

PLUNKETT COONEY FREEZES ATTEMPT BY COMPETITOR TO CAPITALIZE ON POPULAR 'MOOSE TRACKS®' NAME

In terms of “big game” litigation, it doesn’t get any bigger than a federal court lawsuit aimed at stopping infringement of one of the most recognized brand names in the ice cream business – Moose Tracks®.

Plunkett Cooney’s client in this case was Denali Flavors Inc., the owner of the popular Moose Tracks® brand of ice cream, which includes Original Moose Tracks®, Chocolate Moose Tracks®, Cherry Moose Tracks®, Extreme Moose Tracks®, Mint Moose Tracks®, Mocha Moose Tracks®, and Malted Moose Tracks®.

Denali had learned about Texas-based competitor Blue Bell Creameries’ effort to market a very similarly named ice cream known as “Mooo Tracks.” Recognizing the obvious infringement by Blue Bell of its Moose Tracks® trademarks, and the potentially huge loss of market share that could result if Blue Bell were allowed to continue using the name “Mooo Tracks,” Denali took action.

Denali contacted Blue Bell and demanded that the company cease and desist from its misleading marketing campaign. Blue Bell responded by filing a lawsuit in the United States District Court for the Southern District of Texas, seeking a declaratory judgment that its “Mooo Tracks” name did not infringe on Denali’s Moose Tracks® trademarks.

With assistance from Plunkett Cooney, Denali filed a counterclaim seeking a preliminary injunction and damages. In less than three months, a preliminary injunction hearing was held. Based on the testimony of several witnesses and exhaustive evidence brought forward by the firm, the judge ordered Blue Bell to immediately stop using “Mooo Tracks” on any ice cream product.

According to testimony by a Denali executive during the two-day preliminary injunction hearing, continued infringement by Blue Bell would have undermined Denali’s product line and effectively put the company out of business because its ice cream products would no longer be unique.