

Hasbro Inc. v Esquire Footwear LLC

2025 NY Slip Op 33150(U)

August 21, 2025

Supreme Court, New York County

Docket Number: Index No. 153915/2023

Judge: Nicholas W. Moyne

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. NICHOLAS W. MOYNE PART 41M

Justice

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HASBRO INC.,

Plaintiff,

- v -

ESQUIRE FOOTWEAR LLC, ESQUIRE FOOTWEAR BRANDS LLC

Defendant.

-----X

INDEX NO. 153915/2023

MOTION DATE 12/02/2024

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, it is

Plaintiff, Hasbro Inc. ("Hasbro"), moves for summary judgment against the defendants, Esquire Footwear LLC and Esquire Footwear Brands LLC d/b/a Esquire Licensing (collectively "Esquire"). Although the defendants answered the complaint, the motion is unopposed. As set forth more fully herein, the motion is granted in part.

Summary Judgment

"The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case. Failure to make such showing requires denial of the motion, regardless of the sufficiency of the opposing papers" (Winegrad v New York Univ. Med. Ctr., 64 NY2d 851, 853 [1985]). Summary judgment is a drastic remedy and should not be granted where there is any doubt as to the existence of any material issues of fact or where the issue is arguable (Glick & Dolleck, Inc. v Tri-Pac Export Corp., 22 NY2d 439, 441 [1968]). "If it shall appear that any party other than the moving party is entitled to a summary judgment, the court may grant such judgment without the necessity of a cross-motion" (CPLR § 3212[b]). "In considering a summary judgment motion, evidence should be analyzed in the light most favorable to the party opposing the motion (Martin v Briggs, 235 AD2d 192, 196 [1st Dept 1997]). "In opposing a motion for summary judgment, once a prima facie showing has been made, it is incumbent upon a defendant to come forward with matters of an evidentiary nature to demonstrate the presence of triable issues. General averments do not suffice. The defendant is required to assemble, lay bare, and reveal his proofs in order to show that his defenses are real and capable of being established upon a trial" (Steingart Assoc.,

Inc. v Sandler, 28 AD2d 801, 802-03 [3d Dept 1967]). “Where competent evidence is presented by a defendant in support of a motion for summary judgment, the burden shifts to plaintiff to produce proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action” (*IDX Capital, LLC v Phoenix Partners Group*, 83 AD3d 569, 570 [1st Dept 2011], *affd sub nom. IDX Capital, LLC v Phoenix Partners Group LLC*, 19 NY3d 850 [2012]).

The Complaint

The bare bones, one page, complaint in this action alleges breach of contract and account stated. The complaint does not differentiate between the various defendants. On the first cause of action, the plaintiff alleges “Prior to and on or about February 20, 2021, Plaintiff and Defendant(s) entered into an agreement for work, labor and services in an agreed sum and reasonable value of \$309,422.01, said sum being net of any credits or payments. Plaintiff duly performed all conditions on its part to be performed. Defendant(s) failed and refused to perform leaving a balance due pursuant to said agreement of \$309,422.01.” (Complaint [paragraph numbers omitted], NYSCEF Doc. No. 1). As plaintiff’s second cause of action, the plaintiff states “After giving the Defendant credit for all payments and credits there is still due the sum of \$309,422.01. No part of said sum has been paid although payment has been duly demanded. That heretofore, Plaintiff rendered to Defendant(s) monthly, full and true accounts of the indebtedness owing by the Defendant(s) as a result of the above agreement, in an amount as hereinabove set forth which account statements were delivered to and accepted without objection by the Defendant(s) resulting in an account stated for the amount set forth above” (*Id.*).

