TOP VERDICTS

THE LARGEST AND MOST SIGNIFICANT VERDICTS AND APPELLATE REVERSALS IN CALIFORNIA IN 2023

Stitch Editing Ltd. v. TikTok Inc. et al.

A Gibson Dunn trial team led by Nicola (Nick) T. Hanna achieved a complete jury defense verdict in a trademark infringement suit brought against TikTok Inc. and ByteDance Ltd. The jury unanimously rejected the arguments of Stitch Editing Ltd., a Britain-based boutique video-editing house, that alleged TikTok's "stitch" tool infringed its registered service mark in "stitch editing" and its unregistered service mark in the word "stitch."

Stitch is a TikTok tool that allows users to combine their own video with another. The plaintiff, Stitch Editing Ltd., sought $350 million in damages plus punitives and injunctive relief. *Stitch Editing Ltd. v. TikTok Inc. et al.*, 2:21-cv-06636 (C.D. Cal., filed Aug. 17, 2021).

"We argued in closing that this was a manufactured claim, based on evidence that the plaintiff tried to engineer the facts to support their theory, with a litigation funder involved," said Hanna, a former U.S. attorney for the Central District who co-chairs Gibson Dunn's white collar defense and investigations group.

Gibson Dunn partner Elizabeth K. McCloskey pointed out that the defense had to prepare for trial on a rushed schedule over the winter

NICOLA T. HANNA

BLAINE H. EVANSON

HOWARD S. HOGAN

ELIZABETH MCCLOSKEY

POONAM KUMAR

2022 holiday season. "We came in after TikTok had lost a summary judgment motion," she said. "Poonam [Kumar] and I and the team divvied up the witnesses and worked fast in a short time."

Said Kumar, who is of counsel at the firm, said the sum sought by the plaintiff was vastly greater than its own annual revenue. She cross-examined the Stitch Editing damages expert and poked holes in his economic model. "Their alleged lost profits were not based on appropriate financial figures, and I think what we showed resonated with the jury."

The lawyers said the case involved novel issues of the extraterritorial reach of the trademark statute, the admissibility of filings in foreign jurisdictions, the availability of certain categories of damages and the admissibility of expert testimony on alleged harmful content on the TikTok platform.

"The plaintiff's strategy was to expand the case as much as possible by applying the Lanham Act to claim extraterritorial damages and by trying to apply foreign court decisions to this case," Hanna said.

The case is currently on appeal before the 9th U.S. Circuit Court of Appeals. Lead plaintiff attorney Andrew D. Skale of Mintz, Levin, Cohn, Perris, Glovsky & Popeo PC did not return a message seeking comment.

— JOHN ROEMER

CASE DETAILS		
CASE NAME	Stitch Editing Ltd. v. Tik Tok Inc. et al.	
TYPE OF CASE	Trademark infringement	
COURT	Central District of California	
JUDGE(S)	U. S. District Judge Stanley Blumenfeld J.	
DEFENSE LAWYERS	Gibson, Dunn & Crutcher LLP, Nicola T. Hanna, Blaine H. Evanson, Howard S. Hogan, Elizabeth K. McCloskey, Poonam G. Kumar, Shaun A. Mathur, Matthew C. Reagan, Timothy D. Biche, Roark Luskin, Elizabeth D. Strassner, Nika Shahery	
PLAINTIFFS' LAWYERS	Mintz, Levin, Cohn, Ferris, Glovsky, & Popeo P.C., Andrew D. Skale, Randy K. Jones, Courtney R. Rockett, Kara M. Cormier, Jennifer Y. Kim	