2-27-2012

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Cardozo Arts & Entertainment Law Journal

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BY MANAGING EDITOR / ON FEBRUARY 27, 2012

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On February 13, 2012, New York Knicks point guard Jeremy Lin, whose recent success has spawned a plethora of Lin-based catchphrases, filed a federal trademark application for the term "Linsanity." Lin filed his application under section 1(b) of the Lanham Act, based on an intent to use the mark on such things as backpacks, clothing, and toys. However, two individuals had already filed applications for the same term. Yenchin Chang filed an application on February 7, also based on an intent to use the mark on apparel, and Andrew Slayton filed an application on February 9 under section 1(a) of the Lanham Act, claiming that he first used "Linsanity" on July 17, 2010, with a first use in commerce on February 8, 2012. At least five other applications have been filed after Lin's.

The rush to trademark such a catchphrase is not surprising. There are currently ten pending trademark applications for "Tebowing," a term that first became popular in 2011 to refer to NFL quarterback Tim Tebow's practice of bending down on one knee in prayer after a game. However, none of those applications were filed by Tim Tebow himself. In January 2010, New York Jets cornerback Darrelle Revis filed an application to trademark "Revis Island," a phrase used to refer to Revis's portion of the field "where opposing players were inevitably marooned." There are no competing applications and the mark was published for opposition in November 2010. What makes the "Linsanity" applications more troubling than those for "Tebowing" or "Revis Island" is the fact that the actual person named, whose fame gave rise to the mark faces opposition from other individuals in acquiring rights in the term.

This is one match that Lin could lose. One advantage that federal registration confers to the registrant is nationwide protection of the mark as of the date the application was filed. Thus, the rights to "Linsanity" could come down to a priority contest between Chang and Slayton. If Slayton or Chang do gain rights in "Linsanity," Lin may be able to sue under the right of publicity. Lin may also contest the registration under section 2(a) of the Lanham Act, which prohibits the registration of a mark that falsely suggests a connection with persons, living or dead. However, a successful 2(a) claim must show that when the mark is used with the applicant's goods or services, a connection with the person would be presumed. Savvy, modern consumers may very well believe that the "Linsanity" products they are buying are in no way affiliated with or sponsored by Jeremy Lin himself. See, e.g. *Lucien Piccard Watch Corp. v. Crescent Corp.* 314 F. Supp 329, 331 (S.D.N.Y. 1970) ("The use of the mark Da Vinci on plaintiff's jewelry . . . is scarcely likely to mislead . . . purchasers into believing that Leonardo Da Vinci was in any way responsible for the design or production of the goods. Hence it

cannot be said that plaintiff's use of the mark "falsely suggests a connection" with persons living or dead."). Lin may also make a case under section 2(c), which prohibits the registration of marks that "consist[] of or comprise[] a name . . . identifying a particular living individual except by his written consent." See, e.g. *In re White* 73 USPQ2d 1713, 1719 (2004) ("applicant cannot take another's name and add matter to it to avoid refusal of false suggestion under Section 2(a) ....").

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