

Daily Journal

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TOP VERDICTS OF 2017

The largest and most significant verdicts and appellate reversals in California in 2017

TOP DEFENSE VERDICTS

Sweet People Apparel Inc. v. Phoenix Fibers Inc.

Haynes and Boone, LLP attorneys achieved a rare defense summary judgment victory in a trademark infringement case on behalf of client Phoenix Fibers Inc., a denim recycling business.

Plaintiffs Sweet People Apparel Inc. — makers of designer jeans and other apparel — were represented by lawyers with Arnold & Porter Kaye Scholer LLP.

In the case, Sweet People Apparel Inc. claimed that Phoenix Fibers infringed its trademark by reselling donated materials.

Kenneth G. Parker, a Haynes and Boone, LLP partner and lead counsel in the case, said one of the lawsuit's challenges involved a debate about what recycling means.

"Recycling in the recycling industry definitely includes reuse, and the plaintiffs did not understand that," Parker said.

Trademark infringement ultimately rests on likelihood of confusion, Parker said. Do people understand what they're buying when they're buying it?

"If they realize they're buying something used, that's one thing," he said.

case
INFO

**Trademark Infringement
Central District
U.S. District Judge Terry J.
Hatter Jr.**

Defense Lawyers: Kenneth G. Parker, Christopher Maciel, Mark Erickson, Haynes and Boone, LLP; William C. O'Neill, Ross Wersching & Wolcott LLP

Plaintiff's Lawyers: John C. Ulin, Louis S. Ederer, Matthew J. Salzman, Arnold & Porter Kaye Scholer LLP



KENNETH PARKER

"If they think they're buying something new, that's another," Parker said.

According to Parker, summary judgment in a trademark case is hard to obtain.

"Ultimately, the issue of likelihood of confusion rests on consideration of eight different factors," he said.

"None of which is dispositive and the absence of which doesn't lead to a disposition either." In December,

U.S. District Judge Terry J. Hatter Jr. of the Central District of California granted summary judgment in favor of Phoenix Fibers and ordered that plaintiffs get nothing. *Sweet People Apparel Inc. v. Phoenix Fibers Inc.*, 16-CV00940 (C.D. Cal., filed Dec. 27, 2016).

"The plaintiffs are appealing," Parker said.

— Skylar Dubelko