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U.S. District Court
Northern District of Ohio (Toledo)
CIVIL DOCKET FOR CASE #: 3:08-cv-00394-JGC
Internal Use Only

Pennzoil-Quaker State Company v. Quick Lube, Inc. et al
Assigned to: Judge James G. Carr
Cause: 15:1051 Trademark Infringement

Date Filed: 02/15/2008
Date Terminated: 07/25/2008
Jury Demand: None
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

Plaintiff**Pennzoil-Quaker State Company**

Tm Reg. # 1,505,755
1,562,593
2,175,045
2,175,082
3,030,102

represented by **Marshall A. Bennett, Jr.**
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ATTORNEY TO BE NOTICED

V.

Defendant**Quick Lube, Inc.**

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Defendant**Haneed Moe Najjar**

represented by **Richard R. Malone**
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Gregory C. Farell
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ATTORNEY TO BE NOTICED

Milton E. Pommeranz
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/15/2008	<u>1</u>	Complaint For Trademark Infringement, Counterfeiting, Dilution, Unfair Competition, False Advertising, Deceptive Trade Practices and Unjust Enrichment against all defendants. Filing fee \$350, receipt number 0647000000002867623, filed by Pennzoil-Quaker State Company. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons: Quick Lube, # <u>3</u> Summons: Najjar) (Bennett, Marshall). Modified on 2/19/2008 (M,C). (Entered: 02/15/2008)
02/15/2008	<u>2</u>	Corporate Disclosure Statement identifying other affiliate Royal Dutch Shell, PLC, filed by Pennzoil-Quaker State Company. (Bennett, Marshall). Modified on 2/19/2008 (M,C). (Entered: 02/15/2008)
02/19/2008		Judge Jack Zouhary assigned to case. (M,C) (Entered: 02/19/2008)
02/19/2008	<u>3</u>	Summons and Magistrate Consent Form issued for service upon Quick Lube, Inc., Haneed Moe Najjar. (Attachments: # <u>1</u> Najjar, # <u>2</u> Magistrate Consent Form). (M,C) (Entered: 02/19/2008)
02/20/2008	<u>4</u>	Order reassigning case to Judge James G. Carr for all further proceedings. Judge Jack Zouhary no longer assigned to case. Signed by Judge Jack Zouhary on 2/20/08. (B,CJ) (Entered: 02/20/2008)
02/22/2008	<u>5</u>	Return of Service Executed upon Haneed Moe Najjar by Personal Service on 02/22/2008 (Related Document # <u>1</u>) filed on behalf of Pennzoil-Quaker State Company (Bennett, Marshall) Modified on 2/25/2008 (Gowing,

