



News

Client Success: Hinshaw's Jane Schlicht Helps Vindicate Trademark Rights Belonging to Storied Wisconsin Ice Cream Shop

February 18, 2020

Hinshaw clients Ron and Gloria Luepke and Great Treats, Inc. recently won a victory at the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office, in a dispute over the rights to the MULLEN'S DAIRY™ trademark, which has been used at one of Wisconsin's most popular ice cream shops. Hinshaw attorney Jane Schlicht represented the Luepkes and Great Treats in the case.

The MULLEN'S DAIRY™ ice cream shop was originally established in 1932, and moved to its current location in 1939. The MULLEN'S DAIRY™ business was acquired by the Luepkes in 1997, who later sold some of the business assets to Troy and Shannon Milbrath, and granted a license to use the trademark. In 2015, Bigger Than Bill, Inc., a company established by the Milbraths filed a U.S. Trademark application for MULLEN'S DAIRY™, which the Luepkes/Great Treats opposed, arguing they still owned the rights to the original trademark. In 2016, Troy Milbrath pleaded guilty to a felony charge for opening and using credit cards and loans in the name of a business partner.

Bigger Than Bill/the Milbraths advanced a variety of legal theories for why the ownership rights to the trademark belonged to them, including that the Luepkes' trademark license was terminated as a matter of law due to the Milbraths' bankruptcy filing in 2010. The Board rejected all of these arguments, and ruled that since Bigger Than Bill/the Milbraths were not the owner of the trademark at the filing or during the pendency of the application, the application was therefore void *ab initio*.

The ruling is good news for the current business owners and trademark licensees of the MULLEN'S DAIRY™ trademark. Matt, Josh and Adam Keepman, who reopened the business in 2017, are planning to raise between \$500,000 and \$1 million this year from investors to help fund a wholesale expansion and push their ice cream and sorbet products into retailers around the country. This ruling is major step toward expanding the MULLEN'S DAIRY™ brand.

The ruling was [covered in the Wisconsin State Journal](#), February 17, 2020.

The case is [Great Treats, Inc. v. Bigger Than Bill, Inc. DBA Mullen's Dairy](#), USPTO Trademark Trial and Appeal Board, Opposition No. 91231322.

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