

PATTISHALL

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[T]HE CASE PITS
THE LEGITIMATE
INTERESTS OF BRAND
OWNERS ... AGAINST
THE FUNDAMENTAL
PROTECTED FIRST
AMENDMENT INTERESTS
IN FREE SPEECH ...

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Patagonia v. Pattie Gonia: Performance, Products, Parody and Trademark Protection

By Brett Manchel



On January 21, 2026, Patagonia, the well-known outdoor apparel company, filed a civil action against Wyn Wiley, a drag queen and environmental activist who performs under the stage name Pattie Gonia. The complaint in the U.S. District Court for the Central District of California accuses Wylie (“Pattie Gonia”) of federal and state trademark infringement, trademark dilution, and unfair competition. The complaint alleges that Wiley not only performs in drag shows under the stage name Pattie Gonia, but also sells merchandise under that name, sometimes with a mountain peak design similar to Patagonia’s logo:



Prior to the lawsuit, on September 21, 2025, Pattie Gonia filed a federal trademark and service mark application to register PATTIE GONIA for a broad range of goods and services including clothing, stickers, entertainment, and education services.¹ Despite earlier negotiations to avoid litigation, Patagonia filed suit to protect its trademark rights after Pattie Gonia began commercializing PATTIE GONIA for these goods and services (which was allegedly in violation of a previous agreement between the parties).²

1. App. Ser. No. 99/404,728

2. Oregon drag queen Pattie Gonia fights Patagonia trademark lawsuit [Click Here for Article](#)

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The lawsuit made waves when the parties' settlement negotiations reached an impasse and Pattie Gonia turned to social media to comment on the litigation and urge Patagonia to drop the lawsuit. Patagonia publicly responded, and the dispute has generated intense commentary from all corners of the internet: First Amendment advocates, celebrities, the drag community, the LGBT community, the environmentalist community, lawyers, and virtually anybody with an interest in the case or the parties. And not to mention a great deal of misinformation about the trademark law issues at the heart of the case (which, it should be kept in mind, is at its earliest stage, with no decisions on anything, yet).

At its core, the case pits the legitimate interests of brand owners in enforcing their exclusive trademark rights to protect the invaluable goodwill they represent, against the fundamental protected First Amendment interests in free speech in all its varieties, including artistic and social expression.

This article considers Patagonia's trademark infringement claim, and Pattie Gonia's First Amendment defenses³

Patagonia's Case: The Trademark Infringement Factors

Since the case is in the Central District of California, the standard *Sleekcraft* factors for determining likelihood of confusion are applied.⁴

1. Strength of the Mark

The PATAGONIA trademark and Mountain logo are very strong, used since the late 1960's and 1973, respectively.⁵ Patagonia has made environmental causes central to its business model,⁶ and has annual revenues of over \$1 billion.⁷ This favors infringement.

2. Relatedness of the Goods/Services

The goods and services are identical in part – clothing and educational services – and different in part. This favors infringement in part.

3. Similarity of the Marks

The word marks and logos are very similar. This favors infringement.

4. Actual Confusion

No discovery has been taken yet in the case, and details are hard to judge until trial, but if evidence establishes actual confusion, this strongly favors infringement.

5. The Overlap of Marketing Channels

Both parties sell branded merchandise online, and Patagonia in physical stores, as well. Overall, this is not going to be a strong factor either way.

6. Consumer Sophistication

The general public encounters the parties' goods and services. Consumers are not highly discriminating or discerning, and the goods and services are not extremely expensive or highly specialized. This probably favors infringement.

7. Defendant's Intent

Intent is likely to be heavily disputed and a key issue in discovery. It seems hard to call the name and logo similarities a coincidence. This favors infringement, and more so if Patti Gonia decides to argue that PATTI GONIA is a parody of Patagonia (as many internet commentators are saying).

8. Likelihood of Expansion

This factor is probably neutral.

3. The other issues in the case, like dilution, could be the subject of their own articles. We have limited the subject matter here for space.

4. *AMF Inc. v. Sleekcraft Boats*, 599 F.2d 341, 348 (9th Cir. 1979).

