

News

BCLP REPRESENTS CLIENT DR. MARTENS IN TRADEMARK TRIAL WIN

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A BCLP litigation team helped client AirWair International Ltd., maker of Dr. Martens footwear, win a unanimous jury verdict in the Northern District of California against fast-fashion giant Inditex's US business, ITX.

On Aug. 9, the jury found that ITX committed trademark infringement, unfair competition and trademark dilution when it sold knockoff Dr. Martens products under its Pull & Bear brand in the US. It rejected ITX's arguments that some design elements, like the well-known yellow stitching and heel pull tab, were not entitled to trademark protection or should be canceled for being purely functional or generic.

The BCLP trial team was headed by Partners Alexandra Whitworth and Lee Marshall with support from Ellen Whitehorn, Courtney Thompson and Terry Randerson. Additional support was provided by Matt Minder, Ben Clark and Relationship Partner Marcy Bergman.

The case was brought by AirWair after ITX refused to stop copying the Dr. Martens trade dress, including its famous 1460, 1461 and Jadon designs. ITX fought the case, including by attacking the Dr. Martens registered trademarks that protect the unique look of Dr. Martens footwear.

The jury returned a verdict that rejected the cancellation claims to AirWair's trade dress and ruled that all four shoes infringed AirWair's intellectual property rights. The jury found that ITX infringed the Dr. Martens registered trademarks of yellow stitching and two-tone grooved sole edge, as well as its registration for the two-tone grooved sole edge alone. The jury also found that ITX infringed the Jadon trade dress of welt stitching, a grooved sole edge, angled heel, cleat pattern and platform sole. Finally, the jury found all of the subject Dr. Martens' marks – including the Jadon trade dress – to be famous and that sale of the copy shoes diluted Dr. Martens' intellectual property rights.

"Dr. Martens took Inditex US to trial because we had a choice between watching our brand, our shoe-making skills and our 60-year rebellious heritage destroyed by badly made, glued copies or we could fight for our brand," said Kenny Wilson, CEO of AirWair International Ltd. "We decided to stand up and fight for the uniqueness of Dr. Martens' brand. We will continue to object to anyone who

copies us because we think Dr. Martens is worth fighting for. Everyone at Dr. Martens is incredibly grateful to the court and the jury for helping us say no to copies.

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