

Kardashian's 'SKKN by Kim' Brand Facing Legal Uncertainty

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Kim Kardashian has been hit with a lawsuit by New York-based Beauty Concepts LLC over Kardashian's recently launched skincare line, "SKKN by Kim." Beauty Concepts filed a [complaint](#) in the Eastern District of New York against Kardashian, her business entity Kimsaprincess Inc., and beauty company Coty Inc. on Tuesday, alleging that SKKN by Kim uses branding "highly confusingly similar" to Beauty Concepts' own skincare line, "SKKN+". The complaint further alleges that Beauty Concepts has priority of use over the letters "skkn" due to the company's consistent use of the mark "SKKN+" since at least August 2018.

Beauty Concepts' lawsuit is only the most recent challenge facing Kardashian's skincare line. Kardashian filed 17 trademark applications for "SKKN by Kim" between March and July of 2021. On March 28, 2021, two days before Kardashian filed her first "SKKN by Kim" applications, Beauty Concepts filed its own trademark application for "SKKN+", and in September 2021, model Lori Harvey also filed a trademark application for a similar name - "SKN by LH".

Kardashian's trademark applications are still pending review by the U.S. Patent and Trademark Office ("USPTO")'s Trademark Trial and Appeal Board ("TTAB"). In December 2021 and January 2022, Beauty Concepts initiated two opposition proceedings against several of Kardashian's applications. The TTAB is now mediating negotiations between the two brands, and consideration of all of Kardashian's pending trademarks is suspended until the matter is resolved.

According to Beauty Concepts, Kardashian was put on notice of the likelihood of confusion between the brand marks when Beauty Concepts filed oppositions to Kardashian's trademarks and sent a cease-and-desist letter to Kardashian's team. Despite being put on notice, Kardashian proceeded to launch SKKN by Kim in June of this year.

Beauty Concepts argued at the TTAB that it has exclusive rights to “skkn” due to its use of the mark since at least 2018. According to the [opposition](#) filed with the TTAB, Kardashian’s use of the term “skkn” is likely to cause confusion or mistake with respect to the origin of the parties’ goods and services. The resulting confusion will likely impair Beauty Concepts’ prior, exclusive right to the mark.

In their [response](#) to Beauty Concepts’ opposition, Kardashian’s attorneys advanced several arguments: (1) Beauty Concepts does not have exclusive rights to the term “skkn” due to the descriptive nature of the mark, which is merely a misspelling of the term “skin”; (2) Beauty Concepts’ rights to the term “skkn” are, at best, confined to the mark that it is attempting to register with the USPTO, which includes stylization, a plus sign, and a logo; and (3) Beauty Concepts’ prior use of the mark does not cover “everything and anything beauty, cosmetic, hair, or nail-related.” Rather, its rights to “skkn” (if any) are narrowly confined to the skin facial services offered out of a single location in Brooklyn, New York.

The outcome of the mediation between Kardashian and Beauty Concepts will likely affect other pending trademark applications covering variations of the word “skin.” Typically, the TTAB will reject a trademark application for a highly descriptive mark, such as one that merely describes skin care products and services. However, if an applicant can show that the descriptive mark is associated with a *distinct* product – for example, by adding “by Kim” – the TTAB may be more likely to grant approval.

Beauty Concepts makes similar arguments in its lawsuit against Kardashian, alleging that Kardashian has deliberately disregarded Beauty Concepts’ superior rights to the “skkn” mark, and that Kardashian’s use of the mark “will and have confused, misled, and deceived the general public and consumers into believing that Beauty Concepts manufactures, sells, sponsors, approves and/or licenses the Kardashian/Coty Defendants’ goods and services,” resulting in damage to Beauty Concepts’ SKKN+ brand. The lawsuit brings claims for willful infringement of Beauty Concepts’ trademarks, reverse confusion, unfair competition, and civil conspiracy.

If Kardashian loses the TTAB dispute, she will be unable to obtain a trademark for “SKKN by Kim,” but may otherwise continue to use the mark in her branding. However, if Kardashian loses the lawsuit, she may be forced to cease use of the mark entirely. Beauty Concepts is seeking both injunctive relief and damages in its complaint. If the court grants Beauty Concepts its desired relief, SKKN by Kim will be forced to halt sales until it ceases use of the letters “skkn.”

The TTAB has yet to issue its decision in the dispute between Kardashian and Beauty Concepts, and it is unclear whether or not its decision will have any effect on the outcome of the lawsuit. According to the Supreme Court’s 2015 decision in [B&B Hardware, Inc. v. Hargis Industries, Inc.](#), however, if the “usages adjudicated by the TTAB are materially the same as those before [the] district court,” issue preclusion may apply so the district court will be bound by the decision of the TTAB.

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