

Katten Obtains Favorable Decision for Bausch & Lomb in Trademark Infringement Suit

July 29, 2013

A Florida federal judge found that trademark claims against Bausch & Lomb were not likely to succeed and recommended that the plaintiff's motion for a preliminary injunction be denied as reported by Law360. US Magistrate Judge Elizabeth Jenkins ruled the slogan “See better. Live better.” was not only unlikely to cause confusion in the marketplace, but also merely descriptive without a secondary meaning and therefore not protectable. As noted in a [prior Law360 article](#), Bausch & Lomb was sued by a Florida ophthalmologist and his eye clinics over use of the slogan “See Better. Live Better.” which the doctor claimed was his trademark and covered by a Federal Trademark registration. The eye health care giant—which uses the slogan to describe the mission statement of its internationally recognized company and claimed that its use is not as a trademark, but is a fair descriptive use authorized under Federal Law—filed a counterclaim in April to cancel the mark, describing the suit as a “meritless attempt ... to obtain exclusive rights to a popular and descriptive phrase.” Intellectual Property attorneys Floyd Mandell, Carolyn Passen and Julia L. Kasper represented Bausch & Lomb in this case. ([“Doctor Loses Bid to Block Bausch & Lomb's Slogan Use,”](#) July 25, 2013)

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