

Comic Convention Giant Victorious in Trademark Suit – “Comic-Con” is Not Generic

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Fan boys and fan girls may soon see changes to the names of their favorite pop culture events given a federal jury's recent ruling that the term "Comic-Con" is not generic, but instead a valid, federally-registered trademark owned by San Diego Comic Convention.

Following a ten-day trial, a jury in the Federal District Court in San Diego recently ruled that San Diego Comic Convention's family of "Comic-Con" trademarks

were valid, and that its competitor Salt Lake Comic Con infringed San Diego Comic Conventions' valuable trademark rights in promoting its convention under the "Salt Lake Comic Con" name.

The successful result was achieved in a suit filed in 2013 by San Diego Comic Convention against Dan Farr Productions, Bryan Brandenburg, and Daniel Farr alleging that Salt Lake Comic Con had exploited San Diego Comic-Con's "creativity, ingenuity and hard work" through the unauthorized use of its trademarks to advertise and promote its event. According to its initial filing, San Diego Comic-Con's marks have become valuable assets and a symbol of San Diego Comic-Con's positive industry reputation.

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation

The three-day San Diego Comic-Con convention is a comic book and popular arts convention held annually in San Diego since 1970. Over the past four decades the event has grown to be the premier event in geekdom, showcasing comics and comic books, as well as popular video games, film, and television. In 2017, the event drew over 130,000 attendees and highlighted exclusive footage from major Hollywood productions, including blockbuster films such as *Thor: Ragnarok* and *Justice League*, as well as television's *Game of Thrones*.

In response to San Diego Comic Convention's lawsuit, the Defendants alleged that the "Comic Con" mark had become weak based on the frequent use of the term both before and after San Diego Comic Con began use, and that prior to San Diego's use or registration of the mark, the term "Comic-Con" had been used to describe comic book conventions. The Defendants further claimed that the general public understands the words "comic con" or "comic-con" to refer generally to comic conventions. Additionally, Defendants argued that even if the registration had been valid in 1998 when the COMIC CON INTERNATIONAL mark was first registered with the United States Patent & Trademark Office, it had become generic over time. According to Dan Farr Productions, San Diego Comic Convention's failure to police its mark has led competitors and consumers to use the term as a generic name for comic conventions, resulting in over 100 events nationwide incorporating the term "Comic-Con." The jury rejected the defense that San Diego Comic Convention's "Comic-Con" mark was invalid based on genericness.

While San Diego Comic Convention requested \$12 million in damages, the jury only awarded \$20,000 for corrective advertising, deciding that the infringement was not willful. Additionally, the jury found that Dan Farr Productions was not liable for making any false designations of source or origin by its use of the term "Comic Con."

The Defendants say that they plan to appeal, but it is not yet clear what the full impact of the decision will be. Following the jury's decision, San Diego Comic Convention has stated it will seek a permanent injunction to prevent Salt Lake City Comic Con's future use of the "Comic-Con" mark. This could have large ramifications in the world of comic and media conventions, given the widespread use of the term "Comic-Con." Variations of the term "Comic Con" are currently used by over 140 competitors nationwide for numerous comic book and entertainment conventions. These include Seattle's Emerald City Comic Con, Baltimore Comic Con, Motor City Comic Con in Detroit, and New York Comic Con, to name a few. San Diego Comic Convention initially went after Salt Lake Comic Con following Salt Lake Comic Con's attempted promotional activities during San Diego Comic Con in 2014, including a Salt Lake Comic Con-branded vehicle driven throughout downtown San Diego. Now that San Diego Comic Convention has achieved this verdict, they will likely demand these other events change their names, and cease use of the "Comic-Con" mark.

The TMCA will continue to update you with the latest developments in the case and the ongoing effort to protect the "Comic-Con" mark.