

W.B. Mason wins federal lawsuit against Dairy Queen, can continue using BLIZZARD name

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Boston, MA. In a decision that marks a complete win for W.B. Mason Co., a federal judge sided with the business products company and found it had not violated American Dairy Queen's (ADQ) trademark rights, or otherwise harmed ADQ, by using the BLIZZARD name on its private-label spring water.

In an order released for publication on June 17, 2022, Judge Susan Richard Nelson of the U.S. District Court for the District of Minnesota ruled that American Dairy Queen Corp. "failed to prove, by a preponderance of the evidence, all of the elements of its claims for trademark infringement, trademark dilution, and unfair competition by false designation of origin, as well as common law unfair competition and deceptive trade practices claims under Minnesota law."

ADQ sued W.B. Mason in 2018 over the use of the BLIZZARD name, which ADQ uses for a line of frozen treats, alleging that W.B. Mason intentionally or recklessly copied ADQ's BLIZZARD brand to benefit W.B. Mason's private-label spring water product. ADQ further alleged that W.B. Mason's use of BLIZZARD on spring water was likely to cause marketplace confusion and dilute ADQ's brand. Judge Nelson's decision comes after a fall 2021 trial, which was conducted in St. Paul, Minnesota, under strict Covid-19 protocols. In a comprehensive 220-page decision, the court disagreed with ADQ and found in favor of W.B. Mason on all five counts asserted in ADQ's complaint.

During the trial, the court also dismissed ADQ's demand for a \$25 million monetary award, finding that the evidence ADQ presented at trial failed to support any such relief and that

there was no evidence suggesting W.B. Mason sought to derive any benefit from the fact that ADQ also used BLIZZARD as a trademark.

“This is a supremely satisfying and hard-fought win for W.B. Mason, and it’s a credit to the fortitude our client displayed throughout this lengthy process,” said **Jason Kravitz**, a Nixon Peabody Intellectual Property partner who led the trial team. “W.B. Mason has been using BLIZZARD for more than 10 years in connection with its private-label spring water—yet ADQ couldn’t find a single person who had ever been confused. We believed ADQ’s case was extraordinarily weak, so it’s gratifying to know that W.B. Mason can keep using BLIZZARD.”

“I’m very pleased with the court’s decision because it confirms that we did nothing that harmed American Dairy Queen or its brand in any way,” said Leo Meehan, W.B. Mason’s President and CEO, who also testified at the trial.

In addition to Mr. Kravitz, the Nixon Peabody trial team consisted of **Gina McCreadie** and **Melanie Dempster**.