

Reebok Customers Denied Quick Win In NFL Apparel Fight

By **Y. Peter Kang**

Law360, Los Angeles (May 14, 2015, 4:38 PM ET) -- A California federal judge on Wednesday refused to find the NFL and Adidas AG unit Reebok International Ltd. liable in a putative class action brought by apparel customers who claimed Reebok's exclusive NFL licensing deal violated antitrust laws, ruling that the plaintiff's motion was procedurally improper.

U.S. District Judge Edward J. Davila denied the plaintiff's motion for partial summary judgment on liability, saying the bid was procedurally unacceptable before class certification under the "one-way intervention" rule, which aims to prevent members of an uncertified class from cherry-picking favorable decisions.

"The court has not yet ruled whether to certify plaintiff's proposed class ... therefore, plaintiff's motion for partial summary judgment, if unsuccessful, would not prevent putative class members from filing their own suits with hope for a more favorable ruling," the judge wrote in the seven-page order. "This is the very 'one-way intervention' problem warned of in the cases cited supra. Accordingly, the one-way intervention rule applies and plaintiff's motion must be denied."

Judge Davila also shot down plaintiff's arguments that the NFL and Reebok had waived their rights under the doctrine by moving twice to dispose of the case, once through a motion to dismiss and once through a motion for judgment on the pleadings.

"Here, at the partial summary judgment stage, the one-way intervention rule is clearly applicable," the judge wrote.

Wednesday's order is the latest in a case brought in October 2012 by Patrick Dang, a buyer of NFL-branded apparel who had alleged that a 2000 licensing deal that gave Reebok sole permission to sell apparel bearing the logos of NFL teams drove up prices and caused him to pay an "anti-competitive overcharge" for the merchandise.

Dang dropped out of the case last year, citing health issues; plaintiff Michael Villa now serves as the class representative.

Villa filed for class certification in September and a hearing on the motion was held in April.

Representatives for the parties did not immediately respond to requests for comment Thursday.

Villa is represented by Roy A. Katriel of The Katriel Law Firm and Ralph B. Kalfayan of Krause Kalfayan Benink & Slavens LLP.

The NFL is represented by John S. Playforth, Gregg H. Levy, Derek Ludwin and Sonya D. Winner of Covington & Burling LLP. Reebok is represented by Joshua N. Holian and Michael J. Nelson of Latham & Watkins LLP and Timothy B. Hardwicke and Katherine S. Walton of GoodSmith Gregg & Unruh LLP.

The case is Dang v. San Francisco Forty Niners Ltd. et al., case number 5:12-cv-05481, in the U.S. District Court for the Northern District of California.

--Additional reporting by Beth Winegarner, Aaron Vehling and Jonathan Randles. Editing by Chris Yates.

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