

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:20-cv-02017

CARRICK-HARVEST, LLC d/b/a VERITAS FINE CANNABIS,
a Colorado limited liability company,

Plaintiff,

v.

VERITAS FARMS, INC., a Nevada corporation;
271 LAKE DAVIS HOLDINGS, LLC d/b/a VERITAS FARMS,
a Delaware limited liability company,

Defendants.

**MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER FEDERAL
RULE OF CIVIL PROCEDURE 12**

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. BACKGROUND 1

III. THE APPLICABLE LAW..... 2

IV. ARGUMENT..... 3

A. Plaintiff Has Failed To State A Claim For Trademark Infringement Under the Lanham Act (Count I). 4

1. Plaintiff Has Alleged Facts That Demonstrate No Common Law Trademarks Exist. 5

2. Plaintiff Has Not Sufficiently Pled That The Defendant Has Used An Identical or Similar Mark In Commerce. 8

3. Plaintiff Has Not Sufficiently Pled That Defendant's Use Is Likely To Confuse Consumers..... 9

B. Plaintiff Has Failed To State A Claim for Violation Of The Anti-Cybersquatting Consumer Protection Act Under 15 U.S.C. § 1125(d) (Count III)..... 12

1. Plaintiff Has Not Pled Element 3 – That Its Alleged Unregistered Common Law Trademarks Were Distinctive At Lease As Early As March 16, 2018. 12

2. Plaintiff Has Not Pled Element 4 – That Defendants Registered The Domain Name In Bad Faith..... 13

C. Plaintiffs Are Not Entitled To A Declaratory Judgment Because There Is No Justiciable Dispute Between The Parties (Count V). 14

D. Plaintiff Has Failed To State Claims For False Designation of Origin and Unfair Competition, and Common Law Unfair Competition (Counts II and IV). 15

V. CONCLUSION 15

TABLE OF AUTHORITIES

Cases

1-800 Contacts, Inc. v. Lens.com, Inc., 722 F.3d 1229 (10th Cir. 2013)..... 4, 9

Aviva USA Corp. v. Vazirani, 902 F.Supp.2d 1246 (D. Ariz. 2012). 6

Bay State Savings Bank v. Baystate Financial Svcs., 484 F.Supp.2d 205 (D. Mass. 2007). 7

Cleary Bldg. Corp. v. Dame, 674 F.Supp.2d 1257 (D. Colo. 2009)..... 4, 12, 15

Dalkita, Inc. v. Distilling Craft, LLC, 356 F.Supp.3d 1125 (D. Colo. 2018). 6

Davis v. Avvo Inc., 345 F.Supp.3d 534 (S.D.N.Y. 2018). 6, 11

Frost v. ADT, LLC, 947 F.3d 1261 (10th Cir. 2020). 3

In re Congoleum Corp., 222 USPQ 452, 1984 WL 63046 (TTAB May 29, 1984). 5

In re Florists' Transworld Delivery, Inc., 119 USPQ2d 1056, 2016 WL 3997062 (TTAB May 11, 2016). 5

In re Moore Bus. Forms Inc., 24 USPQ2d 1638, 1992 WL 336795 (TTAB Sept. 11, 1992)..... 5

Mile, Inc. v. Michael Burg, No. D2010-2011, 2011 WL 1806564 (WIPO Feb. 7, 2011). 14

Moses-El v. Denver, 376 F.Supp.3d 1160 (D. Colo. 2019). 2, 3, 9

Radiance Foundation, Inc. v. NAACP, 786 F.3d 316 (4th Cir. 2015). 7

Rock Im Park Gmbh v. Rock Im Park Festival, No. D2012-0956, 2012 WL 3951593 (WIPO Aug. 28, 2012). 14

Specht v. Google, Inc., 758 F.Supp.2d 570 (N.D. Ill. 2010)..... 6

Federal Statutes

15 U.S.C. § 1125(a). 6

28 U.S.C. § 2201..... 14

Federal Rules

Fed. R. Civ. P. 12(b)(6)..... 1, 3, 15

Other Authorities

5 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION (5th ed.) 12, 13, 14
Trademark Manual of Examining Procedure, October 2018..... 5, 8

I. INTRODUCTION

This is an intellectual property dispute based on Plaintiff's Carrick-Harvest, LLC d/b/a Veritas Fine Cannabis's (hereinafter "Plaintiff") alleged rights in two unregistered common law trademarks. Plaintiff has attempted to bring claims against Vertias Farms, Inc. and 271 Lake Davis Holdings d/b/a Veritas Farms (together "Defendants") for trademark infringement under the Lanham Act (Count I), false designation of origin and unfair competition under the Lanham Act (Count II), violation of the Anti-Cybersquatting Consumer Protection Act (Count III), common law unfair competition (Count IV), and a declaratory judgement of superior trademark rights (Count V). Dkt. No. 2, Complaint at ¶¶ 34-63 (hereinafter "Complaint"). However, Plaintiff has not pled sufficient facts for several elements of these claims. In addition, Plaintiff has pled itself out of court by including facts showing that the Plaintiff does not possess the claimed common law trademarks. Accordingly, under Fed. R. Civ. P. 12(b)(6), Plaintiff's Complaint should be dismissed in its entirety for failure to state a claim upon which relief can be granted.

II. BACKGROUND

Plaintiff is a recreational cannabis wholesaler with a principle place of business in Denver, Colorado that sells marijuana and marijuana-related products through dispensaries located in the State of Colorado.¹ Defendants understand that Plaintiff's marijuana products are controlled substances under the Title 21 United States Code Controlled Substances Act. As such, Plaintiff's products are not sold or offered for sale outside the State of Colorado, are not used in interstate commerce, and are not available for sale on Plaintiff's website

¹ See www.veritascannabis.com.

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