5. Complaint, *Patagonia, Inc. v. Entrepreneur Enterprises, Inc. dba Patti Gonia Productions and Wyn Wiley*, 26-CV-0586 (Cent. Dist. CA) at ¶8.

6. Take Action with Patagonia [Click Here](#)

7. Patagonia report, a first, details company's efforts to save planet [Click Here for Article](#)

Pattie Gonia's Defense: The First Amendment and *Rogers* Test

To determine whether an artistic expression is protected under the First Amendment from a trademark challenge, Courts typically apply a threshold test from *Rogers v. Grimaldi*.⁸ Under the “*Rogers*” test, the title of a work of artistic expression is protected from a trademark challenge if it relates to the content of the work, and does not explicitly mislead people about who is behind it.

This case only partially deals with artistic expression, namely, Pattie Gonia's name and the performances and educational services offered under that name. But there is still the issue of the merchandise. If established, the *Rogers* “immunity” would likely apply to the performance and educational services more readily than to the PATTIE GONIA products.

What about Parody?

A lot of commentary has focused on parody. Parody is a particular, protected form of free speech, which *can* be a defense to trademark infringement. Whereas *Rogers* considered artistic expression (*e.g.*, a title) that did not serve a source identifying purpose, in *Jack Daniel's*, the US Supreme Court addressed parody in the context of commercial products and whether the alleged parodic

mark acts as a source identifier.⁹ The case confirmed that parody can be considered with, and impact, the *Sleekcraft* factors.¹⁰

There, the Court held that defendant's dog toy – resembling a Jack Daniel's bottle bearing the name BAD SPANIELS and “Old No. 2” (a reference to feces) instead of “Old No. 7” – was not protected

under *Rogers* because defendant used the BAD SPANIELS branding as its own trademark on its own commercial products. The case was remanded to the district court to apply the standard infringement factors, as above, taking this into account.

It has yet to be determined which, if any, uses of PATTIE GONIA meet the legal definition of parody. With the case still in its infancy, though, it is worthwhile to cut through the extensive social media commentary and focus on the key legal issues in this exciting context, and to see how discovery and, presumably, additionally appeals to the public via social media, play out. ■

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8. 875 F.2d 994 (2d Cir. 1989).

9. *Jack Daniel's Properties, Inc. v. VIP Products LLC*, 599 U.S. 140 (2023).

10. *Id.*

APPOINTMENTS

■ Thad Chaloehtiarana



Thad has been appointed the ABA Section of Intellectual Property Law's Delegate to the ABA House of Delegates.

■ Robert Sacoff



Bob has been appointed Vice Chair of AIPPI Study Question Q298, "Parody as a defense to trade mark infringement," at the 2026 AIPPI World IP Congress in Hamburg, Germany in October. This will entail pre-Congress

Committee discussions among representatives of 45 countries, preparing a Draft Resolution, and guiding the debate and voting on the final Resolution at the Congress.

*firm*NOTEWORTHY

RECOGNITIONS

Chambers USA - 2026

Pattishall McAuliffe's intellectual property practice has been recognized by *Chambers USA 2026* for Trademark, Copyright & Trade Secrets in Illinois, with **Thad Chaloehtiarana** and **David Hilliard** designated "Notable Practitioners." *Chambers USA* noted that the firm "brings a wealth of knowledge and experience to the areas of trademarks, copyright and unfair competition cases. The team is regularly engaged for trademark portfolio management needs, including registrations, clearance searches and the development of protection strategies." *Chambers USA* rankings also said of the Firm's practice: "Pattishall is distinguished by its efficiency, expertise, and responsiveness"; "The team at Pattishall takes a proactive approach to our matters demonstrating its knowledge of our business."

Pattishall McAuliffe

Thad Chaloehtiarana, **Jonathan Jennings** and **Janet Marvel** were recognized as WTR Global Leaders.

Public Interest Law Initiative (PILI)

Pattishall McAuliffe was a proud sponsor of PILI's 2026 Annual Pro Bono Reception on June 24, 2026 at Tree Studios in Chicago.

