

## July 2026

A newsletter brought to you by the Sports Law Group at Proskauer.

Welcome to *Three Point Shot*, a newsletter brought to you by the Sports Law Group at Proskauer. *Three Point Shot* brings you the latest in sports law-related news and provides you with links to related materials. In this issue, we feature contributions from Proskauer Summer Associates: Gabriella G. Joaquim, Leah S. Taylor and Bertrand D. Li.

Your feedback, thoughts and comments on the content of any issue are encouraged and welcome. We hope you enjoy this and future issues. And, we also hope you enjoy the 4th of July weekend !!

Edited by **Robert E. Freeman**

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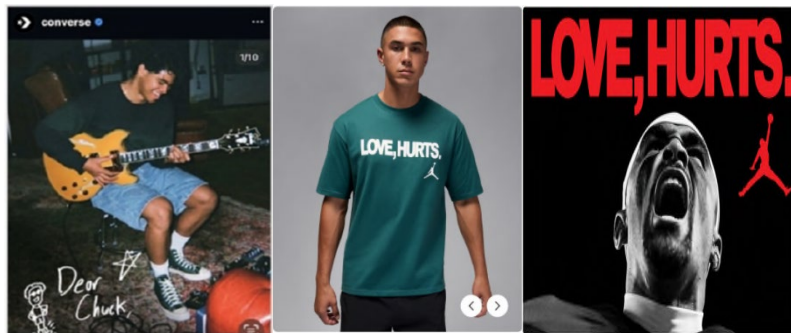
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### Love, Infringement: Apparel Makers Settle “Love, Hurts” and “Dear, Chuck” Trademark Dispute

Just do it, right? Well...not so fast. While modern apparel marketing moves at championship speed, trademark clearance does not. A simmering trademark dispute among major sports apparel makers and a small lifestyle brand over various “LOVE, \_\_\_” and “DEAR \_\_\_” designs, including Nike’s “Love, Hurts” marketing campaign, is a wrap after the parties reached a settlement in May 2026. (*Converse Inc. v. Love, Kelly Holdings LLC*, No. 25-09516 (S.D.N.Y. Stipulation of Dismissal May 20, 2026)). The litigation shows how modern sports branding can easily jump from the showroom to social media to federal court.

In February 2025, Nike launched the “Love, Hurts” campaign: a slogan that simultaneously referenced Super Bowl winning quarterback Jalen Hurts’ name, the city of Philadelphia’s identity (and “Brotherly Love” nickname), and the resilience narrative that had come to define the quarterback’s career. The campaign proved so successful that Nike also released a line of sports apparel around the concept. Around the same time, Converse rolled out its own campaign, “Dear Chuck” and “Love, Chuck” for its Converse All Star shoe, using the concept of a love letter with the shoe’s namesake Chuck Taylor being the sender or recipient. [See some images below of the marketing campaigns from the pleadings].



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Following the campaign launches by Nike and Converse, Love, Kelly Holdings, LLC (“Love, Kelly”), a small fashion and multimedia company, publicly accused both companies on social media posts and videos of copying its branding. Love, Kelly has used the LOVE, KELLY and DEAR LOVE concepts in connection with its clothing designs and creative projects for several years and claimed common law trademark rights in these two concepts through what it described as “acquired considerable goodwill and distinctiveness” in the marks. [See below images from the pleadings showing the relevant Love, Kelly designs].



Love, Kelly had previously collaborated with Converse in 2024 for a fashion show and accused the company, along with Nike (which owns Converse), of using ideas shared during that relationship to develop their respective campaigns. Love, Kelly claimed that Nike’s “Love, Hurts” campaign and Converse’s “Dear Chuck” / “Love, Chuck” campaign appropriated the company’s preexisting LOVE, KELLY and DEAR LOVE marks in commerce and branding concepts. A letter from Love, Kelly’s attorneys followed suggesting potential legal action and a demand for compensation/royalties.

Rather than waiting to be sued, Nike and Converse took the offensive. On November 14, 2025, Nike and Converse [filed suit](#) in the Southern District of New York seeking a declaration that their campaigns did not infringe and that Love, Kelly lacked any common law trademark rights in the marks at issue. Nike and Converse maintained that the campaigns were independently created and that no Converse employees were involved in the creation of Nike’s “Love, Hurts” campaign.

