

SUPREME COURT OF THE UNITED STATES

B&B Hardware, Inc. v. Hargis Industries, Inc.

135 S. Ct. 1293, 191 L. Ed. 2d 222 (2015) · No. No. 13-352 · Decided March 24, 2015

SUMMARY

The Supreme Court held that, when the ordinary elements of issue preclusion are satisfied and the usages adjudicated by the Trademark Trial and Appeal Board are materially the same as those at issue in district court, a TTAB decision may have preclusive effect in trademark infringement litigation. The Court rejected categorical rules based on the TTAB's agency status, its likelihood-of-confusion factors, its written procedures, or the stakes of trademark registration. The judgment of the Eighth Circuit was reversed and the case was remanded.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Alito; Chief Justice Roberts; Justice Kennedy; Justice Ginsburg; Justice Breyer; Justice Sotomayor; Justice Kagan; Justice Thomas; Justice Scalia
JURISDICTION	Federal
DECIDED	March 24, 2015
DOCKET	No. 13-352
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	B&B Hardware appealed from an Eighth Circuit judgment affirming the denial of issue-preclusive effect to a Trademark Trial and Appeal Board decision in a federal trademark-infringement action. The Supreme Court granted certiorari.
STANDARD OF REVIEW	De novo review of the legal question whether issue preclusion may apply to the TTAB decision; application of ordinary issue-preclusion principles on remand.
PRECEDENTIAL VALUE	binding
PARTIES	B&B Hardware, Inc. v. Hargis Industries, Inc., doing business as Sealtite Building Fasteners and East Texas Fasteners

TOPICS

trademark law

trademark infringement

administrative law

civil procedure

statutory interpretation

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether an administrative agency decision can have issue-preclusive effect in a later Article III court proceeding.
2. Whether the Lanham Act bars issue preclusion based on an unreviewed TTAB registration decision.
3. Whether TTAB and district-court determinations of likelihood of confusion apply the same legal standard.
4. Whether differences between TTAB and federal-court procedures categorically preclude issue preclusion.
5. Whether the stakes and procedures of trademark-registration proceedings categorically make issue preclusion inappropriate.

HOLDINGS

1. An agency decision can support issue preclusion when the ordinary elements of issue preclusion are satisfied, including where the agency acted in a judicial capacity and the parties had an adequate opportunity to litigate.
2. The Lanham Act does not categorically bar giving preclusive effect to TTAB decisions when the ordinary elements of issue preclusion are met.
3. The same likelihood-of-confusion standard applies to trademark registration and infringement, although the TTAB and district courts may consider different usages and apply factors differently.
4. Differences between TTAB and federal-court procedures do not categorically defeat issue preclusion; the relevant inquiry is whether the first proceeding was fundamentally poor, cursory, or unfair.
5. When the usages adjudicated by the TTAB are materially the same as those before the district court, and the other ordinary elements of issue preclusion are met, the TTAB decision should receive preclusive effect.

KEY QUOTATIONS

“We hold that a court should give preclusive effect to TTAB decisions if the ordinary elements of issue preclusion are met.” (135 S. Ct. at 1299)

“So long as the other ordinary elements of issue preclusion are met, when the usages adjudicated by the TTAB are materially the same as those before the district court, issue preclusion should apply.” (135 S. Ct. at 1310)

FACTUAL BACKGROUND

B&B Hardware owned the SEALTIGHT trademark for metal fasteners used in the aerospace industry. Hargis Industries sought to register SEALTITE for metal screws used in construction, and B&B opposed registration, asserting a likelihood of confusion. The TTAB found SEALTITE confusingly similar to SEALTIGHT, but Hargis did not seek review of that decision. In parallel infringement litigation, the District Court and a jury rejected B&B's attempt to establish likelihood of confusion based on the TTAB decision.

PROCEDURAL HISTORY

Hargis applied to register SEALTITE, and B&B opposed registration before the TTAB based on alleged likelihood of confusion with B&B's SEALTIGHT mark. The TTAB ruled for B&B, but Hargis did not seek judicial review. In parallel infringement litigation, the District Court declined to give the TTAB decision preclusive effect, and a jury found no likelihood of confusion. The Eighth Circuit affirmed, holding that TTAB and district-court standards and procedures differed. The Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Eighth Circuit was instructed to apply the ordinary elements of issue preclusion and give the TTAB decision preclusive effect if the usages adjudicated by the TTAB were materially the same as those before the district court.

CASES CITED

- Astoria Federal Savings & Loan Assn. v. Solimino, 501 U.S. 104 (1991)
- Cromwell v. County of Sac, 94 U.S. 351 (1877)
- Baldwin v. Iowa State Traveling Men's Assn., 283 U.S. 522 (1931)
- Montana v. United States, 440 U.S. 147 (1979)
- Bobby v. Bies, 556 U.S. 825 (2009)
- New Hampshire v. Maine, 532 U.S. 742 (2001)
- Baker v. General Motors Corp., 522 U.S. 222 (1998)
- University of Tennessee v. Elliott, 478 U.S. 788 (1986)
- United States v. Utah Construction & Mining Co., 384 U.S. 394 (1966)
- Hayfield Northern Railroad Co. v. Chicago & North Western Transportation Co., 467 U.S. 622 (1984)
- Kremer v. Chemical Construction Corp., 456 U.S. 461 (1982)
- Plaut v. Spendthrift Farm, Inc., 514 U.S. 211 (1995)
- Parklane Hosiery Co. v. Shore, 439 U.S. 322 (1979)
- Dairy Queen, Inc. v. Wood, 369 U.S. 469 (1962)
- Federated Department Stores, Inc. v. Moitie, 452 U.S. 394 (1981)
- American Heritage Life Insurance Co. v. Heritage Life Insurance Co., 494 F.2d 3 (5th Cir. 1974)

- Smith v. Bayer Corp., 564 U.S. 299 (2011)
- United States v. Stauffer Chemical Co., 464 U.S. 165 (1984)
- Clark v. Clark, 984 F.2d 272 (8th Cir. 1993)
- In re E. I. DuPont DeNemours & Co., 476 F.2d 1357 (CCPA 1973)
- SquirtCo v. Seven-Up Co., 628 F.2d 1086 (8th Cir. 1980)
- Kappos v. Hyatt, 566 U.S. 431 (2012)
- Park 'N Fly, Inc. v. Dollar Park & Fly, Inc., 469 U.S. 189 (1985)

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