

## Under Armour Scores Win In 'Healthbox' Trademark Case

By **Kelly Knaub**

Law360, New York (July 22, 2016, 10:46 PM ET) -- A Delaware federal judge ruled in favor of Under Armour Inc. on Tuesday in a trademark infringement case brought against it by Healthbox Global Partners LCC, finding that Healthbox was not likely to succeed on the merits of its reverse confusion or Delaware dilution claims with respect to Under Armour's "Healthbox" product.

U.S. District Judge Sue L. Robinson denied Healthbox's bid for a preliminary injunction against Under Armour, saying Under Armour always pairs the term "Healthbox" with its house marks for its new "Healthbox" fitness tracking system it launched in January, and that Healthbox's mark was too weak in light of how many third-party "Healthbox" marks coexist in the marketplace.

The judge also said that Healthbox's health care consulting services were completely dissimilar to Under Armour's new fitness product, that Healthbox's emails between colleagues and customers did not count as evidence of actual confusion, and that Under Armour's communications with Healthbox before launching its product failed to demonstrate a bad faith intent.

"Plaintiff has not carried its burden to prove likelihood of success on the merits of its trademark infringement claim, unfair competition claim or dilution claim," the judge said.

Judge Robinson also rejected Healthbox's argument that it would suffer irreparable harm in the absence of a preliminary injunction — it had contended it would incur more than \$12 million in losses — saying the company failed to offer evidence of damages such as a decline in companies participating in its financial incubation services or partnering with it for advising services.

Healthbox filed its complaint in Delaware federal court against Under Armour in March alleging trademark infringement, unfair competition, Delaware dilution and Delaware deceptive trade practices for Under Armour's use of the "Healthbox" mark.

It filed its motion for a preliminary injunction in April, asking the court to order Under Armour to stop using the "Healthbox" mark and to stop distributing or selling any of the allegedly infringing products.

Oral argument was held in May, according to the federal court docket.

Attorneys for the parties did not respond to a request for comment on Friday.

Under Armour is represented by Frederick L. Cottrell III and Katharine Lester Mowery of

Richards Layton & Finger PA and Douglas A. Rettew.

Healthbox is represented by Jack B. Blumenfeld and Michael J. Flynn of Morris Nichols  
Arsht & Tunnell LLP.

The case is Healthbox Global Partners LLC v. Under Armour Inc., case number 1:16-cv-  
00146, in the U.S. District Court for the District of Delaware.

--Editing by Philip Shea.

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