Nike and Converse further stated that, regardless, Love, Kelly could not claim exclusive rights to common “DEAR \_\_\_\_” and “LOVE \_\_\_\_” formulations as the purported marks were not inherently distinctive due to the commonplace,

open-ended nature of the words “Dear” and “Love.” They further argued that the concept underlying the campaigns, such as framing communications as letters or “love letters” to consumers, were common marketing devices rather than protectable intellectual property. To boot, Nike and Converse further claimed no evidence of actual consumer confusion since they launched the marketing campaigns in February 2025.

Love, Kelly did not merely defend against Nike’s and Converse’s declaratory judgement claims; instead, it went on the offensive, [asserting counterclaims](#) for common law trademark infringement and unfair competition under the Lanham Act, as well as false advertising and deceptive business practices under New York law. At their core, the counterclaims reflected Love, Kelly’s contention that Converse gained access to its branding concepts during the parties’ 2024 collaboration and subsequently incorporated those concepts into the “Love, Chuck” campaign, while Nike allegedly extended the same branding approach to its “Love, Hurts” campaign, all in the same channels of trade as Love, Kelly. Love, Kelly further alleged that the campaigns caused consumer confusion and improperly capitalized on the goodwill associated with its brand.

Unlike many trademark disputes, which involve federally registered marks, Love, Kelly’s federal trademark applications were still pending at the USPTO during this suit (and according to the plaintiffs’ complaint, the DEAR LOVE and LOVE, Kelly trademark applications were only filed about a month before Nike received a demand letter from Love, Kelly). Fast forward to the day before the settlement, on May, 19, 2026, the [LOVE, KELLY mark](#) was officially registered; the DEAR LOVE application remained pending.

Without a federal trademark registration covering the marks at the outset of the suit, the dispute centered largely on whether Love, Kelly had developed sufficient common law trademark rights, which is centered on its use of the phrases in commerce. With respect to its counterclaims, Love, Kelly lacked certain rights of federal trademark owners under the Lanham Act, including a presumption of validity and the ability to seek enhanced remedies.

The litigation appeared poised to enter a more substantive phase shortly before it ended. On May 15, 2026, Nike and Converse [moved to dismiss](#) portions of Love, Kelly’s counterclaims,

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arguing that several of the asserted state law causes of action, including deceptive business practices and false advertising, failed as a matter of law. However, before the motion to dismiss could be fully briefed and argued, the parties resolved the litigation on May 20, 2026, jointly dismissing all claims and counterclaims with prejudice.

The dispute highlights the increasingly important reality that athlete- and celebrity-centered marketing campaigns are not simply advertisements but valuable intellectual property assets for brands. For example, by combining the elements surrounding Hurts, his personal story, and the city of Philadelphia, Nike transformed a championship moment into a marketing asset capable of driving fan engagement and merchandise sales.

The case also underscores the increasing role social media plays in modern intellectual property disputes. Before litigation commenced, Love, Kelly publicly accused Nike and Converse of appropriating its ideas through a series of defiant social media posts, essentially pre-litigating the dispute in an attempt to reach fashion devotees to change public perception of the big brands' reputation and portray its IP dispute as a David vs. Goliath scenario.

However, because the parties resolved their claims before any ruling on the merits, many of the underlying legal questions in this underdog matchup will remain unanswered.

### **On the Wrong Track: Court Finds \$JENNER Coin Is Not a Security**

Caitlyn Jenner, the 1976 Olympic decathlon gold medalist and media personality, cleared a major legal hurdle in litigation over her memecoin, \$JENNER, when a California federal court held that the token was not a security under the Securities Act of 1933 and dismissed plaintiffs' claims that Caitlyn Jenner had sold an unregistered security (*Azad v. Jenner*, No. 24-09768 (C.D. Cal. Apr. 16, 2026)). The lead plaintiff in the suit was a disgruntled coin purchaser, Lee Greenfield ("Greenfield" or "Plaintiff"), who bought \$40,000 worth of Jenner's cryptocurrency before the coin cratered.

Memecoins, like \$JENNER, are pop-culture inspired digital assets that are stored on a blockchain and often created through memecoin

creator platforms. As described in the SEC's February 2025 "[Staff Statement on Meme Coins](#)," a memecoin is a type of crypto asset with limited or no utility that is inspired by internet memes and online trends, where the promoter looks to generate an online community that will purchase and trade the coin for entertainment purposes. The value of memecoins is driven by market demand and speculation (and often characterized by significant volatility).

