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### Brother of Jimi Hendrix can sell 'Purple Haze Liqueur,' but without 'Jimi' name or signature

By Cheryl Beise, J.D.

Two licensing companies that own trademarks incorporating the name, image, and signature of iconic rock guitarist Jimi Hendrix have been granted a partial preliminary injunction in their infringement lawsuit against Jimi's brother Leon Hendrix and others involved in the production, sale, and marketing of a product called "Purple Haze Liqueur." The federal district court in Savannah, Georgia, found that certain uses of the name "Jimi" and an image of Jimi's signature by the defendants were likely to cause confusion with the plaintiffs' trademarks. (*Experience Hendrix, LLC v. Tiger Paw Distributors, LLC*, June 22, 2016, Hall, R.).

The plaintiffs—Experience Hendrix L.L.C. and Authentic Hendrix, LLC ("the Hendrix companies")—were established in 1995 by Jimi Hendrix's father and sole heir. Jimi's step-sister Janie Hendrix is the current president and chief executive officer of the Hendrix companies. The Hendrix companies own several registered trademarks that include the name HENDRIX, JIMI HENDRIX, a drawing of a bust of Jimi Hendrix, and a drawing of Jimi Hendrix's signature.

In 2015, defendants Leon Hendrix, Joe Wallace and his company, Tiger Paws Distributors LLC, and Savannah Distributing Co., Inc. began producing a product called "Purple Haze Liqueur." The bottle featured the initials "PH" (arguably "JH") in stylized form above a silhouette drawing depicting Jimi Hendrix, and the words "Purple Haze Liqueur" under the image. The USPTO denied trademark applications submitted by Wallace for "JH PURPLE HAZE LIQUER" and "PURPLE HAZE LIQUER" for "distilled spirits, spirits, spirits and liquers" on the ground of likelihood of confusion with the plaintiffs' marks.

The Hendrix companies filed [suit](#), asserting several causes of action under federal and Georgia law, including trademark infringement, unfair competition, and dilution by blurring and tarnishment. Before the court was the plaintiffs' motion for a preliminary injunction based on their trademark infringement and dilution claims.

**Trademark infringement.** After conducting a likelihood of confusion analysis of the seven factors used in the Eleventh Circuit, the court found that the Hendrix companies demonstrated a substantial likelihood of confusion between their registered trademarks and (1) the word "jimi" used in the

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names of Tiger Paw's website and online platforms and (2) the Jimi Hendrix signature displayed on Tiger Paw's website. While there was no evidence of actual confusion with respect to these marks, the strength of the plaintiffs' marks, the similarity between the parties' marks, and the defendant Tiger Paw's intent as to its use of a signature mark were, on balance, enough for the court to find a likelihood of confusion.

The court also concluded that the words "Purple Haze Liqueur," and the stylized "PH," and the silhouette image used on the product label were not similar to any of the plaintiffs' registered trademarks and consequently, were not likely to cause consumer confusion. While the defendants' image and the registered Jimi bust both featured a silhouette image of a male, presumably African American, with an afro haircut wearing a collared jacket, the similarities ended there, the court observed. The male depicted in the plaintiffs' trademark was clean shaven and facing forward, whereas the male in the defendants' image had a mustache and sideburns and was looking to his right as the stylized "PH" flowed up from his head and flames emerged from his back.

**Trademark dilution.** The court ruled that the Hendrix companies were not likely to succeed on their trademark dilution claims under federal or state law because they failed to show that their marks were famous enough for dilution protection. While Jimi Hendrix and his music are famous, that did not mean that the asserted marks were "widely recognized by the general consuming public of the United States," the court said.

**Injunction.** The court granted the plaintiffs' motion for a preliminary injunction in part. Defendants Tiger Paw, Wallace, and Hendrix were enjoined: (1) from using the word "jimi" in the names of their websites, social media profiles, or other online platforms; (2) from manufacturing, distributing, selling, or promoting any bottle of Purple Haze Liqueur that has the web address [www.jimipurplehaze.com](http://www.jimipurplehaze.com) printed on it; and (3) from displaying the Jimi Hendrix signature on any of their labeling or marketing materials. The court explained that this limited injunction would rectify irreparable harm to the plaintiffs from infringing use of their marks, would not cause harm to the defendants, and would serve the public interest.

The case is [No. 4:16-cv-00107-JRH-GRS](#).

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Companies: Experience Hendrix, LLC; Authentic Hendrix, LLC; Tiger Paw Distributors, LLC; Savannah Distributing Co.; Santa Paula Distributors, Inc.

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