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# Kluwer Trademark Blog

## Trademark case: Harbor Breeze Corp. v. Newport Landing Sportfishing, Inc., USA

Peter Reap (Wolters Kluwer Legal & Regulatory US) · Wednesday, May 11th, 2022

The jury instruction improperly stated that the plaintiff was required to show willfulness for an award of profits.

Jury instructions given during a trial over whether a whale-watching company and its affiliates violated the Lanham Act by engaging in materially false or misleading advertising about their business failed to recite the correct legal standard, the U.S. Court of Appeals in San Francisco has decided. Instead of stating that a defendant's mental state was an important factor in whether or not to award profits, the instruction given stated that the defendants must have been shown to have acted willfully in order to award profits. Thus, the judgment was reversed to the extent that it decided to award profits and the case remanded for a new trial on that issue (Harbor Breeze Corp. v. Newport Landing Sportfishing, Inc., March 7, 2022, Collins, D.).

Case date: 07 March 2022

Case number: No. 19-56138

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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