Caitlyn Jenner ("Jenner"), with the help of her manager, co-defendant Sophia Hutchins (collectively, the "Defendants"), and a third-party crypto promoter, minted the first iteration of Jenner's memecoin on May 26, 2024, and promoted it extensively on social media. \$JENNER sales took off at a sprint: the court noted that approximately 20,000 individuals purchased the token on the first day, driving its market capitalization to \$43 million. However, \$JENNER's value cratered after reports revealed that Jenner's crypto promoter in the launch had subsequently dumped his portion of the tokens. Days later, the \$JENNER memecoin was re-launched on another cryptocurrency network, Ethereum, and was available on a decentralized exchange for purchase. Plaintiff alleged that every Ethereum \$JENNER trade generated a 3% payment to Jenner through an underlying smart contract. Eventually, according to the complaint, the Ethereum token became Jenner's sole focus for promotion. Plaintiff claimed that Jenner used her celebrity to "hype" the token and suggested that her promotion efforts would cause its value to rise. Nevertheless, the complaint alleges that Jenner eventually stopped heavily promoting the project and the value of all outstanding \$JENNER tokens dropped precipitously.

During the wild ride, lead plaintiff Greenfield purchased \$JENNER tokens in late May 2024 and again in July 2024, selling them later at an alleged loss of around \$40,000. Plaintiff subsequently filed suit in November 2024.

Plaintiff's [first amended complaint](#) against Jenner advanced a litany of securities law and other claims. Defendants' motion to dismiss was [granted](#) in May 2025, with leave to amend, as the court found that all nine of the claims alleged in the amended complaint were deficient. Among those claims, the court took particular issue with Plaintiff's allegation of a domestic transaction, which was an element to several

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securities law claims. According to the court, Greenfield, a UK citizen, provided only “scant” details about his purchase of \$JENNER and never stated where the coins were actually purchased or how they had a sufficient nexus to the U.S. to support the application of U.S. securities law. Greenfield’s claim for false statement in connection with a sale of a security was similarly dismissed due to pleading deficiencies. For a claim to be brought under §12(a)(2) of the Securities Act, the court noted that a false statement must be made through a prospectus or an oral communication in relation to a prospectus, but, in this case, no such document exists for \$JENNER.

The plaintiffs subsequently refiled a narrower [second amended complaint](#) stating only three causes of action: selling unregistered securities in violation of Sections 5(a) and 12(a)(1) of the Securities Act of 1933 in relation to the Ethereum \$JENNER tokens; a common law fraud claim; and a quasi-contract claim. The lawsuit’s core grievance was that investors allegedly bought in because Jenner lent the token legitimacy, promised continuing support and promoted value appreciation, but Jenner did not comply with securities laws by failing to register the Ethereum \$JENNER token with the SEC. Plaintiff alleged that the Ethereum \$JENNER token should be treated as a security because it was an “investment contract” and purchasers expected profits from Jenner’s and Hutchins’s managerial, entrepreneurial and promotional efforts.

Defendants again [moved to dismiss](#). The re-filed suit fared no better, with the court [finding](#) Plaintiff had not stated a plausible claim for relief under the Securities Act (and declining supplemental jurisdiction over his state claims). Specifically, it held Plaintiff had not plausibly alleged a common enterprise (through either horizontal or vertical commonality) and therefore could not establish that \$JENNER was a security.

Determining if this claim could survive a motion to dismiss required the court to use the Supreme Court’s *Howey* test to ask the threshold question of whether \$JENNER could be considered a security. To be defined as a security under the *Howey* test, someone must have invested money into the product, in a common enterprise, where there is a reasonable expectation of profit due to the efforts of other parties. Greenfield’s investment of \$40,000 in \$JENNER checks off

the first requirement, but the Plaintiff could not clear the second prong of *Howey*, as he failed to establish a common enterprise by showing either vertical or horizontal commonality. As the court stated, horizontal commonality “describes the relationship shared by two or more investors who pool their investments together and split the net profits and losses in accordance with their pro rata investments,” which did not occur here. The court noted prior cases of horizontal commonality where, for example, a seller of cryptocurrencies pools the proceeds and uses them to finance the development of technology that increases the value of the currency. While Jenner promoted the product on her social media accounts, the court found there was no formal structure in place to pool the proceeds of the investments to develop any kind of new technology or reinvest those aggregated funds into the development of the coin. The complaint called \$JENNER “a memecoin...intended solely for entertainment purposes” whose value would increase due to Jenner’s fame and influence. However, per the court, this was not enough to pass *Howey*: “Promotion alone, however, does not establish a common enterprise absent pooling or a structure linking investor fortunes.”

