

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Lumino, Inc. v. Lumi Importing Ltd.

No. 24-cv-189-wmc (W.D. Wis. Dec. 19, 2025) · No. 24-cv-189-wmc · Decided December 19, 2025

SUMMARY

The United States District Court for the Western District of Wisconsin addresses multiple motions in a trademark infringement and deceptive trade practices action between Lumino, Inc. and Lumi Importing Ltd. The court partially grants and denies Lumino’s motion to dismiss Lumi’s counterclaims, allowing fraud-based cancellation claims to proceed while dismissing certain claims barred by trademark incontestability provisions. The court denies the parties’ motions for partial summary judgment and resolves additional motions concerning supplementation of the record, trial bifurcation, expert disclosures, and continuance of trial.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	December 19, 2025
DOCKET	24-cv-189-wmc
DISPOSITION	other
PROCEDURAL POSTURE	The court decided multiple pretrial motions in a trademark infringement and deceptive trade practices action, including a Rule 12(b)(6) motion directed to counterclaims, cross-motions for partial summary judgment, a motion to supplement proposed facts, a motion to bifurcate trial and defer damages-expert disclosures, and a motion to continue trial.
STANDARD OF REVIEW	Rule 12(b)(6) plausibility standard; Rule 9(b) particularity standard for fraud allegations; Rule 56 summary-judgment standard requiring no genuine dispute of material fact and entitlement to judgment as a matter of law; likelihood of confusion ordinarily presents a fact question evaluated under the Seventh Circuit's multi-factor test.
PRECEDENTIAL VALUE	Unknown; federal district court opinion

TOPICS

trademark infringement

trademark law

summary judgment

motions to dismiss

civil procedure

PRACTICE AREAS

Trademark law

Trademark infringement

Commercial litigation

Civil procedure

QUESTIONS PRESENTED

1. Whether Lumi's counterclaims seeking cancellation of Lumino's registrations for lack of bona fide use, nonuse, and fraud were adequately pleaded.
2. Whether Lumino was entitled to summary judgment on its claim that Lumi's registration was illegally assigned in violation of the Lanham Act's anti-trafficking provision.
3. Whether Lumi was entitled to summary judgment on Lumino's federal and common-law infringement and unfair-competition claims based on the absence of a likelihood of confusion.
4. Whether Lumi should be permitted to supplement its proposed findings of fact with late-produced survey evidence and an expert report.
5. Whether the trial should be bifurcated and damages-expert disclosures deferred.
6. Whether the trial and remaining deadlines should be continued.

HOLDINGS

1. Counterclaims II and V were barred by the incontestability provisions of 15 U.S.C. § 1065 because they did not fit within an applicable statutory exception, and Lumino's motion to dismiss those counterclaims was granted.
2. Counterclaims III and VI were permitted to proceed because 15 U.S.C. § 1064(6) allows cancellation at any time after the applicable period when a registered mark has never been used in commerce for some or all of the identified goods.
3. Counterclaims IV and VII adequately pleaded fraud because Lumi alleged with sufficient particularity that Lumino knowingly and intentionally misrepresented use of the LUMINO mark in its applications and declarations of use and incontestability.
4. Lumino was not entitled to summary judgment because conflicting recorded assignments created a factual ambiguity about whether the LUMI mark was assigned in May 2020, before the statement of use, or in November 2023, after the statement of use.
5. Lumi was not entitled to summary judgment because a reasonable jury could find a likelihood of confusion between the LUMI and LUMINO marks when considering the marks, overlapping products, shared retail channels, actual-confusion evidence, and related factors as a whole.
6. The court denied Lumi's request to defer damages-expert disclosures because the requested delay would unfairly benefit Lumi and jeopardize existing trial deadlines.

KEY QUOTATIONS

“To survive a motion to dismiss under Rule 12(b)(6), a plaintiff must allege “sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.”” (Section I)

“In considering all of these factors and relative strengths, the court concludes that a reasonable jury could find for either party on the risk of confusion.” (Section II.B)

FACTUAL BACKGROUND

Lumino owns the LUMINO mark and registrations covering drapery hardware and window coverings, while Lumi owns the LUMI mark and sells overlapping home-furnishing and window-treatment products. The parties market products through overlapping retailers and online channels, including Amazon, Wayfair, and Walmart, and their products are offered at similar price points to similar consumers. Lumino presented evidence of several mistaken customer or retailer contacts, while the parties disputed the strength of the LUMINO mark, the significance of their differing logos, and Lumi's intent. Lumi's cancellation counterclaims also alleged that Lumino misrepresented use of the LUMINO mark in its trademark applications and later declarations of use and incontestability.

