

Opinion of the Court

**THE JUDICIAL BRANCH OF THE STUDENT  
GOVERNMENT ASSOCIATION OF THE  
UNIVERSITY OF TENNESSEE-KNOXVILLE**

Case No. 2017-8

ELECTION COMMISSIONER, PLAINTIFF v. UNITE UT, DEFENDANTS

Decided on Summary Judgement on 12 April 2017

**I**

This case arises out of the grievance submitted by the plaintiff, the Election Commissioner, regarding two distinct alleged election violations committed by the defendants, the UNITE UT campaign. The first alleged violation concerned the use of the SGA logo in conjunction with a Unite UT campaign design. The second alleged violations concerned the incorporation of copyrighted and trademarked material in a Unite UT campaign design.

**II**

The first alleged violation regarded the placement of the SGA logo on a promotional graphic used on social media by the defendants. The court agrees with the plaintiff that this in fact an election violation and cites the precedent that was set by the Court last year that ruled the Hardee Morris McCandless “did illegally use the name of the University of Tennessee Knoxville Student Government Association in promotion of their campaign. The Court finds that a reasonable student at the University of Tennessee with no prior knowledge of student government could misconstrue this use as official sponsorship by the organization.” Challenge v. Hardee Morris McCandless, Case No. 2016-6. It was also shared by the defendants that a non-executive committee member was responsible for the graphic, and therefore it would be unfair to punish the entire campaign for the action of a non-executive campaign member.

**III**

The second complaint was that the defendants breached Section F, Section III, Subsection E(2) which states: “No candidate shall model a campaign design from a trademarked or copyrighted design or logo held by a public or private company or organization regardless of the campaign receiving permission” with their button image that was also shared on social media. The court agrees with the plaintiff that the graphic in question is clearly modeled after the

Migos album cover. However, as the plaintiff said himself, “It is unclear if the Migos’ have a registered copyright.” The plaintiff then goes on to argue that “In order to see if the image is registered, money would need to be paid the Copyright Office to conduct a search. However, an image, or pictorial or graphic work under 17 USC § 102(a)(5), does not need to be registered to be copyrighted. The threshold for copyright protection is originality and fixation.” However, it is important to recognize that this Student Government Association Judicial Court is not a United States court nor are we well versed enough in the convoluted laws of trademarks and copyrights. The plaintiff is clearly in agreement with this as it was stated that, “Copyright and Trademark law is complicated. Companies routinely spend lots of money litigating disputes over copyrights and trademarks. The composition of SGA and the Judicial Branch is not generally composed of persons gifted in the art of copyright or trademark law...Expecting the SGA Judicial Branch and SGA campaigns to understand the minutia of intellectual property law is not a realistic expectation...”

#### IV

Therefore, the Judicial Branch cannot be reasonably expected to be well versed in trademark law to deem the album cover as copyrighted based on complicated trademark loopholes. Furthermore, the Judicial Branch will therefore continue to judge trademark violations through a two-prong test. (1) Is the campaign design modeled after a trademarked or copyrighted design or logo held by a public or private company or organization? (Section F, Section III, Subsection E(2) of Election Packet) (2) Is there documented proof that the image the campaign design is modeled after in fact trademarked through an official office such as the United States Patent and Trademark Office or Collegiate Licensing Company? Both of these components of the test must be met in order for a campaign design to be deemed as being in violation of the Election Packet rules.

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THEREFORE, the court rules that the first alleged violation was in fact illegal. Furthermore, the court rules that because the image with the SGA logo was created by a non-campaign executive committee member, that person will be the only one who is punished. Logan Notestine will not be allowed to campaign at all until 10am EST April 12th, 2017. The defendants are also required to cease usage of all campaign promotion with the SGA logo.

THEREFORE, while there is no question that the UNITE UT design is modeled after the Migos album cover, there is no documented proof that the album cover is in fact trademarked/copyrighted. The court cannot move forward without this concrete proof, and therefore dismisses this violation claim.

*It is so ordered.*

HOWELL (C.J.) delivered the opinion of the court. DARBY, GORE, MORGAN, THOMAS, and WRIGHT joined.