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Court Allows Laches Defense in Cancellation Case

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This article explores the availability of the laches defense to a trademark cancellation action as addressed in the recent case *Pinkette Clothing, Inc. v. Cosmetic Warriors Limited* matter. The US Supreme Court has long held that laches is not an available defense to claims for copyright or patent infringement when brought within the limited periods of time described under each of the Copyright Act and the Patent Act. In *Pinkette Clothing*, however, the Ninth Circuit Court of Appeals affirmed a distinction between available defenses to copyright and patent infringement claims, on the one hand, and trademark infringement claims, on the other hand, holding that laches is an equitable defense to a trademark cancellation action because the Lanham Act has no statute of limitations and expressly makes laches a defense to a cancellation action.

This decision is instructive because it shows that, under certain circumstances, a cancellation action might not be available to a senior user of a mark even if the marks are found to be confusingly similar and the registered mark is not yet incontestable.

Read "Court Allows Laches Defense in Cancellation Case" in its entirety.

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