

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Comeback Media, Inc. v. Particle Media, Inc., et al.

Comeback Media · No. 25-cv-03298-CRB · Decided October 30, 2025

SUMMARY

The United States District Court for the Northern District of California partially granted and partially denied Particle Media, Inc.’s motion to dismiss claims brought by Comeback Media, Inc. The court dismissed the contributory copyright infringement, direct trademark infringement, unfair competition, and misappropriation claims against Particle Media, while allowing the vicarious copyright infringement claim to proceed. The court granted Comeback leave to amend.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Charles R. Breyer
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 30, 2025
DOCKET	25-cv-03298-CRB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Particle Media, Inc., doing business as NewsBreak, moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss all claims asserted against it in Plaintiff Comeback Media, Inc.'s Second Amended Complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff's favor, and asks whether the complaint states a facially plausible claim for relief. Conclusory allegations, unwarranted factual deductions, and unreasonable inferences need not be accepted as true.
PRECEDENTIAL VALUE	district court opinion; precedential status unknown

TOPICS

- copyright infringement
- trademark infringement
- motions to dismiss
- intellectual property
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Comeback adequately pleaded contributory copyright infringement against NewsBreak.
2. Whether Comeback adequately pleaded vicarious copyright infringement against NewsBreak.
3. Whether Comeback adequately pleaded direct trademark infringement against NewsBreak based on NewsBreak's hosting, displaying, and search-related activities.
4. Whether Comeback's California unfair-competition and common-law misappropriation claims were preempted by the Copyright Act.

HOLDINGS

1. Comeback failed to state a contributory copyright infringement claim because it did not adequately allege that NewsBreak had actual or constructive knowledge of specific infringement and materially contributed to or induced that infringement.
2. Comeback adequately stated a claim for vicarious copyright infringement against NewsBreak.
3. Comeback failed to state a direct trademark infringement claim against NewsBreak because it did not allege that NewsBreak itself used the allegedly infringing mark.
4. The Copyright Act preempted Comeback's unfair-competition and common-law misappropriation claims because the claims asserted rights equivalent to copyright rights and lacked an extra element that qualitatively changed the nature of the action.

KEY QUOTATIONS

“To state a claim for contributory copyright infringement, a plaintiff must allege: (1) a defendant’s knowledge of another’s infringement and (2) that they either (a) materially contributed to or (b) induced the infringement.” (Discussion § III.A)

“on a claim for vicarious infringement, a plaintiff must prove the defendant has (1) the right and ability to supervise the infringing conduct and (2) a direct financial interest in the infringing activity.” (Discussion § III.B)

“A state law claim is preempted if (1) “the rights that a plaintiff asserts under state law [are] ‘rights that are equivalent’ to those protected by the Copyright Act” and (2) “the work involved [falls] within the ‘subject matter’ of the Copyright Act.”” (Discussion § III.D)

FACTUAL BACKGROUND

Comeback Media operates digital news websites, including Next Impulse Sports, and earned revenue from referrals and syndication through NewsBreak. Comeback alleged that Total Impulse copied its articles, images, videos, and trademark and published them on NewsBreak, causing referrals, advertising revenue, writers, and business value to decline. NewsBreak allegedly gave Total Impulse verified-publisher status before it had a website or content and later suspended Total Impulse's account after discovering misconduct, but did not restore referrals to Comeback.

PROCEDURAL HISTORY

Comeback filed this copyright and trademark action on April 11, 2025 and subsequently amended its complaint twice, with the second amendment filed by leave of court. The Second Amended Complaint asserted trademark infringement, vicarious copyright infringement, contributory copyright infringement, unfair competition, and common-law misappropriation claims against NewsBreak. The court granted the motion in part, denied it in part, and granted Comeback leave to amend.

DISPOSITION

other

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Retail Prop. Trust v. United Bhd. of Carpenters & Joiners of Am.
- Khoja v. Orexigen Therapeutics, Inc., 899 F.3d 988, 1008 (9th Cir. 2018)
- Perfect 10, Inc. v. Giganews, Inc., 847 F.3d 657 (9th Cir.)
- Ellison v. Robertson, 357 F.3d 1072 (9th Cir.)
- Y.Y.G.M. SA v. Redbubble, Inc., 75 F.4th 995, 1001 (9th Cir. 2023), cert. denied, 144 S. Ct. 824 (2024)
- Luvdarts, LLC v. AT & T Mobility, LLC, 710 F.3d 1068, 1072 (9th Cir.)
- A&M Records, Inc. v. Napster, Inc., 239 F.3d 1004, 1021 (9th Cir.)
- Robinson v. Binello, 771 F. Supp. 3d 1114, 1126 (N.D. Cal. 2025)
- Network Automation, Inc. v. Advanced Sys. Concepts, Inc., 638 F.3d 1137, 1144 (9th Cir.)
- Atari Interactive, Inc. v. Redbubble, Inc., 515 F. Supp. 3d 1089, 1101 (N.D. Cal.), aff'd in part, appeal dismissed in part, No. 21-17062, 2023 WL 4704891 (9th Cir. July 24, 2023)
- Rigsby v. GoDaddy Inc., 59 F.4th 998, 1004 (9th Cir.)
- Perfect 10, Inc. v. Giganews, Inc., 2013 WL 2109963, at *14 (C.D. Cal. Mar. 8, 2013)
- Kodadek v. MTV Networks, Inc., 152 F.3d 1209, 1212 (9th Cir.)
- Laws v. Sony Music Ent., Inc., 448 F.3d 1134, 1143-44 (9th Cir.)
- Ryan v. Editions Ltd. W., Inc., 417 F. App'x 699, 701 (9th Cir.)
- In re Meta Pixel Tax Litigation