



Proceeding: **0107805-43.2019.8.19.0001**

Electronic Proceeding

Class/Matter: Ordinary Proceeding – Trademark

Plaintiff: CROSSFIT INC.

Defendant: GIFT CLUB ACADEMIA DE GINÁSTICA LTDA

On this date I take the case records to the Honorable Judge
Maria Cristina de Brito Lima

On 05/13/2019

Decision

This is an inhibitory action to restrain the use of trademarks, coupled with losses and damages, filed by CROSSFIT, INC., a US company, against GIFT CLUB ACADEMIA DE GINÁSTICA LTDA, in the form of the initial brief of pages 03/32, supported by documents of pages 33/360.

The Plaintiff states that the Defendant is engaging in trademark infringement and unfair competition, reproducing the Plaintiff's CROSSFIT trademark, designed by former gymnast Greg Glassman to identify a strength and fitness program.

It adduces that it sent an extrajudicial notification to the Defendant company, received no answer.

It adds to the initial brief photos of the Defendant's fitness center, with the clear use of the Plaintiff's trademark in the space for the practice of exercises and in the uniform of the teachers, evidencing the trademark infringement practiced by the Defendant.

It further claims that the perpetuation of this illegal practice has caused losses of large losses for the Plaintiff and its licensed companies in Brazil, without mentioning damages to the image and reputation of the CROSSFIT trademark.

It emphasizes that CROSSFIT is a registered trademark and of exclusive use of the Plaintiff and its affiliated fitness centers and not a word to describe an exercise modality.

Therefore, it requests advance protection, consubstantiated in the immediate abstention of the use of trademark "CROSSFIT", in any medium and in any way, or that includes, without this constituting limitation, use on websites, social networks, hashtags, advertising, stores, facades, clothing articles, among others, until there is a final judgment in the present suit, under penalty of payment of daily fine in the amount of R\$ 5,000.00 (five thousand reais) in the event of breach of the precept.

THIS IS THE BRIEF REPORT. I APPRECIATE.

The advance protection shall be granted when there are elements that evidence the probability of the

State of Rio de Janeiro Judiciary
Court of Appeals
Judicial District of the Capital
Court Records Department of the 6th Business Court
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law and the risk of harm or risk to the useful outcome of the proceeding, as provided in Article 300 of the CPC [Code of Civil Procedure].

Therefore, I verify the presence of the legal requirements, since there is a probability in the plaintiff's allegations by proving the ownership of the CROSSFIT trademark, as verified on pages 06/07.

And the danger of damage is evidenced by the use of the Plaintiff's trademark, duly registered, by the Defendant, according to photos attached to the initial brief (pages 18/20), without the proper license to do so, causing losses to the Plaintiff and its affiliates.

I hereby GRANT the advance protection requested and DETERMINE the immediate ABSTENTION of the use of trademark "CROSSFIT", in any medium and in any way, or that includes, without limitation, use in websites, social networks, hashtags, advertising, stores, façades, clothing, among others, until further decision this Court, under penalty of fine, that I set in the value of R\$ 5,000.00 (five thousand reais) per day of noncompliance.

Considering that it is a foreign company, the bond in the amount of R\$ 13,000.00 (thirteen thousand reais), pursuant to article 83 of the CPC, must be submitted within five days. With this in the case records, SERVE the Defendant to challenge the litigation, within the legal term, as well as SUMMON it of the present DECISION, on the day of filing of the bond.

I refrain from designating the hearing foreseen in the CPC, art. 334, since a conciliatory effort has already been made by the plaintiff, demonstrated by the extrajudicial notification, which has remained unsuccessful; thus, the judiciary must be afforded the necessary protection.

Rio de Janeiro, 05/14/2019.

Maria Cristina de Brito Lima – Head Judge

Case records received from Honorable Judge

Maria Cristina de Brito Lima

On __/__/__

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