

2026

# SAUL LEFKOWITZ MOOT COURT COMPETITION

OFFICIAL PROBLEM



International  
Trademark  
Association

**Please note:**

- A. The Facts in this Opinion are fictional. The parties’ names, their businesses, and their trademarks and registrations are not intended, and should not be understood, to refer to or reference any individual (living or dead) or any institution, extant or defunct. Any resemblance to any real person, organization, product, or situation is purely coincidental.

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- B. Frequently, issues in a case that conceivably could be appealed are not. This Circuit, like most, will not entertain arguments that are not fairly comprehended within the formal “Issues on Appeal,” which in this case are:

**ISSUE NO. 1:**

Did the district court err in finding that Defendant, All Knowing AI, LLC’s *FUNGI BRANCO* trademark infringed Plaintiff, Fungal Libations, LLC’s *FUNGIGNON BLANC* trademark?

**ISSUE NO. 2:**

Did the district court err in finding that Defendant, All Knowing AI, LLC acted with reckless disregard in adopting the *FUNGI BRANCO* trademark?

**ISSUE NO. 3:**

Did the district court err in not awarding profits to Plaintiff because only the Defendant’s affiliates—that were not named as parties in the action—rather than named Defendant All Knowing AI, LLC, earned profits attributable to infringement?

- C. While the parties both filed motions for summary judgment in the lower district court and are each appealing at least one issue, for purposes of this appeal, Defendant, All Knowing AI, LLC, shall be considered the **Appellant**, and therefore under our Competition Rules the only party entitled to reserve time for rebuttal when presenting oral arguments. Plaintiff, Fungal Libations, LLC, while also a cross-appellant, shall be considered the **Appellee**.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF UTOPIA

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Fungal Libations, LLC

Plaintiff,

vs.

All Knowing AI, LLC

Defendant.

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*Civ. Dkt. 25-1253*

Vaughan, R.

Plaintiff Fungal Libations, LLC (“Plaintiff” or “Fungal Libations”) filed suit against defendant All Knowing AI, LLC (“Defendant” or “All Knowing AI”) for trademark infringement under Sections 32 and 43(a) of the Lanham Act, claiming Defendant’s use of FUNGI BRANCO is likely to be confused with Plaintiff’s federally registered FUNGIGNON BLANC mark.

Plaintiff now moves for summary judgment. In doing so, Plaintiff argues that it owns FUNGIGNON BLANC as a trademark in connection with wine and that Defendant’s adoption and use of FUNGI BRANCO in connection with non-alcoholic wine-flavored beverages is likely to confuse, and has in fact confused, consumers. Plaintiff argues that Defendant’s infringement is knowing and willful and seeks an award of the Defendant’s and its affiliates’ profits attributable to its use of FUNGI BRANCO trademark. Defendant opposes the motion, arguing that the parties’ respective marks are not likely to be confused, there has not been any actual confusion, and that its adoption of FUNGI BRANCO was innocent.

In the District of Utopia, a court may grant summary judgment only if it concludes that the moving party has demonstrated that there is no genuine issue of material fact and that, based on

the undisputed facts, the moving party is entitled to judgment as a matter of law. All evidence must be viewed in the light most favorable to the non-moving party. For the reasons set forth hereafter, the Court grants Plaintiff's motion as to liability but declines to award profits.

## **FINDINGS OF FACT**

### **THE PARTIES**

1. Plaintiff Fungal Libations, LLC is organized in the State of Utopia, with a principal place of business in Paradise, Utopia.

2. Defendant All Knowing AI, LLC is organized in the State of Utopia, with a principal place of business in Smithtown, Utopia.

### **PLAINTIFF – FUNGAL LIBATIONS, LLC**

3. Plaintiff Fungal Libations, LLC was founded in 2023 by its current CEO, Zin Fandelson, a winemaker who believes every grape harvest is the greatest vintage ever. Zin graduated from the University of Utopia in 2018, with a major in plant biology and a minor in agricultural experimentation. After graduation, Zin opened a craft winery, dedicated to producing vintages for the most scrutinizing of wine connoisseurs. In just a couple of years, his greatness with the grapes resulted in widespread recognition in the major wine circles, with wine publication *The Tannen Times* awarding him its "Crimson Corkscrew" award in 2021.

