

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40100
Summary Calendar

BIG SUR WATERBEDS INCORPORATED,

Plaintiff-Appellant,

versus

SLEEPMASTERS SLEEP CENTER; GERALD J SALEH; BARBARA SALEH;
DISCOUNT PAPERS OF TEXAS, INCORPORATED,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
(6:97-CV-182)

October 5, 1998

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Big Sur Waterbeds appeals the district court's denial of its motion for a preliminary injunction in this action for trademark/copyright infringement, and unfair competition.

The district court's findings of fact are reviewed for clear error; its legal conclusions, *de novo*. See ***Sunbeam Products, Inc. v. West Bend Co.***, 123 F.3d 246, 250 (5th Cir. 1997), *cert. denied*, 118 S. Ct. 1795 (1998). And, "although the ultimate decision whether to grant or deny a preliminary injunction is reviewed only

* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

for abuse of discretion, a decision based on erroneous legal principles is reviewed *de novo*." ***Id.***

Based upon our review of the briefs of the parties, the record, and the district court's findings of fact and conclusions of law, we **AFFIRM** for essentially the reasons stated by the district court in its comprehensive opinion. See ***Big Sur Waterbeds, Inc. v. Sleepmasters Sleep Center, Gerald Saleh and Barbara Saleh***, No. 6:97-CV-182 (E.D. Tex. Dec. 18, 1997)(order denying preliminary injunction).

AFFIRMED