		Diane). (Entered: 02/22/2008)
02/22/2008	<u>6</u>	Return of Service Executed upon Quick Lube, Inc. by Personal Service on 02/22/2008 (Related Document # <u>1</u>) filed on behalf of Pennzoil-Quaker State Company (Bennett, Marshall) Modified on 2/25/2008 (Gowing, Diane). (Entered: 02/22/2008)
03/13/2008	<u>7</u>	Attorney Appearance by Richard R. Malone, Milton E. Pommeranz & Gregory C. Farrell filed by on behalf of Quick Lube, Inc., Haneed Moe Najjar. (Pommeranz, Milton) Modified on 3/19/2008 (G,Di). (Entered: 03/13/2008)
03/13/2008	<u>8</u>	Motion for <i>Extension of Time until 4/15/08 for Defendants to Move, Plead, or Otherwise Respond to Plaintiff's Complaint</i> filed by Quick Lube, Inc., Haneed Moe Najjar. (Pommeranz, Milton) Modified on 3/19/2008 (G,Di). (Entered: 03/13/2008)
03/13/2008		(Court only) Utility Event adding attorney Richard R. Malone and Gregory C. Farrell for Quick Lube, Inc. and Haneed Moe Najjar. Related document(s) <u>7</u> . (G,Di) (Entered: 03/19/2008)
03/20/2008	<u>9</u>	Marginal Order granting <u>8</u> Motion for Extension of Time to Answer. Quick Lube, Inc., Haneed Moe Najjar answer due 4/15/2008. Signed by Judge James G. Carr on 3/20/2008.(S,JM) (Entered: 03/20/2008)
04/15/2008	<u>10</u>	Second Motion for extension of time until May 5, 2008 to answer <i>Plaintiff's Complaint, With Memorandum in Support Thereof, and Proposed Order</i> filed by Quick Lube, Inc., Haneed Moe Najjar. (Pommeranz, Milton) (Entered: 04/15/2008)
04/22/2008	<u>11</u>	Order granting <u>10</u> defendants Quick Lube, Inc. and Haneed Moe Najjar's motion for extension of time to answer plaintiff's complaint. Answer due 5/5/2008. Signed by Judge James G. Carr on 4/22/08.(S,JM) (Entered: 04/22/2008)
05/05/2008	<u>12</u>	Proposed Stipulation for <i>Extension of Time until 6/5/08 to Move, Plead, or Otherwise Respond to Plaintiff's Complaint</i> filed by Quick Lube, Inc., Haneed Moe Najjar. (Pommeranz, Milton) Modified on 5/6/2008 (G,Di). (Entered: 05/05/2008)
05/12/2008	<u>13</u>	Case Management Conference Scheduling Notice: case management conference to be held on 6/9/2008 at 03:00 PM at Chambers 210 before Judge James G. Carr. Recommended track: expedited. (Attachments: # <u>1</u> Magistrate Consent Form)(S,AL) (Entered: 05/12/2008)
05/12/2008	<u>14</u>	Stipulation & Order: Defendant Quick Lube, Inc. is granted an extension of time until 6/5/08 to answer Plaintiff's Complaint. Signed by Judge James G. Carr on 5/12/08. Related document <u>12</u> .(S,JM) (Entered: 05/12/2008)
05/12/2008		(Court only) Utility Event Terminating Motions. <u>12 Motion</u> for extension of time to answer filed by Haneed Moe Najjar, Quick Lube, Inc. (S,JM) (Entered: 05/12/2008)
05/29/2008	<u>15</u>	Motion to vacate <i>Case Management Conference Date of 6/9/08</i> filed by

		Plaintiff Pennzoil-Quaker State Company. (Bennett, Marshall) Modified on 5/30/2008 (G,D). (Entered: 05/29/2008)
06/02/2008	<u>16</u>	Marginal Entry Order granting motion to vacate case management conference. CMC is rescheduled 6/23/2008 at 01:30 PM at Chambers 210 before Judge James G. Carr. Signed by Judge James G. Carr on 6/2/08. (Related Doc # <u>15</u>)(S,JM) (Entered: 06/02/2008)
06/10/2008		(Court only) Utility event editing case flags. (S,AL) (Entered: 06/10/2008)
06/19/2008	<u>17</u>	Order: Parties have indicated to the Court that case is settling. Case management conference scheduled 6/23/08 is vacated. Dismissal entry is due 7/31/08. Any dispute re. terms of settlement to be submitted to Judge Carr for final adjudication. Signed by Judge James G. Carr on 6/19/08. (S,JM) (Entered: 06/19/2008)
07/10/2008	<u>18</u>	Notice of filing Proposed Consent Decree filed by Pennzoil-Quaker State Company. (Attachments: # <u>1</u> Proposed Consent Judgment)(Bennett, Marshall) Modified on 7/11/2008 (G,D). (Entered: 07/10/2008)
07/25/2008	<u>19</u>	Consent Judgment (see order for full details). Judge James G. Carr on 7/25/2008. (S,AL) (Entered: 07/25/2008)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

PENNZOIL-QUAKER STATE COMPANY,	§	Case No. _____
	§	
Plaintiff,	§	Judge _____
	§	
v.	§	
	§	
QUICK LUBE, INC.	§	
and HANEED MOE NAJJAR,	§	
	§	
Defendants.	§	

