

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS

Pignons S. A. de Mecanique de Precision and T.A.G. Photographic,
Inc. v. Polaroid Corporation and Sears, Roebuck and Co.

498 F. Supp. 805 (D. Mass. 1980) · No. Civ. A. No. 77-392-MA · Decided November 24, 1980

SUMMARY

The United States District Court for the District of Massachusetts considered trademark infringement, unfair competition, and trademark dilution claims arising from Polaroid's use of "Alpha" as a model designation for an SX-70 camera. On defendants' motion for summary judgment, the court analyzed likelihood of confusion, including product similarity, marketing channels, consumer care, actual confusion, and the strength of the marks.

CASE DETAILS

COURT	United States District Court for the District of Massachusetts
WRITING FOR THE COURT	Mazzone, District Judge
JURISDICTION	Massachusetts
DECIDED	November 24, 1980
DOCKET	Civ. A. No. 77-392-MA
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved for summary judgment after more than three years of pleading and discovery in an action asserting federal and state trademark infringement, unfair competition, and Massachusetts anti-dilution claims. Plaintiffs opposed the motion and alternatively sought summary judgment if the material facts were undisputed.
STANDARD OF REVIEW	Summary judgment is appropriate when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Because the record was fully developed, the court asked whether, under any reasonable construction of the facts and any acceptable legal theory, plaintiffs could possibly prevail, resolving doubts and viewing the record in the light most favorable to plaintiffs.
PRECEDENTIAL VALUE	published federal district court opinion

PARTIES

Pignons S. A. de Mecanique de Precision, T.A.G. Photographic, Inc. v. Polaroid Corporation, Sears, Roebuck and Co.

TOPICS

trademark infringement

trademark dilution

summary judgment

commercial litigation

civil procedure

PRACTICE AREAS

trademark law

intellectual property

civil procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment on the federal and state trademark-infringement claims because plaintiffs could not establish a genuine dispute concerning likelihood of consumer confusion.
2. Whether defendants were entitled to summary judgment on the federal unfair-competition claims because likelihood of confusion was an essential element and was not supported by the record.
3. Whether plaintiffs' Massachusetts anti-dilution claims were moot or otherwise failed because the ALPA mark lacked the distinctiveness required for injunctive relief.
4. Whether the fully developed record permitted resolution of the trademark and unfair-competition claims by summary judgment.

HOLDINGS

1. Summary judgment may be granted in a trademark or unfair-competition case when the record is fully developed, the material facts are not genuinely disputed, and a trial is unlikely to produce additional evidence that could change the result.
2. The use of Alpha by Polaroid and Sears was not likely to cause confusion, mistake, or deception concerning the source of the goods or a relationship between the parties; defendants were therefore entitled to summary judgment on the federal and state trademark-infringement counts.
3. Because plaintiffs failed to establish a likelihood of confusion, defendants were entitled to summary judgment on the unfair-competition counts.
4. Summary judgment was warranted for defendants on the Massachusetts anti-dilution claims because Polaroid had represented that it ceased manufacturing and distributing SX-70 cameras bearing the Alpha designation, and plaintiffs failed to show the distinctiveness necessary for injunctive relief.

KEY QUOTATIONS

"Therefore, we must decide whether, under any reasonable construction of the facts and under any acceptable theory of law, the plaintiffs could possibly prevail." (810)

"All doubts must be resolved in favor of the party opposing the motion, Hahn v. Sargent, supra; and the record must be viewed in the light most favorable to the plaintiff." (810)

“The defendants' use of the word Alpha is not likely to cause confusion, mistake or deception.” (817)

FACTUAL BACKGROUND

Pignons owned and marketed the ALPA mark for expensive, limited-production Swiss 35-millimeter cameras and photographic equipment, distributed in the United States through specialty camera stores. Polaroid marketed a mass-produced SX-70 instant camera using Alpha as a model designation, and Sears sold a special version. Plaintiffs alleged that the similarity between ALPA and Alpha caused consumer confusion and diluted the ALPA mark, but the record showed substantial differences in price, product design, distribution, advertising, packaging, and customer base, with little evidence of actual confusion.

