

Drone Racing League Trademark Suit Flies Toward Trial

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By Porter wells

- Competing marks have confused market, plaintiff says
- Unfair competition claims also survive review

A trademark dispute between two drone racing businesses will go forward because there's a thin but plausible claim of customer confusion, a federal judge ruled Nov. 26.

Both the Drone Racing League Inc., and DR1 LLC are "similarly engaged in the business of conducting and promoting drone races," the U.S. District Court for the Southern District of New York said. DRL says DR1's logo is too similar to its own registered trademark and has caused actual marketplace confusion.

DRL points to various incidents where individuals in the market place have confused DRL for DR1, and vice versa.

DR1 doesn't dispute the validity or seniority of DRL's mark, but says trademark for the letters "DRL" is an acronym of "drone racing league," making the asserted mark "generic and therefore invalid," according to the court's opinion.

Beyond stating that DRL's complaint "pleads a plausible claim of consumer confusion, albeit barely," the court denied to weigh the merits of the arguments at the motion to dismiss stage.

The court dismissed DRL's claims that DR1 engaged in deceptive trade practices under New York law. A false advertising claim was also kicked out because the slide presentation to a prospective sponsor in which DR1

allegedly misrepresented viewership information wasn't commercial speech, the court said.

But DRL has asserted enough evidence on the state and federal trademark infringement and unfair competition claims that its suit can move forward, the court ruled.

Morrison & Foerster LLP represent DRL. Meland Russin & Budwick P.A., and the Blackstone Law Group

LLP represent DR1.

The case is Drone Racing League, Inc. v. DR1, LLC, S.D.N.Y., No. 18-CV-4093 (DLC), 11/26/18.

To contact the reporter on this story: Porter Wells in Washington at pwells@bloomberglaw.com

To contact the editor responsible for this story: Jo-el J. Meyer at jmeyer@bloomberglaw.com