



## CFA News Flash: IPR Updates

### **Los Angeles based ‘My Other Bag’ Company vs. Louis Vuitton Louis Vuitton Loses in Appeal**

*The question is: does parody and/or satire violate U.S. copyright law?....  
obviously not!*

The case began in 2014, when Louis Vuitton sued ‘My Other Bag’ over the canvas tote bags launched by the LA based company in 2011. The bags have photos of expensive handbags on the outside and are manufactured in Los Angeles.

In early 2016 the case came before Judge Jesse Furman of the U.S. District Court in New York. Judge Furman tossed the lawsuit out of court. The judge noted that the cheap tote bags were an obvious attempt at humor that was “not likely to cause confusion or the blurring of the distinctiveness of Louis Vuitton’s marks.”

Louis Vuitton’s attorneys took the matter one level up and filed a brief with the **federal** appeals court in December 2016, maintaining that the bags were clearly protected by trademark law’s parody defense. The panel obviously did not agree.

On December 22, 2016 a federal appeals court panel in New York dismissed Vuitton’s case over trademark dilution and copyright infringement, saying the canvas totes manufactured by **My Other Bag** were definitely a joke that Louis Vuitton didn’t get.

“I understand you don’t get the joke. But it’s a joke,” said Judge Gerard E. Lynch, one of three judges sitting on the panel for the U.S. 2nd Circuit Court of Appeals.

## **Finally! - Michael Jordan Scores a Legal Win in China for His Chinese Name**

*China's top court ruled that Hall-of-Fame basketball player Michael Jordan can have his name back. His four-year campaign to win legal protection for his name in stores that help sell gear such as Nike gear and clothing worldwide.*

*The Supreme People's Court revoked the rights of Qiaodan Sports Co. to use Jordan's last name written in Chinese characters.*

Jordan's Chinese name (pronounced "Chee-ow-dahn) is "well-recognized" in China the Beijing-based court said, and he should have the legal right to it. Qiaodan Sports, which operates about 6,000 shops selling shoes and sportswear in China, will have to give up its trademark registrations of the Chinese version.

International companies such as Tesla Motors Inc. and Apple Inc. have faced legal challenges in China, where the law generally protects whichever company registers a trademark first. While Jordan's victory could help set a precedent for foreign companies seeking to protect their intellectual property rights, more legal action is needed for global brands to capture the upper hand in their fight against China's copycats. The vast majority of decisions are still in favor of the trademark squatters.

History: Qiaodan Sports, a family-owned business based in southern Fujian province, had registered its trademark more than a decade ago. Jordan sued the company in 2012, arguing it had damaged his legal rights to his name and asked that Qiaodan Sports' trademark registrations be removed. Lower courts had ruled in favor of the Chinese company.

"I am happy that the Supreme People's Court has recognized the right to protect my name through its ruling in the trademark cases," Jordan, who's also Chief Executive Officer of Nike's Brand Jordan Division, said in an e-mailed statement after the ruling. "Chinese consumers deserve to know that Qiaodan Sports and its products have no connection to me."

### **Handing a partial victory - Lacking Penalties**

The court ruled that the trademark for Jordan's Chinese name should be returned to China's State Administration for Industry and Commerce to be re-awarded. Jordan's victory doesn't deal a substantive blow on the trademark pirates as it didn't announce any penalties for violations.

The cost to Qiaodan Sports for its legal fight with Jordan may need to await a further judgment from in a court in Shanghai, where Jordan filed a separate lawsuit against the company in 2012 for the unauthorized use of his name. Jordan is seeking legal damages in the Shanghai lawsuit in a separate naming rights case.