Greenfield’s claim of vertical commonality also sputtered. As the court described, vertical commonality “describes a common enterprise between the investor and the seller, promoter or some other party, regardless of whether additional investors are involved in the venture,” with a key feature being that “the fortunes of the investors are linked with those of the promoters.” To support this argument, the Plaintiff’s complaint cited, among other things, the 3% transaction fee Jenner earned from the sale of coins on Ethereum. The court concluded that, under precedent, there is no vertical commonality where the promoter was entitled to a commission regardless of whether the plaintiff-investor made a profit from the sale.

Without a plausible showing of either horizontal or vertical commonality, the court found that Plaintiff failed to allege the existence of a common enterprise and could not pass through the second element of the *Howey* test. As a result, the claim against Jenner for sale of an unregistered security was dismissed. It should be noted that this comports with the SEC staff’s 2025 memecoin statement, which concluded: “It is the Division’s view that transactions in the types of meme coins described in this

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statement, do not involve the offer and sale of securities under the federal securities laws.”

After the ruling, Greenfield filed a [notice of appeal](#) with the Ninth Circuit.

Despite losing in federal district court, we are going to have a second heat in this litigation. On May 12, 2026, Greenfield refiled his state law fraud and quasi-contract claims in California Superior Court to see if, in a different forum, they could go the distance. (See [Greenfield v. Jenner](#), No. 26STCV15165 (Cal. Super. Los Angeles Cty. Filed May 12, 2026)).

## Maxed Out: Dumbbell Patent Infringement Suit Settles after Federal Circuit Rejects *Alice* Ineligibility

In late May, a workout equipment patent holder, PowerBlock Holdings, Inc. (“PowerBlock”), got a lift after it reached a settlement with fitness hardware maker iFIT, Inc. (“iFIT”), resolving their adjustable dumbbell patent infringement dispute. The settlement follows the Federal Circuit’s 2025 decision in [PowerBlock Holdings, Inc. v. iFIT, Inc.](#), 146 F.4th 1366 (Fed. Cir. 2025), which reversed a district court ruling that had invalidated most asserted claims as abstract under the Supreme Court’s *Alice* standard.

PowerBlock sells home *fitness* equipment, with a focus on adjustable dumbbells built for home gyms that let users save space by owning a compact modular set with selector pins to increase weight for different exercises instead of having to maintain a rack of separate dumbbells or plates. iFIT is a health and wellness platform known for connected fitness hardware and software, including products sold under brands such as NordicTrack. The dispute centered on PowerBlock’s [U.S. Patent No. 7,578,771](#) (the “’771 patent”), titled “Weight Selection and Adjustment System for Selectorized Dumbbells Including Motorized Selector Positioning.” The ‘771 patent claims a system in which an electric motor physically adjusts how many weight plates are coupled to a dumbbell handle. Defendant iFIT is a competitor of PowerBlock in the adjustable dumbbell product space and, at the time of the suit filing, sold the NordicTrack iSelect Adjustable Dumbbells. According to PowerBlock, the NordicTrack adjustable dumbbells at issue also contained a “selectorized dumbbell” with a handle, plates, and an electric motor that causes the plates to

be coupled. [See images below from the complaint: an example of PowerBlock’s adjustable dumbbells on the left, iFIT’s on the right].



In February 2022, PowerBlock sent a cease-and-desist letter to iFIT claiming infringement of at least Claim 20 of its ‘771 patent. Thereafter, in October 2022 PowerBlock sued iFIT in the District of Utah, alleging infringement of the ‘771 patent and violation of Utah’s Unfair Competition Act. iFIT responded with an early eligibility challenge under 35 U.S.C. § 101, arguing that the asserted claims were invalid for claiming the abstract idea of automated weight stacking under the *Alice* standard. iFIT [argued](#) that the ‘771 patent is merely a “simple combination of conventional, generic, off-the-shelf components that are merged to automate a practice that, for many years, has been performed manually” and that “the idea of performing an electronic weight adjustment action on a selectorized dumbbell is an abstract idea.”

In September 2023 the district court mostly agreed on the patent issue, [holding](#) that claims 1-18 and 20 were patent-ineligible subject matter because “those claims do not add significantly more than the abstract idea of the end-result of an automated selectorized dumbbell.”

