

Ranger Trek Emerges Victorious: Federal Appeals Court Defends Small Business Against Frequent Opposer Trek Bicycle

Federal Circuit affirms decision to dismiss Trek Bicycle's opposition of the Ranger Trek mark and design

SEATTLE, WASHINGTON, USA, December 6, 2023 /EINPresswire.com/ -- The US Court of Appeals for the Federal Circuit issued a decision Wednesday, November 15th, 2023 in the Trek Bicycle Corporation v. Christina Isaacs, case number 2022-1434, affirming the Trademark Trial and Appeal Board's (TTAB) decision to dismiss Trek Bicycle's opposition of the Ranger Trek mark and design.

Trek Bicycle Corp.'s (TBC) currently maintains its title of 4th Biggest Trademark Bully of All Time, according to U.S. Patent and Trademark Office's (USPTO) trademark opposition data compiled by Trademarkia.com.

TRADEMARK BULLYING & LEGALIZED TERRORISM DEFINED:

Trademark bullying is defined in a variety of ways including, "the enforcement of an unreasonable interpretation by a large corporation of its trademark rights against a small business or individual through the use of intimidation tactics."

The coined term "legalized terrorism" refers to those who use the courts to legally but immorally advance their commercial interests, despite weak or in many cases frivolous claims, simply because they have the financial wherewithal to do so.

For decades leading up to the Federal Appeals Court ruling in favor of Ms. Isaacs, TBC has engaged in overreach and threats or prosecution of more than 100 opposition proceedings against more than 450 marks according to USPTO data.

TBC has been asserting over the last 20+ years that it has exclusive rights in the generic term "trek" for virtually every good or service under the sun. But the Federal Appeals Court and the TTAB have both ruled that: "we must find that the fame and commercial strength of Trek's TREK mark does extend to the identified goods, which it does not." and "For the foregoing reasons, the applicable law and the evidentiary record amply support the Board's Decision concerning the absence of fame for clothing and bags and the existence of other TREK marks for similar or related goods on the register."

ALL TYPES OF TREKS: FROM STAR TREK TO RANGER TREK

The Federal Circuit Appeals Court affirmed the Trademark Trial and Appeal Board's decision: "Distinctiveness is often classified in categories of generally increasing distinctiveness: (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; or (5) fanciful." "Suggestive marks suggest, but do not directly and immediately describe, some aspect of the goods." "Marks that are 'highly suggestive are entitled to a narrower scope of protection, i.e., are less likely to generate confusion over source identification, than their more fanciful counterparts.'" and, "the Board reasonably relied on and found that certain dictionary definitions and third-party registrations showed that Trek's TREK mark is somewhat conceptually weak and somewhat suggestive as to the identified goods."

The term "trek" has been used and registered alone or with other terms by literally dozens of third parties. Indeed, STAR TREK, one of the most popular TV and movie franchises, is truly famous universally, preexisted TBC by years, and has been registered for more than 40 years. Nevertheless, TBC chose to adopt this highly descriptive or generic term for use with bicycles.

DAVID VS GOLIATH

In August 2016, Ms. Isaacs first applied to register Ranger Trek with the USPTO. First victory: November 2016 she was advised by the USPTO of the publication of her RANGER TREK mark—which confirmed that the Trademark Examining Attorney had searched the USPTO's database of registered and pending marks. No conflicting marks were found that would bar registration. But then in January 2017, TBC filed an opposition.

Second victory: August 2021 the TTAB concluded, "Because Opposer (Trek Bicycle Corp) has not shown, by a preponderance of the evidence, the existence of a likelihood of confusion, Opposer has not established its claim under Section 2(d) Opposition No. 91232164 Decision: The opposition is dismissed."

Third victory: December 2021, after TBC filed a Request for Reconsideration with the TTAB, they again ruled in Isaacs' favor: "For the foregoing reasons, the applicable law and the evidentiary record amply support the Board's Decision concerning the absence of fame for clothing and bags and the existence of other TREK marks for similar or related goods on the register. We find no error in the Decision. The request for reconsideration is denied."

Fourth victory: Decision on November 15, 2023 by the Federal Appeals Court upholding the TTAB's dismissal of TBC's challenge to the registration of Ranger Trek's mark and design. The court stated, "in order to give any favorable weight to DuPont factors five and six, we must find that the fame and commercial strength of Trek's TREK mark does extend to the identified goods, which it does not.", "The Board found that Trek failed to show, by a preponderance of the evidence, the existence of a likelihood of confusion." and "Because substantial evidence supports

the Board's findings as to the challenged DuPont factors and the Board did not err in weighing the DuPont factors, we affirm."

LOOKING FORWARD TO TREKKING AHEAD

Despite almost seven years of litigation, TBC did not come forward with any evidence that it has superior rights in any of these goods or services. Ms. Isaacs even offered to exclude bicycle products and services to avoid any remote possibility of overlap—but TBC would have none of it. Despite nearly seven years of stress and expense, Ms. Isaacs maintained her commitment to demonstrating that "might does not make right," and her perseverance has finally paid off.

Ms. Isaacs is looking forward to refocusing her energies on further developing her RANGER TREK business to promote the Junior Ranger Program and to create products to motivate children and families to visit and enjoy our nation's National Parks and other public lands.

Ms. Isaacs' Attorney, David Allen Lowe of Lowe Graham Jones PLLC, said in a statement, "We are extremely pleased that the Federal Circuit upheld the well-reasoned decision of the Trademark Trial & Appeal Board. This decision confirms Ms. Isaacs' rights in her RANGER TREK trademarks, affirms that Trek Bicycle has only limited rights in the highly descriptive "trek" term--related solely to bicycles and accessories, and that Trek Bicycle cannot succeed in using its financial resources to bully others without a legitimate legal or moral basis."

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