

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

Civil Action No. 1:20-cv-02017-RM

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.

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

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## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>II.</b>	<b>BACKGROUND .....</b>	<b>2</b>
<b>III.</b>	<b>THE APPLICABLE LAW.....</b>	<b>4</b>
<b>IV.</b>	<b>ARGUMENT.....</b>	<b>5</b>
<b>A.</b>	<b>Plaintiff's Business And Products Are Illegal Under Federal Law And Not Eligible For Trademark Protection Under the Lanham Act. ....</b>	<b>6</b>
<b>B.</b>	<b>Plaintiff's Priority Claim Fails As A Matter of Law. ....</b>	<b>7</b>
<b>C.</b>	<b>Plaintiff Fails To State A Claim For Trademark Infringement Under the Lanham Act (Count I).....</b>	<b>8</b>
1.	Plaintiff Alleges Facts That Demonstrate No Common Law Trademarks Exist. ....	8
2.	Plaintiff Has Not Sufficiently Pled That The Defendant Has Used An Identical or Similar Mark In Commerce. ....	13
3.	Plaintiff Has Not Sufficiently Pled That Defendant's Use Is Likely To Confuse Consumers.....	14
<b>D.</b>	<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).....</b>	<b>18</b>
<b>E.</b>	<b>Plaintiffs Are Not Entitled To A Declaratory Judgment Because There Is No Justiciable Dispute Between The Parties (Count V). ....</b>	<b>19</b>
<b>F.</b>	<b>Plaintiff Has Failed To State Claims For False Designation of Origin and Unfair Competition, and Common Law Unfair Competition (Counts II and IV). ....</b>	<b>19</b>
<b>V.</b>	<b>CONCLUSION .....</b>	<b>20</b>

## TABLE OF AUTHORITIES

### Cases

<i>1-800 Contacts, Inc. v. Lens.com, Inc.</i> , 722 F.3d 1229 (10th Cir. 2013).....	5, 14
<i>Aviva USA Corp. v. Vazirani</i> , 902 F.Supp.2d 1246 (D. Ariz. 2012). ....	11
<i>Bay State Savings Bank v. Baystate Financial Svcs.</i> , 484 F.Supp.2d 205 (D. Mass. 2007). ....	12
<i>Cleary Bldg. Corp. v. Dame</i> , 674 F.Supp.2d 1257 (D. Colo. 2009).....	5, 18, 20
<i>Dalkita, Inc. v. Distilling Craft, LLC</i> , 356 F.Supp.3d 1125 (D. Colo. 2018). ....	10
<i>Davis v. Avvo Inc.</i> , 345 F.Supp.3d 534 (S.D.N.Y. 2018). ....	11, 17
<i>Frost v. ADT, LLC</i> , 947 F.3d 1261 (10th Cir. 2020). ....	4
<i>Grossman v. Novell, Inc.</i> , 120 F.3d 1112 (10th Cir. 1997).....	4
<i>In re Congoleum Corp.</i> , 222 USPQ 452, 1984 WL 63046 (TTAB May 29, 1984). ....	9
<i>In re Florists' Transworld Delivery, Inc.</i> , 119 USPQ2d 1056, 2016 WL 3997062 (TTAB May 11, 2016).....	9
<i>In re Moore Bus. Forms Inc.</i> , 24 USPQ2d 1638, 1992 WL 336795 (TTAB Sept. 11, 1992).....	9
<i>Kiva Health Brands LLC v. Kiva Brands Inc.</i> , Case No. 19-cv-03459, 2020 WL 759409 (N.D. Cal. Feb. 14, 2020). ....	7
<i>Moses-El v. Denver</i> , 376 F.Supp.3d 1160 (D. Colo. 2019). ....	4, 14, 15
<i>Radiance Foundation, Inc. v. NAACP</i> , 786 F.3d 316 (4th Cir. 2015). ....	11
<i>Specht v. Google, Inc.</i> , 758 F.Supp.2d 570 (N.D. Ill. 2010).....	10

### Statutes

15 U.S.C. § 1125(a). ....	10
28 U.S.C. § 2201.....	19

### Other Authorities

MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION .....	6, 18
---	-------

RESTATEMENT (THIRD) OF UNFAIR COMPETITION, § 21.....	12
TRADEMARK MANUAL OF EXAMINING PROCEDURE.....	9, 12
UNITED STATES PATENT AND TRADEMARK OFFICE, EXAMINATION GUIDE 1-19 (May 2, 2019) ....	8

**Rules**

Fed. R. Civ. P. 12(b)(6).....	1, 5, 20
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## 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 Veritas 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. 25, First Amended Complaint at ¶¶ 36-66 (hereinafter "Amended Complaint"). Plaintiff filed its initial Complaint on July 10, 2020. Dkt. No. 1. Defendants filed a Rule 12(b)(6) motion to dismiss the initial Complaint for failure to state a claim on August 24, 2020. Dkt. No. 14.

Instead of responding to the substantive arguments in Defendants' motion, Plaintiff served its Amended Complaint on October 1, 2020. Dkt. No. 25. Plaintiff's Amended Complaint, however, does not plead facts for several elements of the claims alleged by Plaintiff. In addition, Plaintiff's Amended Complaint pleads Plaintiffs 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 Amended Complaint should be dismissed in its entirety for failure to state a claim upon which relief can be granted. Additionally, the Court should dismiss Plaintiff's Amended Complaint with prejudice because it is clear from Plaintiff's failure to state a claim in its Amended Complaint that any additional amendments would be futile.

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