**COMPLAINT FOR TRADEMARK INFRINGEMENT, COUNTERFEITING, DILUTION,
UNFAIR COMPETITION, FALSE ADVERTISING, DECEPTIVE TRADE PRACTICES
AND UNJUST ENRICHMENT**

For its complaint, Pennzoil-Quaker State Company, appearing through the undersigned counsel, alleges as follows based on knowledge, information and belief:

PARTIES

1. Pennzoil-Quaker State Company is a Delaware corporation having its principal place of business at 700 Milam Street, Houston, Texas 77002.
2. On information and belief, Defendant Quick Lube, Inc. is an Ohio corporation having a principal place of business at 7459 W. Central Ave., Toledo, Ohio 43617.
3. On information and belief, Defendant Haneed Moe Najjar is an individual residing in this district who actively participates in the operation of Defendant Quick Lube, Inc.

NATURE OF ACTION AND JURISDICTION

4. This is an action for trademark infringement, counterfeiting, dilution, unfair competition, false advertising, deceptive trade practices and unjust enrichment under the Trademark Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.* ("Lanham Act"), and the laws of the state of Ohio.

5. This Court has jurisdiction over this action under Section 39 of the Lanham Act, 15 U.S.C. § 1121, and Title 28 of the United States Code, §§ 1331 and 1338, and supplemental jurisdiction over state law claims under 28 U.S.C. § 1367(a).

6. The matter in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states. Accordingly, this Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

FACTS

A. Pennzoil-Quaker State Company and Its Marks

7. Pennzoil-Quaker State Company, along with its predecessors and affiliates (collectively "PQS"), has been a leading source of automotive lubricants and related products and services for many years starting at least as early as 1915.

8. Since at least as early as 1915, PQS and its authorized dealers and distributors have used the mark PENNZOIL and the PENNZOIL logo in connection with the sale and promotion of lubricants and other petroleum-related products. The PENNZOIL logo incorporates "PENNZOIL" in black letters over a red "Liberty Bell" design on a yellow background, sometimes presented within an oval design. Over the years, the yellow, red and black color scheme has been repeated in PQS's trade dress, advertising and promotion for its PENNZOIL products and services.

9. In addition to its extensive common-law rights, PQS owns federal trademark registrations for its marks, including those shown in the chart below:

MARK	REGISTRATION NO./ REGISTRATION DATE	GOODS/SERVICES
	<p>1,505,755/ September 27, 1988</p>	<p>Oil filters, air filters and crankcase breathers for internal combustion engines for land vehicles (IC 12)</p>
<p>PENNZOIL 10 MINUTE OIL CHANGE</p>	<p>1,562,593/ October 24, 1989</p>	<p>Automotive lube center services (IC 37)</p>
	<p>2,175,045/ July 21, 1998</p>	<p>Chemical fuel and motor oil additives for internal combustion engines; chemical additives for engine and fuel treatment; and chemical preparations for use in the manufacture of motor oil and fuel additives (IC 1) Carburetor cleaners; automatic choke cleaner; injector nozzle cleaner; degreasers and engine cleaners for vehicles (IC 3) Motor oil; automotive, industrial and general purpose greases and lubricants; automatic transmission fluids (IC 4)</p>

MARK	REGISTRATION NO./ REGISTRATION DATE	GOODS/SERVICES
		<p>Clothing, namely, T-shirts, sweatshirts, hats, jackets, sweaters, tank shirts, sport shirts, neckties and children's clothing, namely, sleepwear, T-shirts, jackets and sweatshirts (IC 25) Automobile service station services (IC 37)</p>
	<p>2,175,082/ July 21, 1998</p>	<p>Chemical fuel and motor oil additives for internal combustion engines; chemical additives for engine and fuel treatment; and chemical preparations for use in the manufacture of motor oil and fuel additives (IC 1) Carburetor cleaners; automatic choke cleaner; injector nozzle cleaner; degreasers and engine cleaners for vehicles (IC 3) Motor oil; automotive, industrial and general purpose greases and lubricants; automatic transmission fluids (IC 4) Clothing, namely, T-shirts, sweatshirts, hats, jackets, sweaters, tank shirts, sport shirts, neckties and children's clothing,</p>

