



## Chicago-based THC-Infused Candy Manufacturer and Distributor Found to Infringe on Ferrara's Famous Trademarks and Trade Dress

February, 2022

Judge Thomas Durkin of the U.S. District Court for the Northern District of Illinois issued a judgment and permanent injunction on January 28, 2022, in favor of Ferrara Candy Co. against ReRoot LLC, Higharchy LLC, and Chris Accetta (“Defendants”) for trademark infringement, trade dress infringement, unfair competition, and unjust enrichment based on Defendants’ marketing and sale of THC-infused products bearing imitations of Ferrara’s NERDS marks. In the opinion, the Court found that: (1) Ferrara’s NERDS trademark and its NERDS character marks are famous among the general public of the United States; and (2) Defendants’ manufacture, marketing, sale, distribution, and advertising of THC-infused products bearing imitations of Ferrara’s NERDS marks (“Medicated Buds”), as shown below, constitutes trademark infringement, trade dress infringement, unfair competition, and unjust enrichment.



The Court issued a permanent injunction ordering Defendants to: (1) stop manufacturing, marketing, selling, advertising or distributing Medicated Buds; (2) destroy any remaining Medicated



Buds in its possession, including any packaging and marketing materials that include any of the NERDS marks; and (3) refrain from “engaging in any other conduct that tends to falsely represent . . . mislead, or deceive consumers into believing that Higharchy, ReRoot, Accetta or their products or services are sponsored, approved, or licensed by Ferrara, or are in some way connected or affiliated with Ferrara.”

The Court recognized that the sales of THC-infused products using a famous candy brand can confuse consumers, including children, into ingesting the THC-infused products and mistakenly believing that the owner of the famous brand is in some way associated with the sale of the infringing products.