4. While Zin was thrilled with his success, he yearned to create a new wine that would take the vino drinking world by storm. Using his knowledge of plant biology, green grapes and with the nascent mushroom coffee craze taking Utopia by storm, he developed a wine making process that combined green wine grapes from the Loire Valley with extracts from medicinal mushrooms like chaga, reishi, lion's mane, and cordyceps. The first few batches tasted like fetid swill to Zin but he was not dissuaded. After several refinements, he finally produced a wine with

rich earthy tones that was paradise to his palate. Needing a catchy name for this fantastic concoction, Zin settled on FUNGIGNON BLANC and began shipping it to wine stores throughout Utopia in 2023.

5. FUNGIGNON BLANC mushroom wine was a fantastic success and Zin could barely keep up with demand. He hired several individuals to boost production and formed a new company, called Fungal Libations, LLC. The success of FUNGIGNON BLANC allowed for other vintages to be made, such as Shiitake Shiraz and Portobellow. While these were well received by wine critics, nothing could match the success of FUNGIGNON BLANC, which was far and away the most popular product.

6. Given the popularity of FUNGIGNON BLANC, Zin hired a trademark lawyer to file an application to register the name with the U.S. Patent and Trademark Office (“USPTO”), which resulted in the following federal trademark registration:

Mark:	FUNGIGNON BLANC
Owner:	Fungal Libations, LLC
Goods:	Wine
International Class:	33
Registration No.	9,234,567
Registration Date:	April 1, 2025
Application Date:	March 4, 2024
Filing basis:	Lanham Act § 1(a)
Date of First Use:	February 1, 2023
Date of First Use in Interstate Commerce:	February 1, 2023
Register:	Principal

7. FUNGIGNON BLANC continued to be a success throughout all of Utopia.

#### DEFENDANT – ALL KNOWING AI, LLC

8. Algor Rithmington was born a genius and was obsessed with technology from an early age. He was building his own computers at 8, naming his favorite Ctrl Alt Delete, and writing software code by 10. Algor graduated from Utopia High School at the age of 14. He then attended

University of Utopia on a full scholarship, majoring in computer programming. During his time at university, Algor was a frequent user of artificial intelligence (“AI”) software. In fact, his best friend was an AI bot he named Synth.

9. Algor envisioned a world run by AI, driven by an emotionless entity that never complained, delivered results, and replaced the need to deal with the hassle of actual human workers. After graduating first in his class in 2023, he formed All Knowing AI, an AI company. Early programs included the Compliment Companion, which would boost one’s emotional wellbeing with positive compliments, Phantom Author, which would write papers for students, and Sleep Sensei, which would advise the ideal time one should sleep depending on the next day’s events. These were an enormous success and All Knowing AI became a dominant company in the AI space, with over 5,000 employees. Algor became the world’s youngest billionaire.

10. Algor’s fortune allowed him to enjoy the finer things in life. He owned homes in Utopia and abroad. He traveled the world and particularly loved Brazil, where he had a home in Rio de Janeiro overlooking the ocean. Algor was also a foodie and always had a personal chef staffed at whichever of his homes he was staying. Believing that wine was the ultimate beverage to pair with food, Algor also had a sommelier on hand. Algor enjoyed wines paired with his meals but did not appreciate the inebriating effects, which hampered his motivation. He wanted a non-alcoholic beverage that tasted like wine and also contained mind-boosting properties. Using his large pecuniary resources, he hired a special team of beverage makers to create the ultimate non-alcoholic, tasty beverage containing healthy, natural ingredients. The team, aware of the benefits of mushrooms in ancient medicine, decided to include it in this concoction. After months of toil and consumer testing, a delicious, non-alcoholic beverage containing grapes and mushroom extracts was born.

11. Algor was confident that his new, non-alcoholic beverage would disrupt the industry and become an enormous success. However, before releasing the beverage, he needed a brand name that would ring home with consumers. He recalled how challenging it was to devise names for his previous products so he and his team at All Knowing AI developed an AI program, creatively named Brand Picker, to suggest brand names. After asking Brand Picker to suggest various names for a non-alcoholic, beverage with mushroom extract and white grapes, he chose FUNGI BRANCO from the list. Algor liked this name because FUNGI refers to the mushroom extract in the beverage and BRANCO means “white” in Portuguese, which Algor knew from spending a lot of time in Brazil. Algor announced the name, and his new product, in March of 2024.

12. In order to effectively distribute the product across Utopia Algor set up four affiliate companies under All Knowing AI in the Northeast, Northwest, Southeast, and Southwest Utopia, uncreatively naming them AK AI NE, AK AI NW, AK AI SE, and AK AI SW. All income from sales of the FUNGI BRANCO beverage was to be collected by each entity in its respective territory. Each affiliate owned the commercial property where it distributed the product. To effectively distribute FUNGI BRANCO, All Knowing AI provided the necessary legal, financial and marketing services to each affiliate in exchange for a \$20,000 annual fee.

