

Kelley Kronenberg Partner Wins Appeal in Cybersquatting Case

Case clarifies that an individual does not automatically have trademark rights over their own name.



Fort Lauderdale, FL — Kelley Kronenberg Partner [Tracy B. Newmark](#) led efforts to successfully defend a South Florida doctor from a former partner's allegations that he was liable for cybersquatting and other claims stemming from the registration of six internet domain names.

In a June 23 ruling that reinforced the significant threshold to prove an individual's name has a secondary meaning to the public, a three-judge appellate panel at the Eleventh Circuit overturned a federal district court ruling on Paul B. Tartell's claims against Lee M. Mandel. Tartell and Mandel jointly practiced at the South Florida Sinus and Allergy Center from 1998 to 2011. In September 2012, Tartell sued his former partner for registering domains that included various forms of his name.

Mandel acknowledged registering the domains and revoked them immediately after the lawsuit was filed. The district court judge ruled in Tartell's favor on several of the allegations, but he cleared Mandel of false advertising claims and only awarded Tartell the minimum of \$6,000 in statutory damages for each domain name. Tartell was not awarded any actual damages.

In the appellate court reversal, the panel concluded that Tartell did not provide sufficient evidence to prove his name had obtained enough of a secondary meaning to constitute a trademark during his time at South Florida Sinus and Allergy Center.

"The appellate court's ruling shows that a successful doctor, lawyer or other professional might be well-known in his or her community, but that in and of itself is not a trademark," Newmark said. "There needs to be much more proven for a name to have a secondary meaning."

Newmark, a Partner in Kelley Kronenberg's Fort Lauderdale office who concentrates her practice on matters involving family law and commercial litigation — especially business "separations"— served as Mandel's lead counsel in the district court case and co-counsel in the appeal.

Mark R. Caramanica and James J. McGuire of Thomas & LoCicero PL led the representation of Mandel in the appellate case.