establish malice and willfulness may overlap. Id.

15 Based on the summary judgment record, the court finds that the evidence establishes that
16 Mann’s conduct was malicious. Mann committed a wrongful act, and intentionally caused injury
17 to Symantec. Mann sold counterfeit Symantec software, and continued to do so despite a
18 specific demand from Symantec to cease and desist. Mann’s wrongful conduct necessarily
19 caused injury to Symantec. Symantec is in the business of producing and selling software.
20 Symantec’s registered trademarks and copyrights ensure that their product will be only be used
21 as authorized by Symantec. Mann advertised, marketed and sold his counterfeit products to the
22 same pool of customers targeted by Symantec. In so doing, Mann sought to profit from the good
23 will and business reputation that had attached to Symantec, its trademarks and copyrighted
24 products. Mann’s unauthorized actions were intentional and necessarily caused damage to
25 Symantec’s proprietary interests in its registered trademarks and copyrights. Finally, Mann has
26 not provided a just cause or excuse. Mann has not produced any evidence to establish that it was
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1 reasonable to continue to sell counterfeit products after told to quit. Mann had already been
2 banned from eBay and the evidence indicates that he knew it was wrong to sell counterfeit
3 software. Mann's limited business experience and cultural limitations are not valid excuses and
4 are not supported by evidence.

5 Symantec is entitled to a partial summary judgment against Mann on all elements of
6 Symantec's claim for relief against Mann under § 523(a)(6), except the issue of damages, as a
7 matter of law.

8 E. Damages.

9 In its motion, Symantec has elected to seek the maximum amount of statutory damages
10 (1) permitted under 15 U.S.C. § 1117(c) attributable to Mann's trademark infringement;³ (2)
11 permitted under 17 U.S.C. § 504(c) attributable to Mann's copyright infringement;⁴ and (3)
12 permitted under 18 U.S.C. § 2318(f)(4) attributable to Mann's trafficking in counterfeit labels.
13 However, the court has wide discretion in awarding statutory damages and Symantec has not

14 _____
15 ³ Where a counterfeit mark is used, the victim of infringement "may elect, at any time before
16 final judgment is rendered by the trial court, to recover, instead of actual damages and profits
17 under [15 U.S.C. § 1117(a)], an award of statutory damages for any such use in connection with
the sale, offering for sale, or distribution of goods or services in the amount of –

18 (1) not less than \$500 or more than \$100,000 per counterfeit mark per type of goods or
19 services sold, offered for sale, or distributed, as the court considers just; or

20 (2) if the court finds that the use of the mark was willful, not more than \$1,000,000 per
21 counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the
court considers just.

22 15 U.S.C. § 1117(d).

23 ⁴ Where liability for an infringement has been established, the copyright owner "may elect, at
24 any time before final judgment is rendered, to recover, instead of actual damages and profits
25 [under 17 U.S.C. § 504(b)], an award of statutory damages for all infringements involved in the
26 action, with respect to any one work . . . in a sum of not less than \$750 or more than \$30,000 as
the court considers just." 17 U.S.C. § 504(c)(1). If the court finds that the infringement was
27 willful, "the court in its discretion may increase the award of statutory damages to a sum of not
more than \$150,000." 17 U.S.C. § 504(c)(2).

In re:	CHAPTER:
Debtor(s).	CASE NUMBER:

NOTE TO USERS OF THIS FORM:

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List ONLY addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. DO NOT list an address if person/entity is listed in category I.

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) MEMORANDUM DECISION was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner indicated below:

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of 4/6/09, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

Service information continued on attached page

II. SERVED BY THE COURT VIA U.S. MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the address(es) indicated below:

Service information continued on attached page

III. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s), and/or email address(es) indicated below:

Service information continued on attached page

In re:	Debtor(s).	CHAPTER:	CASE NUMBER:
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ADDITIONAL SERVICE INFORMATION (if needed):

ELECTRONIC

Henry Gonzalez on behalf of Plaintiff Symantec Corporation
hgonzalez@bautelaw.com

Stella A Havkin on behalf of Defendant Calvin Mann
havkinlaw@earthlink.net

United States Trustee (RS)
ustpreion16.rs.ecf@usdoj.gov

U.S. MAIL

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