MARK	REGISTRATION NO./ REGISTRATION DATE	GOODS/SERVICES
		namely, sleepwear, T-shirts, jackets and sweatshirts (IC 25) Automobile service station services (IC 37)
NOT JUST OIL, PENNZOIL	3030102/ December 13, 2005	Motor oil, general purpose greases, and gear lubricants for land and marine vehicles (IC 4)

10. The above registrations are valid, enforceable subsisting and incontestable pursuant to 15 U.S.C. § 1065. Copies of the certificates of registration for the above registrations are attached as Exhibit A. The PENNZOIL marks described above and the yellow, red and black color scheme are collectively referred to herein as the "PENNZOIL Marks."

11. PENNZOIL-branded products are available for purchase and installation through authorized oil-change centers throughout the United States. There are thousands of authorized PENNZOIL oil-change centers across the U.S., including a large number in Ohio.

12. In addition to prominently displaying the PENNZOIL logo, many of PQS's authorized installers feature the colors from the logo (yellow, black and/or red) in the color scheme of their signage and/or buildings.

13. Operators of authorized PENNZOIL oil-change centers are selected through a screening process and are required to meet PQS's quality control requirements in the handling and installation of PENNZOIL-branded products. These provisions have been established in order to ensure that customers receive high-quality, authentic PENNZOIL-branded products. Similar control is placed on PQS's product distributors of PENNZOIL products to ensure that

the authorized products delivered to authorized installers are unadulterated and meet PQS's high quality standards. The use of the PENNZOIL Marks by these operators is under license from PQS. PQS and its distributors loan signage bearing the PENNZOIL Marks to the operators of authorized PENNZOIL oil-change centers for the purpose of communicating to the public that they are authorized oil-change centers offering genuine PENNZOIL products.

14. Over the years, PQS has invested great effort and resources in advertising and promoting the PENNZOIL Marks throughout the United States, including the state of Ohio.

15. The PENNZOIL Marks are inherently distinctive, serving to identify and indicate the source and quality of PQS's products and services to the consuming public, and to distinguish its PQS's products and services from those of other manufacturers and retailers.

16. Additionally, as a result of PQS's extensive use and promotion of the PENNZOIL Marks, the Marks have become distinctive and famous to designate PQS, and are well-known and widely recognized by consumers. PQS has developed valuable goodwill in the famous PENNZOIL Marks.

17. PQS has developed common-law rights in the PENNZOIL Marks in Ohio and throughout the United States.

B. Defendants' Unauthorized Use of the PENNZOIL Marks

18. Quick Lube Inc. and Moe Najjar (collectively "Defendants") operate an oil change facility at 7459 W. Central Ave., Toledo, Ohio 43617 (under the names "Quick Lube" and "PENNZOIL 10 MINUTE OIL & LUBE").

19. At this location, Defendants display exterior and interior signage prominently bearing the PENNZOIL Marks, with interior signage stating "We feature PENNZOIL products." Defendants' primary street sign features the PENNZOIL logo above the words "10 MINUTE"

(in red) and "OIL & LUBE" (in black), all on a yellow background. The yellow, red and black color scheme is repeated in Defendants' other signage. For example, "10 MIN OIL CHANGE" appears in large red letters outlined in yellow across the front of Defendants' building. Photographs of Defendants' exterior signage are attached as Exhibit B.

20. Defendants' signage depicts spurious counterfeit marks that are identical to or substantially indistinguishable from PQS's federally registered PENNZOIL Marks.

21. Defendants are not authorized distributors for PENNZOIL products and are not authorized to use the PENNZOIL Marks in connection with their business.

22. In addition to holding themselves out as an authorized installer of PENNZOIL Products, Defendants are not offering genuine PENNZOIL products. PQS has obtained and analyzed oil provided by Defendants as "PENNZOIL" in their oil-change services, and such analysis confirms that Defendants are not selling genuine PENNZOIL products, Defendants are selling counterfeit products.