During the second set, the Federal Circuit [reversed](#). The key issue on appeal was whether the ‘771 patent merely claimed the abstract idea of automating weight selection or instead claimed a concrete mechanical implementation of that abstract idea.

35 U.S.C. § 101 permits patents for any new and useful “process, machine, manufacture, or composition of matter,” as well as improvements to those categories. But courts have long recognized implicit exceptions for laws of nature, natural phenomena, and abstract ideas. Whether Plaintiff states a viable claim is a matter

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of whether the claims of the '771 patent are patent eligible under 35 U.S.C. §101 as interpreted by the two-step test established by the Supreme Court in *Alice*. At step one, courts ask whether the claims are “directed to a patent-ineligible concept.” If not, the claims satisfy § 101 and the second step is not necessary. If so, step two asks whether the remaining claim elements add an “inventive concept” sufficient to transform the claim into a patent-eligible application, such as a specific means or method that improves the relevant technology rather than simply being directed to a result or effect that itself is the abstract idea.

The policy concern underlying the *Alice* framework is preemption: a patent should not lock up the basic tools of scientific and technological work by claiming an abstract idea, law of nature, or natural phenomenon itself. At the same time, the Supreme Court has stated that patents may protect concrete, inventive applications of those basic building blocks.

That distinction drove the Federal Circuit’s decision. The court held that Claim 1 (concerning the basic plates and motorized parts of a selectorized dumbbell) was not directed to an abstract idea because it was limited to a specific implementation of a technological improvement to a mechanical system: a selectorized dumbbell with nested left and right weight plates, a handle, a movable selector with

different adjustment positions, and an electric motor operatively connected to the selector.

In determining that the '771 patent cleared step one of *Alice*, the Federal Circuit concluded that the claims contained enough structure and specificity to claim a particular technological improvement to selectorized dumbbells. In the court’s words, this “rather simple mechanical invention” went beyond the broad concept of automating a known technique and described a sufficiently specific manner of performing automated weight stacking.

Because the Federal Circuit found the claims eligible at *Alice* step one, it did not reach step two. Claims 2-18 and 20 rose or fell with Claim 1 because the parties did not argue them separately. The court therefore reversed the district court’s ineligibility ruling and remanded, eventually nudging the parties toward their recent settlement.

The *PowerBlock* ruling gives patent owners a useful example of how mechanical automation claims can survive *Alice* when they contain enough specificity and structure and include a concrete structural improvement that performs the work. For an area of patent law that remains judge-made, fact-sensitive, and sometimes murky, *PowerBlock* is an uncommon §101 win from the Federal Circuit, and one with enough practical weight to move the parties from dismissal to settlement.

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Proskauer has more than 50 years of experience counseling the world's premier sports organizations on their most critical and complex matters.

For more information about this practice area, contact:

**Neil H. Abramson**

+1.212.969.3001 – nabramson@proskauer.com

**Elise M. Bloom**

+1.212.969.3410 – ebloom@proskauer.com

**Arthur Burke**

+1.212.969.3668 – aburke@proskauer.com

**Kyle A. Casazza**

+1.310.284.5677 – kcasazza@proskauer.com

**Scott P. Cooper**

+1.310.284.5669 – scooper@proskauer.com

**Grant Darwin**

+1.212.969.3306 – gdarwin@proskauer.com

**Rob Day**

+44.20.7280.2040 – rday@proskauer.com

**Benjamin J. Freeman**

+1.212.969.3712 – bfreeman@proskauer.com

**Robert E. Freeman**

+1.212.969.3170 – rfreeman@proskauer.com

**Kristian M. Herrmann**

+1.212.969.3056 – kherrmann@proskauer.com

**Wayne D. Katz**

+1.212.969.3071 – wkatz@proskauer.com

**Christine G. Lazatin**

+1.212.969.3478 – clazatin@proskauer.com

**Joseph M. Leccese**

+1.212.969.3238 – jleccese@proskauer.com

**Adam M. Lupion**

+1.212.969.3358 – alupion@proskauer.com

**Kevin J. Perra**

+1.212.969.3454 – kperra@proskauer.com

**Lee Popkin**

+1.212.969.3326 – lpopkin@proskauer.com

**Howard Z. Robbins**

+1.212.969.3912 – hrobbins@proskauer.com

**Bradley I. Ruskin**

+1.212.969.3465 – bruskin@proskauer.com

**Bart H. Williams**

+1.310.284.4520 – bwilliams@proskauer.com

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