13. FUNGI BRANCO became popular in all regions of Utopia and All Knowing AI’s four affiliate entities each generated \$1 million in sales of FUNGI BRANCO in 2024. Affiliates AK AI NE and AK AI NW use a portion of these sales to pay the \$20,000 legal, financial and marketing services fee to All Knowing AI. Further, in 2024, affiliate AK AI SE’s employees ran pop-up wine bars throughout Utopia, which generated \$100,000 in additional revenue, with \$20,000 of this sum kicked back to All Knowing AI.

14. One day, while Zin was browsing FaceDiary, he read a post about a hot new, non-alcoholic, wine-flavored beverage with mushroom extract called FUNGI BRANCO. Zin became concerned that consumers would confuse the FUNGI BRANCO beverage with Fungal Libations' FUNGIGNON BLANC. Worried that Knowing AI was purposefully trading off the goodwill of FUNGIGNON BLANC, Zin's trademark counsel sent a cease-and-desist letter to All Knowing AI explaining that the use of FUNGI BRANCO amounted to willful infringement that resulted in consumer confusion and demanding that all use of FUNGI BRANCO cease immediately.

15. Algor received the letter and was angered by it. He did not see how anyone could confuse his FUNGI BRANCO beverage, which was a non-alcoholic beverage, with FUNGIGNON BLANC wine. While he had heard about FUNGIGNON BLANC, due to its popularity, prior to adopting the FUNGI BRANCO, Zin's letter did not make sense to him, particularly since he thought there was no way his Brand Picker AI program would choose a name that infringed upon another's trademark. Algor therefore ignored the letter and All Knowing AI's affiliates continued to distribute the FUNGI BRANCO beverage and collect their respective shares of revenue.

### **PROCEDURAL HISTORY**

16. Plaintiff filed a complaint in the United States District Court for the Southern District of Utopia alleging trademark infringement and unfair competition under Sections 32 and 43(a) of the Lanham Act. Plaintiff seeks Defendant's profits and reimbursement of its attorneys' fees, as it contends Defendant's willful infringement renders this case exceptional under the Lanham Act. Defendant filed an Answer denying all claims.

17. The parties engaged in discovery and, thereafter, Plaintiff moved for summary judgment on its trademark infringement claim. Defendant opposed the motion, arguing that there was no actual confusion, no likelihood of confusion, and, to the extent the Court finds



infringement, any such infringement was not willful, but innocent, as its accused trademark was generated by an AI program and the use of AI to generate marks with minimal human input negates intent and willfulness. Defendant also vehemently denied that an award of its profits, or of any monetary award, was proper, as Defendant's affiliates were the entities that distributed and sold FUNGI BRANCO, not Defendant.

## **CONCLUSIONS OF LAW**

### **JURISDICTION AND VENUE**

A. This action is brought pursuant to 15 U.S.C. §§ 1114 and 1125(a). Jurisdiction arises under 28 U.S.C. §§ 1331 and 1338(a). Venue is appropriate under 28 U.S.C. § 1391(b)(1).

### **LIKELIHOOD OF CONFUSION**

B. The legal test for whether a trademark is infringed is whether Defendant has used or is using in commerce any word, term, name, symbol, or device, or any combination thereof in connection with goods or services that is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association with another's mark. 15 U.S.C. §§ 1114 and 1125(a). Under longstanding and precedential Utopian law, the pertinent factors in evaluating whether there is a likelihood of confusion are: (i) the resemblance of the two marks in terms of sight, sound, and meaning; (ii) the relationship between the goods or services of the parties; (iii) the relationship between the parties' trade channels; (iv) the strength, both inherent and acquired, of the Plaintiff's mark; (v) any evidence of actual confusion, or valid surveys indicative of such confusion; (vi) an intent by the newcomer to derive benefit from the original mark's success; and (vii) any other factor recognized by this, or any other Utopian court, as probative of likelihood of confusion. The Court discusses each of these factors in order.

