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Judge questions trademark claim over Villaraigosa's 'proven problem solver' slogan

A federal judge questioned whether businessman Stephen Cloobek can bar Antonio Villaraigosa from using "proven problem solver" in his campaign for governor as attorneys debated trademark rights and free speech.



Eric M. George of Ellis George LLP

A federal judge in Los Angeles on Friday pressed both sides in a trademark dispute between businessman Stephen J. Cloobek and former Mayor Antonio Villaraigosa, as attorneys sparred over whether Villaraigosa's use of the phrase "proven problem solver" in his gubernatorial campaign infringes Cloobek's trademarked slogan.

Eric M. George of Ellis George LLP in Los Angeles, appearing on behalf of Villaraigosa, said he was "deeply offended" by the lawsuit, calling it "bullying" and "in bad faith."

"This case ought to end yesterday," George said. "It's an ongoing injury to foist on a campaign, all of which have precious resources, the obligation to continue impending litigation, and there is no authority within the 9th Circuit, and I would say anywhere, that would allow the policing of speech that they seek here."

Cloobek's attorney, Lawrence M. Hadley of Glaser Weil Fink Howard Jordan & Shapiro LLP in Los Angeles, argued that Cloobek trademarked the campaign slogan, "I am a proven problem solver" before Villaraigosa began referring to himself as a "proven problem solver" in his campaign. Hadley contended that the similar phrasing creates a likelihood of consumer confusion under the Lanham Act governing trademarks.

"Mr. Villaraigosa is using a junior mark for the three words together, 'proven problem solver,' and the claim is that Mr. Villaraigosa cannot use those three words together as what is known under the Lanham Act as a source designator - in other words, a designator of source as a campaign slogan," Hadley said.

However, U.S. District Judge Andre Birotte Jr. expressed trepidation about broadly applying the Lanham Act's standard of likely confusion.

"If a month from now, Mr. Cloobek says, 'You know what, 'problem solver' is now confusingly similar,' that has been my concern overall, because it seems like these are descriptive terms that have been used by many candidates before," Birotte said. "Mr. Cloobek, being creative and aggressive - and I don't say that as a criticism - said, 'OK, I want a lock on this,' but it makes me worried that basically forevermore, no candidate can ever use those words."

Cloobek, the founder and CEO of Diamond Resorts International, sued Villaraigosa personally and his campaign organization on April 29 in the Central District of California. He alleges trademark infringement and unfair competition. *Cloobek v. Villaraigosa*, Case 2:25-cv-03790 (C.D. Cal., filed Apr. 29, 2025).

Villaraigosa has said that he was using the slogan before Cloobek filed in December to copyright the mark.

The parties also argued over a bid by Cloobek to strike from the defense's pleadings references to a lawsuit he previously filed against a former girlfriend.

The excerpts included in Villaraigosa's motion for judgment on the pleadings detailed a 2021 lawsuit by Cloobek alleging that the woman presented herself as a "legitimate fashion model" who wanted a long-term relationship with him but turned out to be a "professional pornographer" and "con artist."

According to filings in that lawsuit, Cloobek was accused of subsequently harassing and threatening the woman, boasting, "that with his wealth, his ability to hire armies of lawyers and with his political contacts, he could bankrupt" her.

Cloobeck also moved to strike a text message he allegedly sent Villaraigosa in May stating that, absent a compromise, he is willing to take the case to the U.S. Supreme Court, adding that lengthy litigation "has been my consistent business practice for decades upon decades."

Hadley argued on Monday that the excerpts should be stricken under Federal Rule of Civil Procedure 12.

"Under Rule 12, the court does have the power to strike things that are in the public record if they are scandalous," Hadley said.

"Is this really scandalous?" Birotte responded. "I mean, the guy has a relationship; it goes sideways. We live in Los Angeles; that happens every day."

George contended that these communications were relevant to establish a lack of good faith by Cloobeck.

"I don't relish name calling, but I can't think of any other way of saying it other than using the court system and threatening the court system to bully people," he said.

Following the hearing, Hadley called the criticisms of Cloobeck's lawsuit "unjustified."

"This is a straightforward intellectual property case, and there is no room in these kinds of cases for personal attacks," he said. "If political candidates want to attack each other personally, they certainly know how to do that on the campaign trail, but it doesn't really belong in the courtroom."

Hadley also downplayed Birotte's concerns about setting a slippery slope precedent with the case.

"Courts fashion relief every day that prevent slippery slopes, and the argument we made was that the court, certainly in any kind of an order, can do so, but at this point, where we're just on the pleadings, a dismissal isn't warranted," he said.

George declined to provide additional comment following the hearing on Friday.

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