



Riker Danzig Wins Favorable Decision for Clients in Patent Infringement Case

Riker Danzig secured a complete dismissal of all claims for East Point Sports, a home recreational product designer, and Majik Ltd., a toy manufacturer, accused of patent infringement and other claims. The action was dismissed under Federal Rule of Civil Procedure 12(c) when the Court found no material issue of fact remained to be resolved and defendants were entitled to a judgment as a matter of law.

Plaintiffs Moose Mountain Toymakers, Ltd. and Moose Mountain Marketing, Inc. alleged that Majik Bowl, a toy bowling game manufactured and sold by East Point Sports, violated design patents Moose Mountain holds for a similar toy bowling game, Arcade Alley® Bowlercade®. Moose Mountain also alleged tortious interference with prospective economic advantage, unfair competition and unjust enrichment as a result of the sale of Majik Bowl to a retailer with whom Moose Mountain had a prior relationship.

Riker Danzig partner, [Robert J. Schoenberg](#), led the Riker Danzig team in the case, assisted by associate [Stephanie R. Wolfe](#). "We were pleased to help our clients avoid litigation by having all claims dismissed at the outset, protecting them not only from the potential liability of substantial alleged damages, but also from the interference to their business operations that an unwarranted litigation would have caused."

In determining that no design patent infringement existed, the Court compared side-by-side drawings of both Majik Bowl and Bowlercade® and then applied the "ordinary observer" test to determine whether a person familiar with similar designs would confuse the accused product with the patented design based on the design's non-functional aspects alone. The Court then determined that Majik Bowl's appearance was not substantially similar enough to Bowlercade's® to warrant patent infringement as it is defined in the law.

With the failure of Moose Mountain's patent infringement claim, the Court determined that the Plaintiffs' other claims for any monetary or competitive loss as a result of Majik Bowl's sale were without merit and dismissed them.

Attorney:

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Practice:

Intellectual Property