PROCEDURAL HISTORY

Pignons and T.A.G. sued Polaroid and Sears over use of the term Alpha in connection with Polaroid SX-70 cameras. The court had previously allowed plaintiffs to file a supplemental complaint adding four counts. After extensive discovery and submission of pleadings, depositions, affidavits, exhibits, interrogatory answers, stipulations, and memoranda, the court heard argument and granted defendants summary judgment on all counts, dismissing the complaint. The opinion was amended on November 24, 1980.

DISPOSITION

dismissed

CASES CITED

- Hahn v. Sargent, 523 F.2d 461 (1st Cir. 1975), cert. denied, 425 U.S. 904 (1976)
- Albert Dickinson Co. v. Mellos Peanut Co., 179 F.2d 265 (7th Cir. 1950)
- National Color Laboratories, Inc. v. Phillip Foto Co., 273 F. Supp. 1002 (S.D.N.Y. 1967)
- United States Jaycees v. San Francisco Junior Chamber of Commerce, 354 F. Supp. 61 (E.D. Cal. 1973)
- James Burrough Ltd. v. Beef/Eater Restaurants, Inc., 272 F. Supp. 489 (N.D. Ga. 1967), aff'd, 398 F.2d 637 (5th Cir. 1968)
- Poller v. Columbia Broadcasting System, 368 U.S. 464 (1962)
- Fisher Stoves, Inc. v. All-Nighter Stove Works, Inc., 626 F.2d 193 (1st Cir. 1980)
- Coca-Cola Co. v. Snow Crest Beverages, 162 F.2d 280 (1st Cir. 1947), cert. denied, 332 U.S. 809 (1947)
- Quabaug Rubber Co. v. Fabiano Shoe Co., Inc., 567 F.2d 154 (1st Cir. 1977)
- McGregor-Doniger, Inc. v. Drizzle, Inc., 599 F.2d 1126 (2d Cir. 1979)
- Valmor Products Co. v. Standard Products Corp., 464 F.2d 200 (1st Cir. 1972)
- Amstar Corp. v. Domino's Pizza, Inc., 615 F.2d 252 (5th Cir. 1980)
- B & L Sales Associates v. H. Daroff & Sons, Inc., 421 F.2d 352 (2d Cir. 1970), cert. denied, 398 U.S. 952 (1970)
- United States Jaycees v. San Francisco Junior Chamber of Commerce, 354 F. Supp. 61 (E.D. Cal. 1973)

- Westward Coach Manufacturing Co. v. Ford Motor Co., 388 F.2d 627 (7th Cir. 1968), cert. denied, 392 U.S. 927 (1968)
- R. G. Barry Corp. v. A. Sandler Co., 406 F.2d 114 (1st Cir. 1969)
- Alpha Industries v. Alpha Steel, Etc., 616 F.2d 440 (9th Cir. 1980)
- Mushroom Makers, Inc. v. R. G. Barry Corp., 580 F.2d 44 (2d Cir. 1978), cert. denied, 439 U.S. 1116 (1979)
- Sun Maid Raisin Growers v. Sunaid Food Products, Inc., 356 F.2d 467 (5th Cir. 1966)
- Taylor Wine Co. v. Bully Hill Vineyards, Inc., 569 F.2d 731 (2d Cir. 1978)
- DeCosta v. Columbia Broadcasting System, 520 F.2d 499 (1st Cir. 1975), cert. denied, 423 U.S. 1073 (1976)
- Keebler Company v. Rovira Biscuit Corporation, 624 F.2d 366 (1st Cir. 1980)
- Interlego A. G. v. Leslie-Henry Co., 214 F. Supp. 238 (M.D. Pa. 1963)
- President and Trustees of Colby College v. Colby College-New Hampshire, 508 F.2d 804 (1st Cir. 1975)
- Baker v. Simmons Co., 307 F.2d 458 (1st Cir. 1962)
- Fleischmann Distilling Corp. v. Maier Brewing Co., 314 F.2d 149 (9th Cir. 1963), cert. denied, 374 U.S. 830 (1963)
- S.S. Kresge Co. v. United Factory Outlet, Inc., 598 F.2d 694 (1st Cir. 1979)
- Mr. Boston Seafoods Corp. v. Mr. Boston Distiller, Inc., 315 F. Supp. 574 (D. Mass. 1970)
- Tiffany & Co. v. Boston Club, Inc., 231 F. Supp. 836 (D. Mass. 1964)
- Walt Disney Productions v. Air Pirates, 581 F.2d 751 (9th Cir. 1978), cert. denied, 439 U.S. 1132 (1979)