23. Defendants are misrepresenting themselves as an authorized PQS oil-change center and are misrepresenting their products and services as PENNZOIL products and services.

24. Defendants have engaged in a deliberate course of conduct to deceive consumers into believing that the motor oil and lubrication services offered by Defendants emanate from, or are authorized, connected or affiliated with, PQS and Defendants continue to falsely represent that they feature genuine PENNZOIL products in order to trade on PQS's enormous reputation and goodwill, and to injure PQS and PQS authorized centers. Defendants' unauthorized use of the PENNZOIL Marks began long after the PENNZOIL Marks became famous.

25. Defendant Najjar has actively participated in these violations of PQS's Marks.

C. Effect of Defendants' Activities on PQS and the Consuming Public

26. Defendants' unauthorized use of the PENNZOIL Marks in this manner is likely to cause confusion, to cause mistake, and to deceive customers and potential customers as to the affiliation, connection, sponsorship or association of Defendants with PQS, or as to the origin, affiliation, sponsorship, or approval of Defendants' products or services by PQS.

27. Defendants' unauthorized use of the PENNZOIL Marks falsely indicates to the purchasing public that Defendants, their business, and their products or services are affiliated, connected, or associated with PQS, or are sponsored, endorsed, or approved by PQS, or are in some manner related to PQS or its products or services when that is not true.

28. Defendants' unauthorized use of the PENNZOIL Marks falsely designates the origin of Defendants' products and services, and falsely or misleadingly describes and misrepresents facts with respect to Defendants and their products and services.

29. Defendants' unauthorized use of the PENNZOIL Marks is likely to cause dilution of the distinctive quality of the PENNZOIL Marks, and is causing such dilution.

30. Defendants' unauthorized use of the PENNZOIL Marks enables Defendants' to trade on and receive the benefit and goodwill built up at great labor and expense over many years by PQS, in the reputation of the PENNZOIL Marks and to gain acceptance for Defendants' services not solely on Defendants' own merits.

31. Defendants' unauthorized use of the PENNZOIL Marks in this manner enables Defendants to pass off products and services on the unsuspecting public as those of PQS when they are not PQS products.

32. Defendants' unauthorized use of the PENNZOIL Marks deceives consumers into believing that the motor oil products used by Defendants are genuine PQS products.

33. Defendants' unauthorized use of the PENNZOIL Marks in this manner deceives consumers into believing that the oil-change services provided by Defendants are genuine PQS-authorized, oil-change services when that is not the case.

34. Defendants' unauthorized use of the PENNZOIL Marks removes from PQS the ability to control the nature and quality of products and services provided under the PQS Marks, and places the valuable reputation and goodwill of PQS in the unfettered control of Defendants.

35. As a result of Defendants' unauthorized use of the PENNZOIL Marks, Defendants are being unjustly enriched at PQS's expense.

36. Unless these unfair and deceptive trade practices and acts of unfair competition by Defendants are enjoined by this Court, these practices and acts will continue, and will continue to cause irreparable injury to PQS and to the public, for which there is no adequate remedy at law.

D. Willful Nature of Defendants' Activities

37. Defendants' activities complained of herein have been malicious, fraudulent, deliberate, willful, intentional, and in bad faith, with full knowledge and conscious disregard of PQS's rights. In view of the egregious nature of Defendants' actions, this is an exceptional case within the meaning of Section 35(a) of the Lanham Act, 15 U.S.C. § 1117(a).

COUNT I: FEDERAL TRADEMARK INFRINGEMENT

38. PQS repeats the above allegations as if fully set forth herein.

39. The acts of Defendants complained of herein constitute infringement of PQS's registered trademarks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

COUNT II: FEDERAL TRADEMARK COUNTERFEITING

40. PQS repeats the above allegations as if fully set forth herein.

41. The acts of Defendants complained of herein constitute counterfeiting in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

COUNT III: FEDERAL UNFAIR COMPETITION

42. PQS repeats the above allegations as if fully set forth herein

43. The acts of Defendants complained of herein constitute unfair competition in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

COUNT IV: FEDERAL TRADEMARK DILUTION

44. PQS repeats the above allegations as if fully set forth herein.

45. The acts of Defendants complained of herein constitute dilution of PQS's famous marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

46. Defendants willfully intended to trade on PQS's reputation and to cause such dilution.

COUNT V: FEDERAL FALSE ADVERTISING

47. PQS repeats the above allegations as if fully set forth herein.

48. The acts of Defendants complained of herein constitute false advertising in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

COUNT VI: STATE DECEPTIVE TRADE PRACTICES

49. PQS repeats the above allegations as if fully set forth herein.

50. The acts of Defendants complained of herein constitute deceptive trade practices in violation of Ohio Rev. Code Ann. § 4165.02.

**COUNT VII: COMMON LAW TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION**

51. PQS repeats the above allegations as if fully set forth herein.

52. The acts of Defendants complained of herein constitute trademark infringement and unfair competition in violation of the common law of Ohio.

COUNT VIII: COMMON LAW TRADEMARK DILUTION

53. PQS repeats the above allegations as if fully set forth herein.

54. The acts of Defendants complained of herein constitute trademark dilution under the common law of Ohio.

COUNT IX: UNJUST ENRICHMENT

55. PQS repeats the above allegations as if fully set forth herein.

56. The acts of Defendants complained of herein constitute unjust enrichment of Defendants at PQS's expense.

WHEREFORE, PQS prays that:

- a) Defendants, Defendants' agents, servants, employees, attorneys, and all those persons in active concert or participation with them, be permanently enjoined from using the PENNZOIL Marks, any counterfeit reproduction of the PENNZOIL Marks, copy or colorable imitation of the PENNZOIL Marks, or any other mark confusingly similar thereto or likely to dilute their distinctive quality of the PENNZOIL Marks or otherwise simulate PQS's trade identity;
- b) Defendants be ordered to deliver to PQS any and all signage and other advertising or promotional materials in the possession of Defendants or under their control bearing any of the PENNZOIL Marks;
- c) Defendants be ordered to file with this Court and to serve upon PQS, within 30 days after the entry and service on Defendants of an injunction, a report in writing

and under oath setting forth in detail the manner and form in which Defendants have complied with the injunction, including the removal of all yellow signage from their facilities;

- d) PQS recover all damages it has sustained as a result of Defendants' activities and that said damages be trebled;
- e) An accounting be directed to determine Defendants' profits resulting from Defendants' illegal activities, and that such profits be paid over to PQS and increased as the Court finds to be just under the circumstances of this case;
- f) PQS recover statutory damages pursuant to Section 35 of the Lanham Act, 15 U.S.C. § 1117, which provides for awards up to \$1,000,000 per violation;
- g) PQS recover its reasonable attorney fees;
- h) PQS recover its costs of this action and prejudgment and post-judgment interest;
and
- i) PQS recover such other relief as the Court may deem appropriate.

Respectfully submitted,

/s/ Marshall A. Bennett, Jr.

Date: February 15, 2008

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Attorneys For Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

PENNZOIL-QUAKER STATE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:08-cv-0034
)	
QUICK LUBE, INC.)	
and HANEED MOE NAJJAR,)	
)	
Defendants.)	

CONSENT JUDGMENT

The parties have reached agreement on terms of settlement and mutually agree, stipulate, and 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.

Based upon all the records herein, the Court makes the following findings of fact and conclusions of law:

PARTIES AND JURISDICTION

1. Pennzoil-Quaker State Company is a Delaware corporation having its principal place of business at 700 Milam Street, Houston, Texas 77002.
2. Defendant Quick Lube, Inc. is an Ohio corporation having a principal place of business at 7459 W. Central Ave., Toledo, Ohio 43617.
3. Defendant Haneed Moe Najjar is an individual, resides in the State of Michigan, and is the sole owner of Defendant Quick Lube, Inc.

4. This Court has jurisdiction over this action under Section 39 of the Lanham Act, 15 U.S.C. §1121, and Title 28 of the United States Code, §§1331 and 1338, and supplemental jurisdiction over state law claims under 28 U.S.C. §1367(a).

5. The matter in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states. Accordingly, this Court also has subject matter jurisdiction pursuant to 28 U.S.C. §1332.

A. **Pennzoil-Quaker State Company and Its Marks**

6. Pennzoil-Quaker State Company, along with its predecessors and affiliates (collectively "PQS"), has been a leading source of automotive lubricants and related products and services for many years starting at least as early as 1915.

7. Since at least as early as 1915, PQS and its authorized dealers and distributors have used the mark PENNZOIL and the PENNZOIL logo in connection with the sale and promotion of lubricants and other petroleum-related products. The PENNZOIL logo incorporates "PENNZOIL" in black letters over a red "Liberty Bell" design on a yellow background, sometimes presented within an oval design; see for example the following:



8. Over the years, the yellow, red and black color scheme has been repeated in PQS's trade dress, advertising and promotion for its PENNZOIL products and services.

9. In addition to its common-law rights, PQS owns federal trademark registrations for its marks, including those shown in the chart below:

MARK	REGISTRATION NO/ REGISTRATION DATE	GOODS/SERVICES
	1,505,755/ September 27, 1988	Oil filters, air filters and crankcase breathers for internal combustion engines for land vehicles (IC 12)
PENNZOIL 10 MINUTE OIL CHANGE	1,562,593/ October 24, 1989	Automotive lube center services (IC 37)

MARK	REGISTRATION NO./ REGISTRATION DATE	GOODS/SERVICES
	<p>2,175,045/ July 21, 1998</p>	<p>Chemical fuel and motor oil additives for internal combustion engines; chemical additives for engine and fuel treatment; and chemical preparations for use in the manufacture of motor oil and fuel additives (IC 1)</p> <p>Carburetor cleaners; automatic choke cleaner; injector nozzle cleaner; degreasers and engine cleaners for vehicles (IC 3)</p> <p>Motor oil; automotive, industrial and general purpose greases and lubricants; automatic transmission fluids (IC 4)</p> <p>Clothing, namely, T-shirts, sweatshirts, hats, jackets, sweaters, tank shirts, sport shirts, neckties and children's clothing, namely, sleepwear, T-shirts, jackets and sweatshirts (IC 25)</p> <p>Automobile service station services (IC 37)</p>

MARK	REGISTRATION NO./ REGISTRATION DATE	GOODS/SERVICES
	<p>2,175,082/ July 21, 1998</p>	<p>Chemical fuel and motor oil additives for internal combustion engines; chemical additives for engine and fuel treatment; and chemical preparations for use in the manufacture of motor oil and fuel additives (IC 1)</p> <p>Carburetor cleaners; automatic choke cleaner; injector nozzle cleaner; degreasers and engine cleaners for vehicles (IC 3)</p> <p>Motor oil; automotive, industrial and general purpose greases and lubricants; automatic transmission fluids (IC 4)</p> <p>Clothing, namely, T-shirts, sweatshirts, hats, jackets, sweaters, tank shirts, sport shirts, neckties and children's clothing, namely, sleepwear, T-shirts, jackets and sweatshirts (IC 25)</p> <p>Automobile service station services (IC 37)</p>

MARK	REGISTRATION NO./ REGISTRATION DATE	GOODS/SERVICES
NOT JUST OIL, PENNZOIL	3030102/ December 13, 2005	Motor oil, general purpose greases, and gear lubricants for land and marine vehicles (IC 4)

10. The above registrations are valid, enforceable subsisting and incontestable pursuant to 15 U.S.C. §1065. Copies of the certificates of registration for the above registrations are attached as Exhibit A. The PENNZOIL marks described above and the yellow, red and black color scheme are collectively referred to herein as the “PENNZOIL Marks.”

