

## Did Kylie Jenner Talk Too Much in Coty Deal?

**COSMETICS:** Trade secret complaint from manufacturer.

By **ANDREW FOERCH** Staff Reporter

A celebrity makeup label and its contract manufacturer are clashing over a transaction the manufacturer claims broke the parties' agreement and revealed trade secrets to a major competitor.

In 2019, Woodland Hills-based **Kylie Cos-**

**metics**, owned by model and social media megastar **Kylie Jenner**, made headlines when it struck a deal to sell a 51 percent stake to French cosmetics corporation **Coty Inc.** for \$600 million. The transaction would grant Coty the rights to make, advertise and sell Kylie products, according to a press release from Coty.

**Seed Beauty**, a white-label operation in Oxnard that has developed, manufactured,

Please see **COSMETICS** page 35



Makeup Marketer: **Kylie Jenner**.

## Busy Times for Funeral Homes

**SERVICE:** COVID complicates workflow, family gatherings.

By **AMY STULICK** Staff Reporter

The coronavirus has created a floodtide of business for Valley funeral homes, but has limited options for customers as regulations prohibit large gatherings and travel for family members. "We're beginning to ration what we can do," **Bill Hawkins**, owner of **Angeleno Mortuaries** in Van Nuys, told the Business Journal.

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## REAL ESTATE QUARTERLY



Coming Soon: Avion Burbank construction site.

## Valley Exodus Heads to Texas

**RELOCATION:** Are company exits part of larger trend?

By **MICHAEL AUSHENKER** Staff Reporter

The list of companies leaving the Valley is long. In the few years, home-selling company **Rex**, staffing company **ASGN Inc.**, chocolatier **Nestle USA** and aerospace manufacturer **Incora** have exited to either Texas or Virginia.

But the fact that corporate giants outside the

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# AIRPORT ADJACENT

Properties near Valley airfields command premium prices.

By **MICHAEL AUSHENKER** Staff Reporter

The San Fernando Valley's industrial real estate market has flourished during the coronavirus pandemic – especially for properties near airports.

While the Valley's two major airfields, Hollywood Burbank Airport and Van Nuys Airport, have seen numerous indus-

trial deals in their environs, two epitomize the trend. **Overton Moore Properties** and **Invesco Real Estate's** Avion Burbank development on 60 acres will add 18 buildings with 1.25 million square feet to the East Valley's inventory. And **Rexford Industrial Realty Inc.** purchased a 19-building portfolio in Van Nuys for nearly \$155 million.

"There is unprecedented demand for

class A industrial space driven by large entertainment and content firms and their supply chains," said **Matt Hargrove** of **CBRE Group**, the leasing agent for Avion Burbank. "The market is really hungry for this type of smart, integrated facility solution."

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PHOTO BY THOMAS WASPER

## SPECIAL REPORT BLACK ENTREPRENEURS MONTH



In this issue and next, the Business Journal profiles local African American entrepreneurs who are helping to make the Valley area's economy vibrant. Here's one takeaway: For many, this a terrific era for Black entrepreneurs "There have been

more open doors and opportunities for me to grow than ever before," said **Jessica Huling**, owner of **Les Sisters Southern Kitchen** in Chatsworth.

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## THE LIST

**BUSINESS IMPROVEMENT DISTRICTS**  
Ranked by 2021 budget  
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### River Cruiser Prepares to Sail

Its ships are in port, but AmaWaterways plans to christen the AmaDahlia, right, for Nile River trips.

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### Travel Districts Grapple With Pandemic

Tourism Business Improvement Districts face revenue shortfalls from hotel occupancy declines.

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# Cosmetics: Contractor's Dispute With Megastars

Continued from page 1

packaged and distributed Kylie products since Kylie's inception in 2016, has a problem with that.

Seed argues the acquisition shouldn't be allowed based on its existing contracts with Kylie Cosmetics and claims Jenner or other company representatives have already shared elements of Seed's business model and financial structure – which it categorizes as trade secrets largely responsible for Kylie Cosmetics' meteoric rise in the industry – with Coty, thereby eliminating Seed's market advantage.

Seed filed a civil suit in June against Kylie's parent company King Kylie LLC and Coty, claiming business tort and breach of contract. The suit asks the court to grant injunctive relief preventing Coty from using or keeping record of Seed's trade secrets.

"This action is to stop Coty's theft of Seed's pioneering and proprietary digital-first business model that has revolutionized the cosmetics industry," the suit states.

Attorneys representing all parties did not respond to the Business Journal's requests for comment, nor did the companies themselves.

### Redacted documents

Nanci Carr, an attorney and business law professor at California State University – Northridge, said several shadowy details make the situation difficult to analyze.

