

Trademark case: 4 Pillar Dynasty LLC v. New York & Co. Inc., USA

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The panel remanded an award of attorney fees and prejudgment interest based on its new precedent on what makes for an “exceptional” case for purposes of Section 35 of the Lanham Act.

The U.S. Circuit Court in New York City has upheld a lower court determination that retailer New York & Company’s infringement of women’s apparel designer 4 Pillar Dynasty LLC’s “Velocity” mark was willful, and its award to 4 Pillar Dynasty of the gross profits derived from this infringement was legally appropriate. The appellate court also ruled that the trial court did not abuse its discretion in vacating the jury’s treble damage award. However, awards of attorney fees and prejudgment interest to 4 Pillar, as well as the lower court’s determination that this was an “exceptional” case under the Lanham Act, were vacated. During the pendency of this appeal, the Second Circuit held that the same standard used to determine an “exceptional” case under the Patent Act applied to cases brought under the Lanham Act. Consequently, the appellate court remanded the case to the trial court to allow it to reconsider this award (4 Pillar Dynasty LLC v. New York & Co., Inc., August 8, 2019, Carney, S.).

Case date: 08 August 2019

Case number: No. 17-2398

Court: United States Court of Appeals, Second Circuit

A full summary of this case has been published on [Kluwer IP Law](#).