

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

Agilent Technologies, Inc. v. Axion Biosystems, Inc.

Agilent v. Axion · No. Civil Action No. 23-198-CJB · Decided March 12, 2026

SUMMARY

The United States District Court for the District of Delaware granted Axion Biosystems, Inc.’s motion for summary judgment on Agilent Technologies, Inc.’s false advertising claim under Section 43(a) of the Lanham Act. The court held that Agilent lacked sufficient evidence of actual customer deception and injury proximately caused by Axion’s advertising statements. The court denied Axion’s separate damages motion as moot.

CASE DETAILS

COURT	United States District Court for the District of Delaware
WRITING FOR THE COURT	Christopher J. Burke
JURISDICTION	United States District Court for the District of Delaware
DECIDED	March 12, 2026
DOCKET	Civil Action No. 23-198-CJB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff Agilent Technologies, Inc. brought a Lanham Act false-advertising claim in a patent-infringement action. Defendant Axion Biosystems, Inc. moved for summary judgment on the false-advertising claim and separately moved for summary judgment that Agilent could not recover monetary damages or corrective-advertising costs.
STANDARD OF REVIEW	Summary judgment standard incorporated by reference from the court's December 23, 2025 memorandum opinion. The court considered whether the record showed a genuine dispute of material fact and whether admissible evidence supported the elements of the false-advertising claim.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion

TOPICS

- trademark law
- summary judgment
- evidence
- commercial litigation
- intellectual property

PRACTICE AREAS

intellectual property

false advertising

patent litigation

commercial litigation

civil procedure

QUESTIONS PRESENTED

1. Whether Agilent presented sufficient evidence to create a genuine dispute of material fact regarding actual deception or a tendency to deceive under the Lanham Act.
2. Whether Agilent presented sufficient evidence of injury proximately caused by Axion's allegedly false or misleading advertising.
3. Whether Agilent could pursue prospective corrective-advertising costs when it lacked sufficient evidence of deception and injury.

HOLDINGS

1. A plaintiff seeking monetary relief for a Lanham Act false-advertising claim must present proof of actual consumer deception, even if the alleged statements are literally false. Agilent's inadmissible double-hearsay, vague testimony, and evidence concerning sophisticated researchers did not create a genuine dispute of material fact as to actual deception.
2. Agilent failed to present sufficient evidence of economic or reputational injury proximately caused by the Maestro Statements, and therefore could not establish the injury element of its false-advertising claim.
3. Agilent could not recover prospective corrective-advertising costs because it failed to present sufficient evidence of the underlying deception and injury that corrective advertising would remedy.

KEY QUOTATIONS

“If the message conveyed by an advertisement is literally true or ambiguous, however, the plaintiff must prove actual deception or a tendency to deceive[.]” (5)

“actual deception cannot be proven “by arguing how consumers could react; it must [be proven by] show[ing] how consumers actually do react.”” (7)

“That evidence does not reliably indicate any single customer or potential customer who was deceived by the Maestro Statements in a manner resulting in a lost sale for Agilent.” (14)

FACTUAL BACKGROUND

Agilent and Axion are competitors in the market for impedance-based cell-analysis products. Agilent alleged that statements on Axion's website and related materials falsely or misleadingly represented that Axion's Maestro Z platform could accurately measure tumor growth and immune-cell killing in three-dimensional cancer spheroids. To establish actual deception and injury, Agilent relied principally on testimony from its corporate representative concerning a prospective customer and generalized customer interest, as well as statements by two Axion collaborators. The court found the first category inadmissible or conclusory and the collaborator evidence insufficient to show actual customer deception or injury.

PROCEDURAL HISTORY

Agilent commenced the action on February 23, 2023. The parties consented to the magistrate judge's jurisdiction over all proceedings. Axion filed the two motions for summary judgment on July 10, 2025, and briefing was completed on August 29, 2025. The court granted the false-advertising motion and denied the damages motion as moot; a related portion of a Daubert motion was also denied as moot.

DISPOSITION

other

CASES CITED

- Pernod Ricard USA, LLC v. Bacardi U.S.A., Inc., 653 F.3d 241, 248 (3d Cir. 2011)
- CareDx, Inc. v. Natera, Inc., Nos. 23-2427, 23-2428, 2025 WL 2480117, at *9 & n.35 (3d Cir. Aug. 28, 2025)
- TRUSTID, Inc. v. Next Caller, Inc., 2022 WL 318299, at *7-9 (D. Del. Jan. 5, 2022), *aff'd*, 2023 WL 2298748 (Fed. Cir. Mar. 1, 2023)
- Newborn Bros. Co. v. Albion Eng'g Co., 481 F. Supp. 3d 312, 352-53 (D.N.J. 2020)
- Parkway Baking Co. v. Freihofer Baking Co., 255 F.2d 641, 648-49 (3d Cir. 1958)
- Sandoz Pharms. Corp. v. Richardson-Vicks, Inc., 902 F.2d 222, 228-30 (3d Cir. 1990)
- Am. Tel. & Tel. Co. v. Winback & Conserve Program, Inc., 42 F.3d 1421, 1443 (3d Cir. 1994)
- Newborn Bros. Co. v. Albion Eng'g Co., 2025 WL 3560164, at *2 (3d Cir. Dec. 10, 2025)
- Fraternal Ord. of Police, Lodge 1 v. City of Camden, 842 F.3d 231, 238 (3d Cir. 2016)
- Travillion v. Wetzel, 2025 WL 971669, at *3 (3d Cir. Apr. 1, 2025)
- Conard v. Pennsylvania State Police, 2022 WL 58543, at *3 (3d Cir. Jan. 6, 2022)
- CareDx, Inc. v. Natera, Inc., 2023 WL 4561059, at *3-4 (D. Del. July 17, 2023)
- Bracco Diagnostics, Inc. v. Amersham Health, Inc., 627 F. Supp. 2d 384, 476, 480-81 (D.N.J. 2009)
- Labware, Inc. v. Thermo Labsystems, Inc., 2005 WL 1541028, at *10, *12 (E.D. Pa. June 29, 2005)
- Lexmark Int'l, Inc. v. Static Control Components, Inc., 572 U.S. 118, 132-35 (2014)
- Societe Civile Succession Richard Guiono v. Beseder Inc., 2007 WL 3238703, at *6 (D. Ariz. Oct. 31, 2007), *aff'd sub nom. Societe Civile Succession Guino v. Renoir*, 305 F. App'x 334 (9th Cir. 2008)
- U.S. Healthcare, Inc. v. Blue Cross of Greater Phila., 898 F.2d 914, 922 (3d Cir. 1990)
- Diamond Triumph Auto Glass, Inc. v. Safelite Glass Corp., 441 F. Supp. 2d 695, 722 (M.D. Pa. 2006)
- Accu-Sort Sys., Inc. v. Lazerdata Corp., 820 F. Supp. 928, 931 (E.D. Pa. 1993)
- Quidel Corp. v. Siemens Med. Sols. USA, Inc., 2020 WL 4747724, at *8 (S.D. Cal. Aug. 17, 2020)
- Monahan Prods. LLC v. Sam's E., Inc., 463 F. Supp. 3d 128, 146 (D. Mass. 2020)
- *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662, 672 (3d Cir. 2019)