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Trademark case: San Diego Comic Convention v. Dan Farr Productions, USA

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Monday, May 11th, 2020

Evidence supported the finding that marks owned by the operator of the San Diego Comic Convention were not generic, and litigation misconduct by the defendant supported a \$3.9 million attorney fee award.

In the long-running trademark dispute between the operator of the well-known San Diego Comic Convention and a competitor that ran a similarly named convention in Salt Lake City, the U.S. Court of Appeals has affirmed orders of the federal district court in San Diego granting summary judgment in favor of the complaining convention operator on the competitor's "generic ab initio" argument; denying judgment to defending competitor on its unclean hands defense; and granting the convention operator's motion for attorney fees. The district court did not err in determining that the evidence did not establish that the San Diego Comic Convention marks were generic. Nor was there evidence that the convention operator acted wrongfully in obtaining its trademark registrations. The appellate court affirmed the fee award of more than \$3.9 million, declining to disturb the district court's finding that the case was "exceptional" due to the defendant's litigation misconduct. An award of over \$212,000 in nontaxable costs for expert witness expenses was, however, vacated, because there was no statutory basis for awarding those costs (San Diego Comic Convention v. Dan Farr Productions, April 20, 2020, per curiam).

Case date: 20 April 2020

Case number: No. 18-56221

Court: United States Court of Appeals, Ninth Circuit

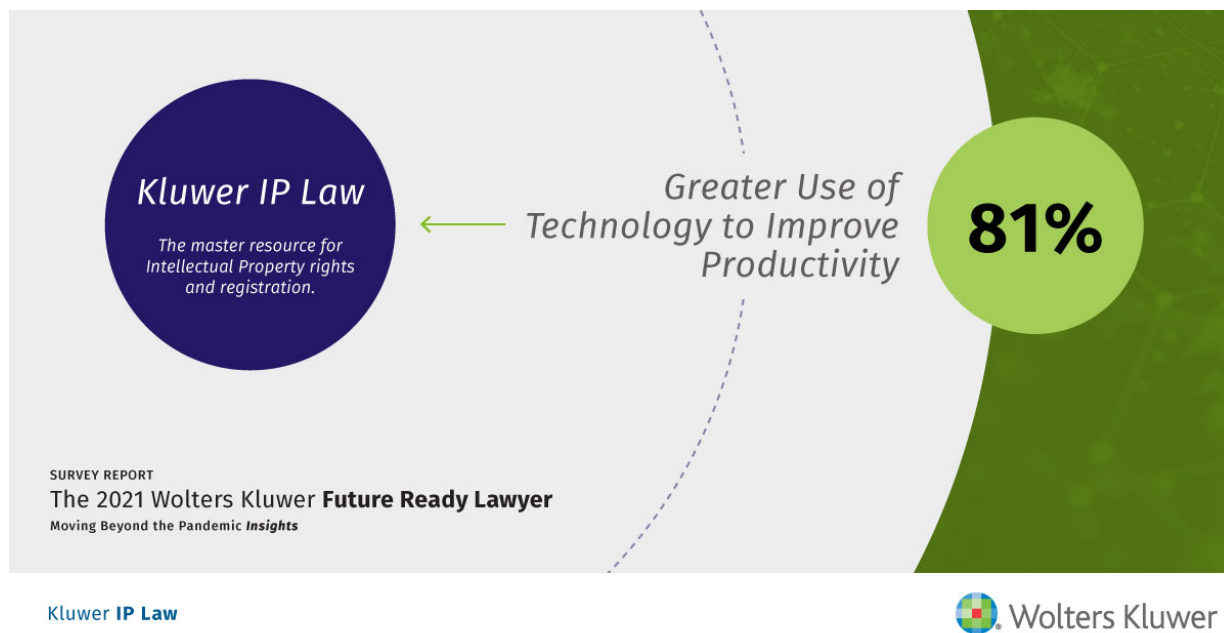
A full summary of this case has been published on [Kluwer IP Law](#).

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