- (i) *The similarity of the marks:* The Court finds that the marks are confusingly similar in sight and sound, but not in meaning. In particular, FUNGIGNON in Plaintiff's mark is a coined, fanciful term whereas FUNGI is a term connoting fungus or mushrooms. As such, this factor appears to favor Plaintiff.
- (ii) *The relationship between the goods or services of the parties:* The Court finds that the goods and services, i.e., wines and non-alcoholic beverages are sometimes related, but this is not always the case. Accordingly, this factor appears neutral.
- (iii) *The relationship between the parties' trade channels:* The parties sell their products in the same channels, e.g. retail grocery stores. Therefore, this factor favors Plaintiff.
- (iv) *The strength, both inherent and acquired, of the Plaintiff's mark:* Plaintiff's mark is distinctive and strong, as reflected by its federal trademark registration. This factor therefore favors Plaintiff.
- (v) *Any evidence of actual confusion, or valid surveys indicative of such confusion:* Plaintiff has not presented any evidence of actual consumer confusion. As such, this factor appears to favor Defendant.
- (vi) *An intent by the newcomer to derive benefit from the original mark's success:* For this factor, we look at whether Defendant chose its mark to intentionally confuse consumers. Evidence of intentional, willful and admitted adoption of a mark closely similar to the Plaintiff's mark weighs strongly in favor of finding a likelihood of confusion. As part of this inquiry, the Court must consider the adequacy and care with which Defendant investigated and evaluated its proposed mark, and its knowledge of similar marks or allegations of potential confusion. Plaintiff argues

that Defendant acted in bad faith because it continued to use its mark after Plaintiff demanded that it cease doing so. The Court does not think this is evidence of bad faith. However, it is clear that Defendant did not carefully investigate the extent to which FUNGI BRANCO was available for its use, relying solely on its Brand Picker AI platform to choose the name. It is also undisputed that Defendant knew of Plaintiff's FUNGIGNON BLANC mark when it adopted FUNGI BRANCO. As such, the Court finds that Defendant intended to derive benefit from the commercial success and popularity of FUNGIGNON BLANC wine. This factor favors Plaintiff.

(vii) *Any other factor recognized by this, or any other Utopian court, as probative of likelihood of confusion:* None.

C. After a review of all of the likelihood of confusion factors, the Court finds that confusion between FUNGIGNON BLANC and FUNGI BRANCO is likely.

#### AWARD OF INFRINGER'S PROFITS

D. For the reasons discussed above in point (vi), the Court finds that Defendant's infringement was willful. In order to prove willful infringement, a plaintiff must show that (1) the defendant was actually aware of the infringing activity, or (2) the defendant's actions were the result of reckless disregard or willful blindness.

E. In evaluating whether to award an infringer's profits to a plaintiff, the Court typically looks to whether there is conduct showing a deliberate intent to deceive; conduct that shows an intention of causing confusion or deception; an intent to benefit from the goodwill or reputation of the plaintiff trademark holder; conduct that constitutes reckless disregard or willful blindness; or conduct indicating a conscious awareness of wrongdoing or at least conduct deemed objectively reckless measured against standards of reasonable behavior.

F. To account for the profits subject to disgorgement, §1117(a) institutes a burden-shifting scheme under which the plaintiff bears the initial burden to prove the defendant's sales, before the burden shifts to the defendant, who must then prove which portion of the sales are not attributable to the infringing goods. 15 U.S.C. § 1117(a). Above all, the plaintiff needs to show some connection between the identified 'sales' and the alleged infringement. Said differently, the plaintiff must show that the defendant's sales were "proximately caused" by the infringement.

G. An award of profits is an equitable remedy that is normally available when a defendant is unjustly enriched, if the plaintiff sustained damages from the infringement, or if the accounting is necessary to deter a willful infringer from doing so again. Although a finding of willfulness is not required for a court to award infringer's profits, it is a factor to be considered.

H. Here, Defendant should have consulted with trademark counsel both when it adopted FUNGI BRANCO and when receiving the cease and desist letter from Plaintiff. Here, the Defendant knew of FUNGIGNON BLANC wine when it adopted FUNGI BRANCO. While Defendant claimed that it had a good faith belief that there is no conflict between the marks given that Defendant's AI software suggested the name, Defendant was careless in being solely reliant on this AI software tool, thus acting in reckless disregard.

I. However, this Court finds that an award of Defendant's profits is not proper as all sales made of FUNGI BRANCO were made by Defendant's affiliate entities, who were not named in Plaintiff's complaint.

WHEREFORE, this Court hereby grants Plaintiff's motion for summary judgment on the issue of likelihood of confusion but declines an award of profits. While the Court finds Defendant acted with reckless disregard, it has not been clearly shown that Defendant, rather than its affiliates not named as parties in this action, earned profits attributable to infringement.

SO ORDERED.

# **EXHIBITS**

# Exhibit 1



## Exhibit 2

