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ARTICLE

Use of Social Media in Likelihood of Confusion Analysis

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The article discusses the potential value placed on social media marketing and the types of evidence that should be submitted in a likelihood of confusion analysis. In its ruling in *Lee Jason Kibler, d/b/a DJ Logic v Robert Bryson Hall, II, et al*, the Sixth Circuit Court of Appeals noted the value of marketing on social media channels in demonstrating the strength of a trademark. The Court specifically held that "promotion on platforms such as Twitter and Facebook not only constitutes marketing, but is among the most popular and effective advertising strategies today." While the Court did not indicate whether providing evidence of the amounts of social media marketing would have changed the outcome of this case, it does suggest that future plaintiffs seeing to make claims of the strength of their trademarks would be wise to proffer evidence of specific indicators of their social media presence.

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