

Third Circuit Affirms Katten's District Court Victory for Microsoft in Kinect Trademark Suit

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On January 10, 2013, the Third Circuit Court of Appeals upheld the dismissal of a reverse confusion trademark suit brought by software company Kinbook, LLC against Katten client Microsoft Corporation. Originally filed in 2010, the case alleged that Microsoft's use of the word "kin" in its Kinect for XBox 360 device and Kin smartphone was infringing Kinbook's "Kinbox" trademark. In January 2012, US District Judge Gene E.K. Pratter issued a 30-page decision and ruled in favor of Microsoft on all claims asserted by Kinbook, stating that the marks in question were sufficiently distinct to not constitute trademark infringement. The Third Circuit agreed with Judge Pratter's decision, complimenting the district court's "thorough analysis" and stating that it could not improve upon the decision's sound reasoning, and affirmed the judgment in favor of Microsoft with cost taxed against Kinbook, and required Kinbook to pay litigation costs

Floyd Mandell, national co-head of Katten's Intellectual Property Practice, led the team of attorneys that represented Microsoft, which included former Katten attorney Cathay Smith, with assistance from appellate litigation partner Howard Rubin and intellectual property associate Christine Bestor. Click here to read Law360's coverage of the ruling.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Floyd A. Mandell
+1.312.902.5235
floyd.mandell@katten.com



Howard R. Rubin
+1.202.625.3534
howard.rubin@katten.com

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