

Trade Mark Infringement Test for TV Show Titles

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This article discusses the recent *Twentieth Century Fox Television v. Empire Distribution* case in which the US Court of Appeals for the Ninth Circuit addressed the issue of the appropriate test to apply when an allegedly infringing use is in the title or within the body of an expressive work. The matter focused on objections raised by Empire Distribution, a record label, to Twentieth Century Fox's use of the fictional music label "Empire Enterprises" in its television show "Empire." The Ninth Circuit noted that when the allegedly infringing use is in the title of an expressive work, the court should apply the "Rodgers" two-prong test to determine if the Lanham Act is applicable. The court affirmed the District Court's ruling that Fox's use of the name "Empire" was protected by the First Amendment and, as such, outside the reach of the Lanham Act. This decision is instructive for media companies when developing content.

Read "[Trade Mark Infringement Test for TV Show Titles](#)" in its entirety.

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