

United States District Court

EASTERN DISTRICT OF WISCONSIN

JUDGMENT IN A CIVIL CASE

**ALBERT PATTERSON d/b/a
WORLD WRESTLING ASSOCIATION,
SUPERSTARS OF WRESTLING, INC.
and d/b/a W.W.A. SUPERSTARS,**

Plaintiff,

V.

CASE NUMBER: **03-C-374**

**WORLD WRESTLING ENTERTAINMENT, INC.; and
GOOD HUMOR CORPORATION,
d/b/a Good Humor Breyer's Ice Cream;**

Defendants.

and

WORLD WRESTLING ENTERTAINMENT, INC.

Counterclaimant,

V.

**ALBERT PATTERSON, d/b/a
WORLD WRESTLING ASSOCIATION,
SUPERSTARS OF WRESTLING, INC.
and d/b/a W.W.A. SUPERSTARS,**

Counter-defendant.

- Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the motion of defendants World Wrestling Entertainment, Inc. and Good Humor Corporation for summary judgment dismissing Albert Patterson's complaint is GRANTED.

Albert Patterson's infringement claims against the defendants based on their use of "WWF" and "World Wrestling Federation" are barred by res judicata.

Albert Patterson's infringement claims against the defendants based on their use of "WWF Superstars" and "WWE Superstars" are not barred by res judicata.

Albert Patterson's infringement claims against the defendants based on their use of "WWE" and "World Wrestling Entertainment" are not barred by judicial estoppel.

Albert Patterson's infringement claims against the defendants based on their use of "World Wrestling Federation," "WWF," and "WWF Superstars" are barred by laches.

Albert Patterson's claims arising out of the defendants' wrestling business's use of "WWF," "World Wrestling Federation," and "WWF Superstars" marks are barred by laches.

Albert Patterson's claims are fundamentally inconsistent with both resolution of the 1990 action and his course of conduct over the past 20 years. Summary judgment dismissing Albert Patterson's Lanham Act claims is granted. Albert Patterson has not proffered any admissible evidence of actual confusion.

Count Four, which alleges that the defendants misappropriated Albert Patterson's unique method of advertising involving Albert Patterson's selection and promotion of a collection of wrestlers each possessing a unique persona, fails as a matter of law.

The Court's determination that the defendants are entitled to summary judgment dismissing Albert Patterson's Lanham Act trademark infringement claims is likewise dispositive of Albert Patterson's state statutory claim. Therefore, Albert Patterson's fifth claim for state law trademark infringement is dismissed.

World Wrestling Entertainment, Inc.'s motion to voluntarily withdraw its counterclaims without prejudice is granted. World Wrestling Entertainment, Inc. may reinstate its counterclaims in the event Albert Peterson is successful in any appeal of this action.

Albert Peterson's motion seeking sanctions against World Wrestling Entertainment, Inc. and for reconsideration of the Court's order imposing sanctions is denied.

The defendants' are awarded attorney's fees and costs in the amount of \$41,210.56 which shall be paid to the defendants no later than September 5, 2006.

The defendants' supplemental petition for attorney's fees and costs is granted in the amount of \$10,097.91. Albert Patterson shall pay such amount to the defendants no later than September 5, 2006.

This action is hereby DISMISSED.

August 21, 2006
Date

SOFRON B. NEDILSKY
Clerk

s/ Linda M. Zik
(By) Deputy Clerk

Approved as to form:

s/ Rudolph T. Randa
Hon. Rudolph T. Randa, Chief Judge

August 21, 2006
Date