

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

<p>BAYLOR UNIVERSITY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>VINTAGE BRAND, LLC, et al,</p> <p style="text-align: center;">Defendant.</p>

Case No. 6:21-cv-00409-ADA

ORDER

Before the Court are Baylor University’s (“Baylor”), and Vintage Brand, LLC’s (“Vintage Brand”), Sportswear Inc. d/b/a Prep Sportswear’s (“Prep Sportswear”), and Chard Hartvigson’s (“Mr. Hartvigson”) motions for summary judgment and motions to exclude. The Court held a Motions Hearing concerning these motions on February 14, 2023. During that hearing, the Court heard oral arguments and provided oral rulings on each of the motions. The Court now enters those rulings.

Motions for Summary Judgment

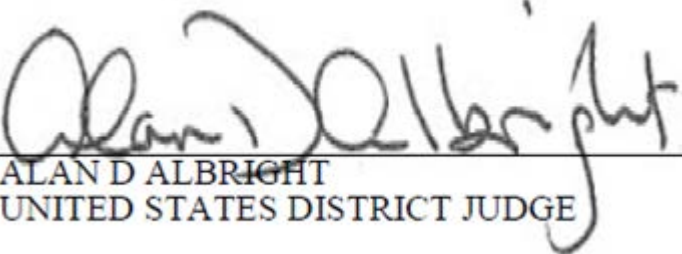
Motion	Ruling
<p>Baylor’s Motion For Partial Summary Judgment (ECF No. 72)</p>	<p>GRANTED-IN-PART and DENIED-IN-PART. The Court GRANTS Baylor’s motion with respect to its trademark infringement claims. The Court GRANTS Baylor’s motion with respect to Defendants’ counterclaims and affirmative defenses of abandonment, ornamentality, functionality, distinctiveness/secondary meaning, fair use and First Amendment, and any remaining defenses. The Court also GRANTS Baylor’s motion as to Baylor’s remedies of a permanent injunction and attorneys’ costs and fees. All other requested relief is DENIED.</p>

Vintage Brand’s Motion for Summary Judgment (ECF No. 80)	DENIED.
Prep Sportswear’s Motion for Summary Judgment (ECF No. 74)	GRANTED-IN-PART. The Court GRANTS Prep Sportswear’s Motion that Baylor cannot establish a contract claim against Defendant Prep Sportswear. All other requested relief is DENIED.

Motions to Exclude

Motion	Ruling
Defendants’ Motion to Exclude Summary Judgment Evidence (ECF No. 81)	DENIED. Defendants will be allowed to depose Mr. Krebs before trial.
Baylor’s Motion to Exclude Report and Testimony of Rhonda Harper (ECF No. 61)	GRANTED.
Baylor’s Motion to Exclude Report and Testimony of Chelsea Grayson (ECF No. 44)	DENIED.
Baylor’s Motion to Exclude Report and Testimony of Richard E. White (ECF No. 41)	GRANTED.
Vintage Brand’s Motion to Exclude Report and Testimony of Mark Matheny (ECF No. 59)	DENIED.

SO ORDERED, this 27th day of February, 2023.


 ALAN D ALBRIGHT
 UNITED STATES DISTRICT JUDGE