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Orr v. Broquard

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Court: Los Angeles County Superior Court/Burbank-Glendale
Case No. SC036862

Unfair Competition
Trade Secrets/Business Interference
Intellectual Property
Trademark/Tradename

Judge: Jacqueline L. Weisberg.
Bench trial: 8 days.
Verdict/judgment Date: 12/22/95.

Verdict/Judgment: Defense

Defense verdict for defendant Charles Broquard.

Trial Counsel

Plaintiff: John C. Ulin, Munger, Tolles & Olson, Los Angeles. Lawrence C. Barth, Munger, Tolles & Olson, Los Angeles.
Defendant: Michael R. Diliberto, Arant, Kleinberg, Lerner & Ram, Los Angeles.

Facts/Contentions

According to defendant: Plaintiff artist claimed that defendants created water sculpture products that infringed his trade dress rights and engaged in unfair competition and misappropriation of trade secrets. The plaintiffs were Eric Orr, a 55-year-old sculptural artist, and Orr Labs. The defendants were Charles Jerome Broquard, a 45-year-old sculptural artist; Ernie Alexander; and Suzanne Claspy.

Plaintiff alleged trade dress infringement, unfair competition, misappropriation of trade secrets and interference with contractual relations. Defendant Broquard contended that Orr's water sculpture products were not entitled to trade dress protection, trade secret protection and that no unfair competition occurred. He also contended that there was no likelihood of confusion between the water sculpture products at issue.

Claimed Injuries

NA

Claimed Damages

According to defendant: \$540,400 lost profits.

Settlement Discussions

None.

Trial Experts

Plaintiff: Thomas McEvelley, art critic, New York, NY (212) 979-2106.
Defendant: None.

Expert Testimony

According to defendant: The plaintiff's expert testified that plaintiff's water sculpture products were well-known in the marketplace and that defendants' products allegedly reduced the value of plaintiff's products. He also testified that defendants' products were confusingly similar to plaintiff's products.

Comments

According to defendant: Defendant Broquard established that plaintiffs had no trade dress rights, no trade secrets and no likelihood of confusion between the shape, style and overall appearance of the water sculpture products at issue. No appeal had been filed at the time of this report. Michael R. Diliberto represented defendant Broquard and provided the information in this report.

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