

Warner Bros. Wins Copyright Ruling Against Sports Charity

By **Andrew Karpan**

Law360 (June 15, 2022, 5:18 PM EDT) -- A federal judge in California has permanently blocked a fitness-oriented charity group in suburban Connecticut from naming its "running clubs" after unlicensed references to the "Harry Potter" franchise and the TV show "Gilmore Girls."

A federal judge in California has permanently blocked a fitness-oriented charity group from using copyright-protected imagery that includes a wide swath of "Harry Potter" and "Gilmore Girls" paraphernalia, like references to the fictional Hogwarts and Luke's Diner. (Court Documents)

The order filed on Tuesday came after the end of a two-year lawsuit filed by lawyers for Warner Bros. against a charity named Random Tuesday that's based in the town of Guilford. The movie studio accused the group of "free-riding" on the popularity of its intellectual property by giving fitness groups that Random Tuesday runs names like the "Hogwarts Running Club" and "Chilton Running Club."

Hogwarts is the school at the center of the "Harry Potter" franchise, while Chilton is the school in the WB Network's hit show "Gilmore Girls."

Random Tuesday and its owners are now "permanently enjoined and restrained from directly or indirectly infringing in any manner the Harry Potter marks and copyrights and/or the Gilmore Girls marks and copyright," according to the ruling from Central District of California Judge Stanley Blumenfeld Jr.

The order covers a wide swath of "Harry Potter" and "Gilmore Girls" paraphernalia, including various crests belonging to the different houses of Hogwarts, the logo for that world's Ministry of Magic, the fictional Chilton Academy and the logo for a nearby fictional restaurant in "Gilmore Girls" called Luke's Diner.

Back in April, Judge Blumenfeld put forward a tentative ruling that indicated he would eventually find substantial similarities between the copyrighted images and the renderings that Random Tuesday puts on T-shirts and medals that the group hands out.

Lawyers for Random Tuesday then told the judge that the parties had settled the suit. Brian Biggs, the company's founder, said through one of his lawyers on Wednesday that "the litigation has been settled to the satisfaction of the parties."

The initial lawsuit from Warner Bros. had cited federal counterfeiting laws and requested "statutory

damages of up to \$2 million per counterfeit mark per type of goods or services sold."

When they were fighting these allegations, lawyers for Random Tuesday put forward the argument that the group was merely "inspiring other fans" to donate to charity via running events.

According to its website, Random Tuesday organizes what it calls "fanthropy" running events designed to unite fans of particular franchises and raise money for charity. The "virtual runs" can be done individually anywhere in the country.

Judge Blumenfeld, however, wrote that "the new works — medals for Harry Potter-themed virtual races, a post on a Facebook page, and Gilmore Girls-branded merchandise — lack the benchmarks of transformative use."

Where transformative use begins and ends remains a contentious issue in copyright law. On June 10, lawyers representing the Andy Warhol Foundation told the U.S. Supreme Court that an appeals court in New York had an overly "cramped" view of whether Warhol's silkscreens technique transformed the underlying photographs.

Representatives for Warner Bros. did not return a request for comment.

Random Tuesday, Brian Biggs and Dawn Biggs are represented by Heidi H. Tandy of Berger Singerman and Elizabeth L. Rosenblatt, Amy T. Brantly and Kara D. McDonald of Kesselman Brantly Stockinger LLP.

Warner Bros. is represented by Andrew J. Thomas, Elizabeth H. Baldrige, Anna K. Lyons, Gianni P. Servodidio and Remi J.D. Jaffre of Jenner & Block LLP.

The case is Warner Bros. Entertainment Inc. v. Random Tuesday Inc. et al., case number 2:20-cv-02416, in the U.S. District Court for the Central District of California.

--Additional reporting by Gina Kim.