



Dilution

Trademark & Unfair Competition
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Dilution under §43(c)

- Dilution causes of action *don't require a likelihood of confusion* as trademark infringement does. Thus, it's a way to sue in situations where confusion isn't likely at all.
- The mark must be **famous** – generally, not in a niche market – to be entitled to dilution protection
- The mark must be distinctive, but need not be inherently distinctive
- Federal registration of plaintiff's mark is not required (although it's favorable as a factor)
- Only two kinds of dilution: blurring and tarnishment.
- Actual dilution is not required; a likelihood is enough.