For one, because the lawsuits contain details of Seed's purported trade secrets, many paragraphs have been redacted in the public documents, including the specific information Seed wants to keep hidden from Coty. Also, since Seed hasn't made public the exact nature of its relationship or contracts with Kylie, it isn't clear what part of the operation beyond marketing is owned by Kylie.

"Was this a contract for services? Was this a partnership? Who owns the intellectual property – the formula for the lipstick or whatever it is?" she posited. "We don't know if she breached because we don't know what the contract said."

With that in mind, she said it's relatively common for a company to claim a business model or methodology as a trade secret.

"That's the key to the success of a company – we can do something no one else can do. ... It could certainly be an organizational style or a



Aggrieved: Seed Beauty in Oxnard.

PHOTO BY MIKE BAKER

business process."

Warren Bleeker, a partner at intellectual property law firm Lewis Roca Rothgerber Christie in Glendale, agreed.

"The traditional trade secret would be a formula or a recipe, but really trade secrets can be broader than that. It has to be some sort of data or information that is valuable to a company because it is confidential," he said. "That can be marketing and pricing policies, cost strategies, sourcing agreements."

For a judge to recognize such information as a trade secret, Bleeker said, the company must prove it is proprietary and that it took specific measures to keep the information confidential.

Claremont-based contract attorney Tom Carter added celebrity-run businesses are particularly prone to these types of disputes.

"Any time it has to do with talent or creative branding, emotion gets involved," he said.

And celebrity branding, Carr said, is a tantalizingly lucrative asset.

"You have to wonder from a strategy standpoint, is Seed really worried about disclosure of its trade secrets? Again, this is Coty, a big cosmetics company. They already know how to do this. Is that really what Seed is concerned about, or is that just what they're asserting they're concerned about because they don't want to lose the deal with Kylie?" she said.

### Sibling saga

Seed isn't just upset with Jenner's company – it also has a bone to pick with that of Jenner's older half-sister, Kim Kardashian West.

Kardashian West's Woodland Hills-based KKW Beauty Inc., like Kylie, held contracts

with Seed to manufacture makeup and other color cosmetics since its inception in 2017.

Last June, in the weeks after Kylie's deal with Coty closed, KKW announced its own sale of a 20 percent stake to Coty for \$200 million, giving the company a valuation of \$1 billion.

Seed responded by filing a lawsuit that month against KKW. Soon after, Seed claims in its most recent suit against Kylie, it learned KKW had already revealed "confidential documents containing trade secret and proprietary information" to Coty. The suit goes on to say Seed was subsequently informed that Kylie similarly disclosed confidential information to Coty.

Seed's suit against Kylie states: "Coty, through its improper acquisition of Seed Beauty Trade Secrets, is poised to capitalize on Seed's confidential and proprietary trade secret information and better understand Seed's unique business model and partnership structure. ... Seed's business operates in a highly competitive market and will continue to suffer irreparable harm unless and until Coty is enjoined by order of this court."

Kylie and Coty have expressed they want to settle the disagreement out of court. The two filed separate motions to compel arbitration.

Coty's motion argues a jury trial is out of the question, citing an arbitration clause in Kylie's contract with Seed.



Carter, the contract attorney, said the vast majority of contract disputes never make it to court – "trials happen in maybe 2 or 3 percent of these suits," he said.

"The system is designed to get people to resolve their disputes," he added. "After some discovery happens, maybe some negotiations or mediation ... the lawyers can make a deal."

Seed's lawsuits remain open in California State Court, but that hasn't stopped Coty from finalizing its transactions with the most popular family on reality television – Coty's investment in KKW Beauty officially closed last month.

### Contract best practices

Carter's advice for businesses entering contract agreements is simple: "Get a non-disclosure agreement. ... They're enforced all the time."

"You can explain the consequences of what happens if it does get (violated). In some instances, you could call for liquid damages."

Also, he added, "don't show all the family jewels," referring to sharing trade secrets with other entities.

Bleeker, the Glendale attorney, said sometimes disagreements happen where neither party was acting in bad faith. If a contract's terms are vague or open-ended, disputes can result over what they mean or how they should be interpreted.

"Sometimes contracts are worded poorly. Sometimes companies don't even get attorneys involved (when signing)," he said.

Furthermore, signatories may not consider all the potential pitfalls that could arise down the line.

"At the time, what they agree to makes sense. Then years later, things happen they didn't anticipate."

He said businesses entering a contract agreement would do well to make sure its language is thorough, even to the point of redundancy, so as to be clearly understood by both parties.

And to avoid expensive litigation later on, "you can try to negotiate an alternate dispute resolution, whether it's arbitration, some sort of mandatory mediation or a notice and cure provision," he added.

Carr, the CSUN professor, said, "Read everything. Don't just read but understand. That's where things go wrong."

## BUSINESS MARKETPLACE

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