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BLOGS

Post-Termination Injunctions: Trademarks

Federal Court Denies Franchisor's Motion for a Preliminary Injunction Following Termination of Franchisee

In *KFC Corp. v. JRN, Inc.*, 2012 U.S. Dist. LEXIS 6127 (W.D. Ky. Jan. 19, 2012), a federal district court denied a franchisor's motion for a preliminary injunction seeking to prevent the continued operation of multiple franchises. KFC had terminated ten franchises owned by JRN, Inc., one of its largest franchisees, for not meeting a remodel schedule agreed to after its franchise agreements had gone into effect. KFC sued to enforce the terminations, taking the position that a breach of these ancillary agreements also constituted a breach of the underlying franchise agreements. The franchisor then filed a preliminary injunction motion to prevent the franchisee's continued use of its trademarks, trade secrets, and business system. The court concluded, however, that KFC failed to show a strong likelihood of success because there was a factual dispute over "whether the parties agreed in writing to amend the Remodel Agreement and, if so, upon what new terms they did so." The court also held KFC had not demonstrated it would suffer irreparable harm from the continued operation of the locations with an outdated image because some of the restaurants had been remodeled to some degree, while the others had the same image as some corporate-owned locations. The court also emphasized that KFC continued to receive royalty payments from the restaurants and that closing the locations "would cause a substantial harm to JRN and its employees, while serving no identifiable public interest."

The court subsequently denied JRN's motion for its attorneys' fees and costs in defending against the preliminary injunction motion. *KFC Corp. v. JRN, Inc.*, 2012 U.S. Dist. LEXIS 6122 (W.D. Ky., Jan. 19, 2012). It noted that while the franchise agreements allowed the franchisee to recover its fees and costs if it "prevail[ed] entirely" in an action brought by KFC, successfully defending against a preliminary injunction motion did not constitute the entire action. The court also declined to find that KFC had engaged in bad faith or abuse of the judicial process by filing its motion.