UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Wagner Zip-Change, Inc. v. Tubelitedenco, LLC, Tubelite Den Holdings, LLC, and Tubelite Den, LLC

Wagner Zip-Change · No. No. 23 C 05077 · Decided March 10, 2026

SUMMARY

The United States District Court for the Northern District of Illinois denied defendants' motion to dismiss claims arising from the alleged use of Vidon products in connection with the Jewelite trademark. The court held that Wagner plausibly alleged a Lanham Act false-association claim under 15 U.S.C. § 1125(a)(1)(A), despite no longer using or owning the mark, because it sought damages for past infringement and alleged commercial injury. The court also rejected arguments based on Vidon's current ownership and incontestable rights in the mark.

CASE DETAILS

COURT	United States District Court for the Northern District of Illinois, Eastern Division
WRITING FOR THE COURT	John J. Tharp, Jr.
JURISDICTION	United States District Court for the Northern District of Illinois, Eastern Division
DECIDED	March 10, 2026
DOCKET	No. 23 C 05077
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the complaint must provide a short and plain statement of the claim and sufficient factual matter to state a facially plausible basis for relief. The court accepts well-pleaded allegations as true and draws reasonable inferences in the plaintiff's favor, but disregards legal conclusions.
PRECEDENTIAL VALUE	Unknown; district-court memorandum opinion and order with no designated precedential status stated.

TOPICS

trademark infringement · motions to dismiss · pleadings · trademark law · commercial litigation

PRACTICE AREAS

trademark law · commercial litigation · civil procedure · torts · intellectual property

QUESTIONS PRESENTED

1. Whether Wagner could state a Lanham Act false-association claim for damages even though it no longer owned or used the Jewelite mark and did not plan to use it in the future.
2. Whether Wagner's status as a former exclusive licensee was sufficient at the pleading stage to allege enforceable rights in the mark during the period of the alleged infringement.
3. Whether Vidon's current ownership and allegedly incontestable rights in the Jewelite mark required dismissal of Wagner's claim against Tubelite.
4. Whether the complaint plausibly alleged a claim under Lanham Act § 43(a)(1)(A).

HOLDINGS

1. A plaintiff seeking damages under § 1125(a) need not currently own or use the mark or show likely future injury; it must plausibly allege the defendant's Lanham Act violation, actual consumer confusion, and resulting actual injury.
2. At the pleading stage, Wagner plausibly alleged enforceable rights in the Jewelite mark by asserting that it was an exclusive licensee that continuously used the mark for more than 30 years before the alleged infringement.
3. Wagner plausibly satisfied the statutory-standing requirements under § 1125(a) by alleging a commercial injury in lost sales that flowed directly from Tubelite's misleading use of the Jewelite mark.
4. Vidon's later acquisition of the Jewelite mark and its allegedly incontestable rights did not require dismissal of Wagner's false-association claim against Tubelite.

KEY QUOTATIONS

> *“To recover damages under § 1125(a), a plaintiff need only prove: (1) “the defendant's Lanham Act violation,” (2) “that the violation caused actual confusion among consumers of the plaintiff's product,” and (3) “as a result, that the plaintiff suffered actual injury.””* (II.B.1)

> *“Indeed, the notion that Lexmark compels such an outcome is directly contradicted by the Lexmark Court’s own explication that “a competitor who is forced out of business by a defendant's false advertising generally will be able to sue for its losses.””* (II.B.1)

> *“As the Seventh Circuit has explained, “the word ‘incontestable’ is misleading, because an incontestable mark may be contested, and defeated, on many grounds.””* (II.B.2)

FACTUAL BACKGROUND

Wagner held an exclusive license to use the Jewelite trademark for more than 30 years and marketed Jewelite Trim, which was manufactured by Vidon Plastics. Wagner alleged that Tubelite entered into a distribution agreement with Vidon and sold Vidon's knock-off trim products while representing them as Wagner's Jewelite products, including by using the Jewelite mark and filling orders for Jewelite and Wagner products with Vidon's products. Wagner alleged that this conduct caused consumer confusion, contributed to its loss of business, and caused at least $4.5 million in lost sales before Wagner relinquished its rights in the mark and Vidon became its owner of record.

PROCEDURAL HISTORY

Wagner filed suit in August 2023 against Tubelite, asserting Lanham Act claims and Illinois common-law claims for unfair competition and tortious interference with prospective economic advantage. Tubelite moved to dismiss, arguing principally that Wagner lacked a current ownership or use interest in the Jewelite mark and that the mark's current owner, Vidon, held incontestable rights. The district court denied the motion to dismiss and directed defendants to answer by March 31, 2026.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Brooks v. Ross, 578 F.3d 574, 581 (7th Cir. 2009)
- ACF 2006 Corp. v. Mark C. Ladendorf, Attorney at Law, P.C., 826 F.3d 976, 981 (7th Cir. 2016)
- Zurbriggen v. Twin Hill Acquisition Co., Inc., 338 F. Supp. 3d 875, 882 (N.D. Ill. 2018)
- Richards v. Mitcheff, 696 F.3d 635, 638 (7th Cir. 2012)
- Bonestroo, Rosene, Anderlik & Associates v. Devery, No. 05 C 02184, 2006 WL 1005284, at *11 (N.D. Ill. Apr. 12, 2006)
- NAACP v. American Family Mutual Insurance Co., 978 F.2d 287, 292 (7th Cir. 1992)
- Phoenix Entertainment Partners v. Rumsey, 829 F.3d 817, 822 (7th Cir. 2016)
- Web Printing Controls Co. v. Oxy-Dry Corp., 906 F.2d 1202, 1204-05 (7th Cir. 1990)
- Zazu Designs v. L'Oreal, S.A., 979 F.2d 499, 503-05 (7th Cir. 1992)
- TWD, LLC v. Grunt Style LLC, 598 F. Supp. 3d 676, 686-87 (N.D. Ill. 2022)
- Lexmark International, Inc. v. Static Control Components, Inc., 572 U.S. 118, 132-34 (2014)
- Baum v. Grainier Franchise Co., LLC, No. 24 C 00151, 2024 WL 4026985, at *7-*8 (N.D. Ill. Aug. 30, 2024)
- Ottaviani v. Rubino, No. 23 C 02865, 2024 WL 3442963, at *4 (N.D. Ill. July 17, 2024)
- Specialized Seating, Inc. v. Greenwich Industries, LP, 616 F.3d 722, 724 (7th Cir. 2010)