PROCEDURAL HISTORY

Lumino sued Lumi for trademark infringement and related claims involving the LUMINO and LUMI marks. Lumi previously moved to dismiss for lack of personal jurisdiction or to transfer venue; that motion was denied, after which Lumi answered and asserted seven counterclaims. The court granted in part and denied in part Lumino's motion to dismiss the counterclaims, denied both parties' motions for partial summary judgment, denied Lumi's motion to supplement the record, granted in part and denied in part Lumi's motion to bifurcate and defer expert disclosure, and denied Lumi's motion to continue trial.

DISPOSITION

other

CASES CITED

- Doe v. Columbia College Chicago, 933 F.3d 849, 854 (7th Cir. 2019)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556 (2007)
- Abcarian v. McDonald, 617 F.3d 931, 933 (7th Cir. 2010)
- Ranch v. Tribe, 78 U.S.P.Q.2d 1696, *2-3 (T.T.A.B. 2006)
- U.S. ex rel. Grenadyor v. Ukrainian Village Pharmacy, Inc., 772 F.3d 1102, 1106 (7th Cir. 2014)
- Torres v. Cantine Torresella S.r.l., 808 F.2d 46, 48 (Fed. Cir. 1986)
- Solo Cup Operating Corp. v. Lollicup USA, Inc., No. 16 C 8041, 2017 WL 3581182, *2 (N.D. Ill. Aug. 18, 2017)
- In re Bose Corp., 91 U.S.P.Q.2d 1938, 1941 (T.T.A.B.)
- DaimlerChrysler Corp. v. American Motors Corp., 94 U.S.P.Q.2d 1086, 1088 (T.T.A.B. 2010)

- Emerald Cities Collaborative, Inc. v. Roese, 666 F. App'x 908, 914 (Fed. Cir. 2016)
- Mathews v. Sears Pension Plan, 144 F.3d 461, 466 (7th Cir. 1998)
- Cook Inc. v. Boston Scientific Corp., 333 F.3d 737, 742 (7th Cir. 2003)
- Coplay Cement Co. v. Willis & Paul Group, 983 F.2d 1435, 1438 (7th Cir. 1993)
- International Brotherhood of Electrical Workers, Local 176 v. Balmoral Racing Club, Inc., 293 F.3d 402, 404 (7th Cir. 2002)
- Carmichael v. Village of Palatine, 605 F.3d 451, 460 (7th Cir. 2010)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Scott v. Harris, 550 U.S. 372, 378 (2007)
- Omnicare, Inc. v. UnitedHealth Group, Inc., 629 F.3d 697, 704 (7th Cir. 2011)
- Gunville v. Walker, 583 F.3d 979, 985 (7th Cir. 2009)
- AutoZone, Inc. v. Strick, 543 F.3d 923, 929-33 (7th Cir. 2008)
- Sorensen v. WD-40 Co., 792 F.3d 712, 726, 730-31 (7th Cir. 2015)
- Packman v. Chicago Tribune Co., 267 F.3d 628, 643-45 (7th Cir. 2001)
- James Burrough Ltd. v. Sign of Beefeater, Inc., 540 F.2d 266, 275 (7th Cir. 1976)
- S Industries Inc. v. Stone Age Equipment Inc., 12 F. Supp. 2d 796, 818 (N.D. Ill. 1998)
- Telemed Corp. v. Tel-Med, Inc., 588 F.2d 213, 219-20 (7th Cir. 1978)
- Gimix, Inc. v. JS&A Group, Inc., 699 F.2d 901, 906 (7th Cir. 1983)
- Independent Nail & Packing Co. v. Stronghold Screw Products, Inc., 205 F.2d 921, 925 (7th Cir. 1953)
- McGraw-Edison Co. v. Walt Disney Productions, 787 F.2d 1163, 1171 (7th Cir. 1986)
- Sands, Taylor & Wood Co. v. Quaker Oats Co., 978 F.2d 947, 952, 962 (7th Cir. 1992)
- Echo Travel, Inc. v. Travel Associates, Inc., 870 F.2d 1264, 1270 (7th Cir. 1989)
- Spireon, Inc. v. Flex Ltd., 71 F.4th 1355, 1363 (Fed. Cir. 2023)
- Epic Systems Corp. v. YourCareUniverse, Inc., 244 F. Supp. 3d 878, 898 (W.D. Wis. 2017)
- International Kennel Club of Chicago, Inc. v. Mighty Star, Inc., 846 F.2d 1079, 1090 (7th Cir. 1988)
- Smith Fiberglass Products, Inc. v. Ameron, Inc., 7 F.3d 1327, 1330-31 (7th Cir. 1993)
- Maui Jim, Inc. v. SmartBuy Guru Enterprises, 459 F. Supp. 3d 1058, 1094 n.16 (N.D. Ill. 2020)
- Comp-U-Tronix Discount Radar Detectors, Inc. v. Landmark Electronics Co., No. 90 C 6582, 1991 WL 236877, *3 (N.D. Ill. Oct. 30, 1991)