Who Can Own “Gold”?: A Legal Analysis of Rawlings Sporting Goods Company v. Wilson Sporting Goods Company

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A series of recent high-profile sport industry cases heightened debate over trademark protection of color schemes (LSU et al. v. Smack Apparel (2006); University of Kansas et al. v. Sinks (2008); University of Alabama v. New Life Art (2012); Grady & McKelvey, 2008).

Through the evolution of trademark law, protection under the Lanham Act has been expanded beyond words and logos to now include a broad array of source-identifying elements, including colors, and also provides protection for product and packaging designs, typically referred to as "trade dress". The question of whether color was protectable under trademarks law was resolved by the U.S. Supreme Court in Qualitex Co. v. Jacobson Products, Co. (1995), a landmark decision which held, in a case involving a two-color scheme, that “no special legal rule prevents color alone from serving as a trademark” (p. 160). However, colors may “only receive trademark protection if they have acquired secondary meaning” (Qualitex, 1995, p. 254). Most recently, in September 2012, in Christian Louboutin S.A. v. Yves Saint Laurent America Holding, Inc (2012), a federal court of appeals held that a single color (the red color mark used for the outsole of its high fashion women’s shoes) had acquired limited secondary meaning as an identifying symbol of its brand, and hence could receive trademark protection.

On the “heels” of these decision, a lawsuit has now arisen within the sporting goods industry. For over 50 years, Rawlings created the Gold Gloves Awards, presented annually to the top fielders at each position. Although Rawlings has the majority share of endorsement glove deals with Major League Baseball players, occasionally winners of the Gold Glove Award have glove endorsement deals with competitors. After Reds’ infielder Brandon Phillips won a Rawlings Gold Glove in 2012, Wilson (his own glove endorsement company) created a glove for him with metallic gold colored webbing, stitching and lettering. Upon learning of the Wilson glove, Rawlings filed a trademark infringement lawsuit claiming that the Wilson glove violates its rights for the “trade dress embodied in the distinctive famous gold-colored baseball glove that forms the centerpiece of the world famous Gold Glove Award” (Rawlings v. Wilson, 2012, p. 4).

Through review and analysis of existing case law, this presentation will explore both sides of Rawlings’ argument and the factors that will likely determine the outcome of the case if litigated, ultimately answering the question “Can Rawlings own the color “gold”?

References

Board of Trustees of the University of Alabama v. New Life Art, Inc., No. 05-B-0585-W (N.D. Ala. 2005); No. 09-e16412 (11th Cir. June 11, 2012)


