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1-10-2013

Kinbook v. Microsoft Corp

Precedential or Non-Precedential: Non-Precedential

Docket No. 12-1488

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 12-1488

KINBOOK, LLC,
Appellant

v.

MICROSOFT CORPORATION

Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil No. 2-10-cv-04828)
District Judge: Honorable Gene E. K. Pratter

Submitted Under Third Circuit LAR 34.1(a)
January 7, 2013

Before: RENDELL, FISHER and JORDAN, Circuit Judges

(Opinion Filed: January 10, 2013)

OPINION OF THE COURT

RENDELL, Circuit Judge.

This is a reverse trademark infringement case in which Kinbook, LLC (“Kinbook”) alleges that Microsoft Corporation’s (“Microsoft”) trademarks “Kinect” (particularly when used in conjunction with its “XBox 360” mark) and “KIN” are confusingly similar to Kinbook’s registered “Kinbox” and “Munchkinbox” trademarks.

After considering the non-exhaustive list of factors enumerated in *Interpace Corp. v. Lapp, Inc.*, 721 F.2d 460 (3d Cir. 1983), as applied in reverse confusion cases, *see Freedom Card, Inc. v. J.P. Morgan Chase & Co.*, 432 F.3d 463, 472 (3d Cir. 2005), the District Court concluded that no reasonable jury could find a likelihood of confusion between the parties' marks exists and therefore granted summary judgment in favor of Microsoft. Kinbook timely appealed. The District Court had jurisdiction pursuant to 28 U.S.C. § 1331 and we have jurisdiction pursuant to 28 U.S.C. § 1291.

We have carefully considered the appellate briefs of the parties and the record, including the detailed thirty-page memorandum of the District Court. We see no need to expand upon the District Court's thorough analysis and surely cannot improve upon its sound reasoning. Accordingly, for substantially the same reasons set forth by the District Court, we will affirm its judgment in favor of Microsoft.