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Disney Sued Over 'Toy Story 3' Character Lotso Bear

By **Jeff Sistrunk**

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Law360, Los Angeles (February 10, 2014, 10:04 PM ET) – Stuffed animal manufacturer Diece-Lisa Industries Inc. sued Disney Enterprises Inc. on Monday in Texas federal court, alleging Disney stole the idea for Lotso the bear — a character in the blockbuster animated film "Toy Story 3" — from its trademarked Lots of Hugs toy bears.

DLI accused Disney of infringing its "Lots of Hugs" mark — U.S. Trademark Registration 3,361,849 — as well as federal and common law unfair competition.

Disney "actively sought to illegally appropriate for its own the 'Lots of Hugs' mark and associated good will of plaintiff DLI as a principal character for its 'Toy Story 3' movie," the complaint said.

DLI created the precursor to its Lots of Hugs stuffed toy bears in 1994, according to the complaint. From 1997 to 2007, the company sold Lots of Hugs bears and licensed the mark to various companies, including Concord Industries, which marketed and sold stuffed pandas inspired by the Beijing Olympics, the complaint said.

Disney released "Toy Story 3" in June 2010, and the film's plot focuses on the adventures of the toys Woody, Buzz Lightyear and their friends, featuring as its primary antagonist a stuffed bear named Lots-O'-Huggin', which is shortened to Lotso.

The movie raked in more than \$1 billion in worldwide ticket sales and generated additional revenue through home video and other merchandise. Disney sought copyright and trademark protection for certain Toy Story characters but not Lotso, according to the complaint.

DLI claims the worldwide popularity of "Toy Story 3" and the related notoriety of the Lotso character have "destroyed" its property rights in the "Lots of Hugs" mark.

"Potential customers will likely improperly associate or confuse [Disney's] 'Lots-O'-Huggin' and 'Lotso' character with plaintiff DLI's stuffed toys, including its bears as identified with plaintiff DLI's 'Lots of Hugs' mark," DLI said.

After the film's release, a DLI affiliate entered into a licensing agreement with Interactive Group for IG to market and sell its bear products. However, IG was reluctant to use the "Lots of Hugs" mark because of the success of "Toy Story 3," fearing Disney and consumer confusion with the Lotso character, according to DLI. As a result, IG required that the licensed bears be marked as "hugalots" instead, the complaint said.

The complaint seeks treble damages as well as an order enjoining Disney from future use of the Lots-O'-Huggin' or Lotso marks or character.

A Disney representative was not immediately available for comment late Monday.

Diece-Lisa is represented by Richard L. Schwartz of Whitaker Chalk Swindle & Schwartz PLLC.

Documents

Complaint

Related

Sections

- Intellectual Property
- Media & Entertainment
- Texas

Case Information

Case Title

TRACK Diece-Lisa Industries, Inc. v. Disney Enterprises Inc

Case Number

2:14-cv-00070

Court

Texas Eastern

Nature of Suit

Trademark

Date Filed

February 10, 2014

Law Firms

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Counsel information for Disney was not immediately available.

The case is Diece-Lisa Industries Inc. v. Disney Enterprises Inc., case number 2:14-cv-00070, in the U.S. District Court for the Eastern District of Texas.

--Editing by Christine Chun.

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