

**BLOGS**

Post-Termination Injunctions

Denial of Motion for Preliminary Injunction Underscores Importance of Expediency After Defaults

The United States District Court for the District of Colorado recently denied a franchisor’s motion for a preliminary injunction following the termination of one of its master franchisees. *Intelligent Office System, LLC v. Virtualink Canada, Ltd.*, 2016 WL 687348 (D. Colo. Feb. 18, 2016). The parties had entered into an agreement that granted Virtualink the right to sublicense IOS’s trademarks and office-sharing methods to subfranchisees throughout Canada. The dispute arose when Virtualink allegedly breached the master license agreement by, among other things, failing to provide financial reports, failing to provide required services to subfranchisees, and otherwise harming the brand. IOS sent Virtualink an initial notice of default in March 2013 and delivered additional notices thereafter, all of which gave Virtualink opportunities to cure. After terminating the master license agreement in October 2015, IOS filed suit against Virtualink and brought a motion for a preliminary injunction.

Characterizing preliminary injunctions as “among the most extraordinary and drastic remedies a court can award,” the court denied IOS’s request for injunctive relief but allowed the matter to be set for an expedited trial. The court first held that IOS needed to satisfy a “heightened burden” because the requested injunction would have altered the status quo that existed between the parties before the dispute arose and was therefore “disfavored.” Next, the court concluded that IOS could not establish that it would be irreparably injured absent the requested injunction because it had already knowingly allowed Virtualink’s defaults to persist for nearly three years. The court reasoned that IOS’s delay in seeking injunctive relief undercut any presumption that it was facing an imminent and certain threat of irreparable harm. In reaching that conclusion, the court emphasized that injunctions are designed to remedy future harms, not past injury.

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