Breach of Contract

The contracts at issue involve the licensing of intellectual property owned by the plaintiff. The first contract, dated August 1, 2014 (Exh. B, NYSCEF Doc. No. 11), was between plaintiff Hasbro, Inc. as licensor and Esquire Licensing, LLC as license for the use of licensed properties My Little Pony, Transformers, G.I. Joe, Monopoly, and Ouija on footwear for sale in the United States. The August 2014 agreement was modified on January 26, 2017, adding Hasbro International, Inc. as a licensor, amending the terms of the properties licensed, and extending the term of the agreement to expire on December 31, 2020 (see Exh. C, NYSCEF Doc. No. 12). On November 8, 2018, a merchandising license agreement was entered into between Entertainment One UK Limited as licensor and Esquire Licensing LLC and Esquire Footwear LLC as licensees for Peppa Pig footwear (see Exh D, NYSCEF Doc. No. 13). Entertainment One UK Limited was acquired by Plaintiff in 2019 (see Turner Aff. ¶ 11, NYSCEF Doc. No. 8).

Critically, only the November 8, 2018 Contract lists either of the defendants as a contracting party. In that contract the licensees were Esquire Licensing LLC and Esquire Footwear LLC (see Exh D, NYSCEF Doc. No. 13). In each of the other contracts, the only licensee was non-defendant Esquire Licensing, LLC, which, according to plaintiff’s counsel, was voluntarily dissolved in September 2020 (see Wan Aff., NYSCEF Doc. No. 9). Therefore, the plaintiff was not in privity of contract with

either of the defendants with regard to the August 2014 agreement or January 2017 modification of the agreement. Additionally, plaintiff lacked privity of contract with defendant Esquire Footwear Brands LLC with regard to the November 2018 contract. In the moving papers plaintiff attempts to pierce the corporate veil and/or make alter ego arguments to hold the defendants liable. An attempt to pierce the corporate veil does not constitute a cause of action independent of that against the corporation; rather it is an assertion of facts and circumstances which will persuade the court to impose the corporate obligation on its owners” (see *Matter of Morris v New York State Dept. of Taxation and Fin.*, 82 NY2d 135, 141 [1993]). “However, in order for a plaintiff to state a viable claim against a parent or alter ego of the corporation, the plaintiff must allege facts that, if proved, indicate that the parent or alter ego exercised complete domination of the corporation in respect to the transaction attacked and that such domination was used to commit a fraud or wrong against the plaintiff which resulted in the plaintiff’s injury. ... Here, because the complaint contained no such factual allegations, the plaintiff was required to request leave to amend the complaint and satisfy the requirements of CPLR 3025” (*Americore Drilling & Cutting, Inc. v EMB Contr. Corp.*, 198 AD3d 941, 944 [2d Dept 2021] [internal citations omitted]). Therefore, because the complaint lacked any factual allegations as to veil piercing or alter ego, and no motion to amend the complaint has been made, veil piercing/alter ego is not available to the plaintiff on its motion for summary judgment. For these reasons, the plaintiff has only established the liability of Esquire Footwear LLC as to the November 8, 2018 Contract, and has not established a breach of contract by Esquire Footwear Brands LLC as to any of the contracts.

Account Stated

Plaintiff annexed the invoices (Exhibit E, NYSCEF Doc. No. 14) allegedly sent to the defendants. Each of the invoices is addressed to Esquire Licensing, LLC only, not the defendants in this action. Accordingly, absent the complaint being amended to set forth facts regarding the alter ego theory of liability for the defendants herein, the plaintiff’s motion for summary judgment must be denied on the account stated cause of action.

Conclusion

For the reasons set forth hereinabove, it is hereby

ORDERED that the plaintiff’s motion for summary judgment is granted to the extent that plaintiff is granted summary judgment on liability on its first cause of action for breach of contract as to defendant Esquire Footwear LLC as to the November 8, 2018 Contract only; and it is further

ORDERED that an inquest on damages be held at the time of trial on this action; and it is further

ORDERED that the plaintiff’s motion is otherwise denied without prejudice to renew should a motion to amend the complaint be made and granted; and it is further

ORDERED that the parties appear at a preliminary conference on December 4, 2025 at 2:15 PM in Part 41, room 327 of the courthouse located at 80 Centre Street, New York, New York.

This constitutes the decision and order of the court.


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<u>8/21/2025</u> DATE		<u>NICHOLAS W. MOYNE, J.S.C.</u>
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE