

A solid yellow right-angled triangle pointing downwards and to the right.

BLOGS

Trademarks

Court Holds That Lanham Act Claims Are Not Required to Be Pled With Particularity

In *Super 8 Worldwide, Inc. v. Riro, Inc.*, 2011 U.S. Dist. LEXIS 134163 (D. Neb. Nov. 18, 2011), the United States District Court for the District of Nebraska denied a motion to strike filed by the defendant, a terminated Super 8 franchisee. The franchisor brought suit against the terminated franchisee for trademark infringement and trademark dilution based on the former franchisee's use of confusingly similar marks after termination. The former franchisee moved to strike, as scandalous, immaterial, and impertinent, portions of the complaint averring that the franchisor's marks were the "most famous" having a goodwill value in excess of "hundreds of millions of dollars." It also sought to strike paragraphs alleging that the former franchisee's acts of infringement violated the Lanham Act, were "malicious, fraudulent, willful, and deliberate," "unlawful," "unfair," and "likely to confuse the public." In denying the motion to strike, the court held that the plaintiff was not required to conform to heightened pleading requirements and, even if the standard did apply, the franchisor's allegations were specifically related to the elements of infringement.