

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Pignons S.A. de Mecanique v. Polaroid Corporation

217 U.S.P.Q. 513 (1st Cir. 1983) · No. No. 82-1527 · Decided February 28, 1983

SUMMARY

The First Circuit affirmed dismissal of Pignons S.A. de Mecanique's claims against Polaroid Corporation concerning allegedly false advertising under the Lanham Act and Massachusetts General Laws chapter 93A. The court held that collateral estoppel barred relitigation of whether Polaroid's similar advertising was likely to injure Pignons, because that issue had been fully litigated in the prior action and the newer advertisements and products were not materially different. The court also held that any other objections to summary judgment had been waived on appeal.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Breyer; Coffin, Chief Judge; Breyer, Circuit Judge; Smith, Senior District Judge, sitting by designation
JURISDICTION	Federal
DECIDED	February 28, 1983
DOCKET	No. 82-1527
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pignons appealed the district court's dismissal of its second complaint on res judicata grounds. The First Circuit considered whether collateral estoppel barred relitigation of an essential element of Pignons' false-advertising claim and whether Pignons waived challenges to summary judgment on its remaining claims.
STANDARD OF REVIEW	The court reviewed the district court's determination that the new facts were not materially different from the old facts and reviewed the preclusion and waiver issues on appeal.
PRECEDENTIAL VALUE	published and precedential First Circuit opinion
PARTIES	Pignons S.A. de Mecanique, Pignons S.A. de Mecanique de Precision v. Polaroid Corporation

TOPICS

trademark law

civil procedure

res judicata

appellate procedure

commercial litigation

PRACTICE AREAS

intellectual property

civil procedure

appellate procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether collateral estoppel barred Pignons from relitigating the likelihood-of-injury element of its Lanham Act false-advertising claim based on allegedly new advertisements and products.
2. Whether Pignons could avoid issue preclusion by presenting new theories, evidence, and arguments that could have been presented in the prior action.
3. Whether Pignons waived objections to summary judgment on its remaining claims by failing to raise them in its initial appellate brief.

HOLDINGS

1. Because the prior judgment determined, after Pignons had a fair opportunity to litigate, that Pignons had not established a likelihood of damage from Polaroid's allegedly false claims, and because the later advertisements and products were not materially different, collateral estoppel barred Pignons from relitigating whether similar advertising was likely to injure it.
2. A party that had a fair opportunity to litigate an issue may not reopen it merely by offering new theories, evidence, or arguments that could have been presented in the first action.
3. Pignons waived any objection to summary judgment on its remaining claims by failing to raise the objection in its initial appellate brief.

KEY QUOTATIONS

"Whether the holding was right or wrong, it definitely states that Pignons did not make out one essential element of its claim after a fair opportunity to do so." (701 F.2d at 2)

"The law requires the courts to offer Pignons nothing more, for collateral estoppel implements 'the principle that one opportunity to litigate an issue fully and fairly is enough.'" (701 F.2d at 3)

"Once a plaintiff has had a chance to prove a fact, he cannot reopen the matter simply by stating that he wishes to introduce more or better evidence." (701 F.2d at 3)

FACTUAL BACKGROUND

Pignons alleged that Polaroid's advertising concerning the quality of SX-70 film falsely described or represented Polaroid's goods and injured Pignons' camera business. In the prior litigation, Pignons failed to demonstrate a likelihood of damage or evidence that Polaroid's color-quality claims could cause prospective purchasers of Pignons' camera to switch to Polaroid. Pignons' later complaint relied on post-1980 advertisements and offered new theories, evidence, and arguments, but the district court found the new advertisements and products not materially different from those previously litigated.

PROCEDURAL HISTORY

In the prior action, Pignons asserted claims including trademark infringement, false advertising, and unfair competition, and the district court granted summary judgment for Polaroid; the First Circuit affirmed in Pignons I. Pignons then filed a second complaint repeating false-advertising claims based partly on advertisements placed after the earlier amended complaint. The district court dismissed the new complaint after finding that the new facts were not materially different from the old facts, and the First Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Pignons S.A. de Mecanique de Precision v. Polaroid Corp., 657 F.2d 482, 493 (1st Cir. 1981)
- Lawlor v. National Screen Service Corp., 349 U.S. 322, 326-28 (1955)
- Walsh v. International Longshoremen's Association, 630 F.2d 864, 873 (1st Cir. 1980)
- Becher v. Contoure Laboratories, Inc., 279 U.S. 388, 390-92 (1929)
- Lyons v. Westinghouse Electric Corp., 222 F.2d 184, 188 (2d Cir. 1955)
- Continental Can Co. v. Marshall, 603 F.2d 590, 594, 596 (7th Cir. 1979)
- Grip-Pak, Inc. v. Illinois Tool Works, Inc., 694 F.2d 466, 469-70 (7th Cir. 1982)
- James Talcott, Inc. v. Allahabad Bank, Ltd., 444 F.2d 451, 463 (5th Cir. 1971), cert. denied, 404 U.S. 940 (1971)
- Preservation Coalition, Inc. v. Pierce, 667 F.2d 851, 862 (9th Cir. 1981)