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BLOGS

Trademarks

Court Dismisses Claims Against Website and Lanham Act Claims Pertaining Only to Registered Marks

Wine & Canvas, an Indiana franchisor whose franchisees organize parties where guests can enjoy cocktails during painting classes, sued YN Canvas, which operated a Wine & Canvas location in San Francisco. *Wine & Canvas Development, LLC v. YN Canvas CA, LLC, et al.*, 2012 U.S. Dist. LEXIS 111273 (S.D. Ind. Aug. 7, 2012). The nature of the parties' relationship was in dispute, including whether the arrangement was a license or a franchise. The suit alleged trademark infringement, unfair competition, breach of contract, and a number of other claims. The complaint named several defendants, including an officer of YN Canvas and YN Canvas' website, www.art-uncorked.com. The defendants brought a motion to dismiss for lack of personal jurisdiction and failure to state a claim.

The court held that sufficient minimum contacts existed to exercise personal jurisdiction over the corporate and individual defendants. However, with regard to the website, the court granted the motion to dismiss, as a website "is not an entity capable of being sued." The court also granted the motion to dismiss the Lanham Act claims under Sections 1114(1)(a) and 1116(d), as those sections apply only to registered marks and Wine & Canvas's federal trademark applications were still pending. The court dismissed those claims without prejudice, indicating that the plaintiff could bring them again once its marks were properly registered. [The proper section of the Lanham Act for claims involving unregistered marks is 15 U.S.C. § 1125(a).]