11. PENNZOIL-branded products are available for purchase and installation through authorized oil-change centers throughout the United States. There are many authorized PENNZOIL oil-change centers across the U.S., including a large number in Ohio.

12. In addition to prominently displaying the PENNZOIL logo, many of PQS’s authorized installers feature the colors from the logo (yellow, black and/or red) in the color scheme of their signage and/or buildings.

13. Over the years, PQS has invested great effort and resources in advertising and promoting the PENNZOIL Marks throughout the United States, including the State of Ohio.

14. The PENNZOIL Marks are inherently distinctive, serving to identify and indicate the source and quality of PQS’s products and services to the consuming public, and to distinguish its PQS’s products and services from those of other manufacturers and retailers.

15. Additionally, as a result of PQS’s extensive use and promotion of the PENNZOIL Marks, the Marks have become distinctive and famous to designate PQS, and are well-known and widely recognized by consumers. PQS has developed valuable goodwill in the PENNZOIL Marks.

PQS has developed common-law rights in the PENNZOIL Marks in Ohio and throughout the United States.

B. Defendants' Use of the Pennzoil Marks

16. Defendant Quick Lube, Inc. operates an oil change facility at 7459 W. Central Avenue, Toledo, Ohio 43617 under the names "Quick Lube" and "PENNZOIL 10 MINUTE OIL & LUBE," and displaying PENNZOIL and 10 MIN OIL CHANGE signage with yellow, red and black color schemes, which signage includes the following.



17. PQS has not authorized Defendants to use the PENNZOIL Marks in connection with their business.

C. Effect of the Above Activities on PQS and the Consuming Public

18. Any unauthorized use of the PENNZOIL Marks is likely to cause confusion among customers and potential customers as to the affiliation, connection, sponsorship or association of the unauthorized user with PQS, or as to the origin, affiliation, sponsorship, or approval of the unauthorized user's products or services by PQS, and is likely to cause dilution of the distinctive quality of the PENNZOIL Marks.

19. Unauthorized use of the PENNZOIL Marks violates Sections 32, 43(a)(1)(A), 43(a)(1)(B) and 43(c) of the Lanham Act, 15 U.S.C. § 1051 et seq.

BASED UPON THE FOREGOING, AND THE MUTUAL AGREEMENT OF THE PARTIES HERETO, THIS COURT ORDERS AS FOLLOWS:

a) Defendants, Defendants' agents, servants, employees, attorneys, and all those persons in active concert or participation with them, are hereby permanently enjoined from using the PENNZOIL Marks, any counterfeit reproduction of the PENNZOIL Marks, copy or colorable imitation of the PENNZOIL Marks, or any other mark confusingly similar thereto or likely to dilute the distinctive quality of the PENNZOIL Marks or otherwise simulate PQ3's trade identity, including but not limited to the use of a yellow-and-black, yellow-and-red, or yellow-black-and-red color scheme in their signage and/or building façade elements;

b) Defendants will deliver to Plaintiff, or to a third party as directed by Plaintiff, any and all signage and other advertising or promotional materials in the possession of Defendants or under their control and bearing any of the PENNZOIL Marks within 30 days after the entry of this judgment;

c) Pursuant to Rule 65(d), Fed. R. Civ. P., this Consent Judgment is binding upon the parties hereto, their respective 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..

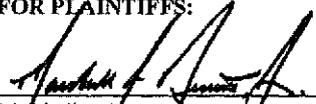
IT IS SO ORDERED this 28 day of July, 2008.

s/ James G. Carr

Honorable James G. Carr
Chief Judge
United States District Court

The parties hereby agree, stipulate, and consent to the terms of this Consent Judgment and approve the form hereof:

FOR PLAINTIFFS:



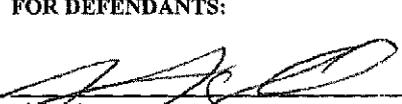
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Pennzoil-Quaker State Company

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Quick Lube, Inc. and Haneed Moe Najjar**

Quick Lube, Inc.

By David M. Auld / President