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Awarding A Plaintiff A Defendant's Profits In Trademark Infringement Actions: Why Courts Should Universally Apply The Bright-Line Rule Requiring Willful Infringement

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This note seeks to analyze the issue of whether, under Section 35(a) of the Lanham Act, willful infringement should be a prerequisite for an award of an infringer's profits for a violation of Section 43 of the Lanham Act, 15 USC § 1125. This note argues in favor of the bright-line rule requiring that a plaintiff prove willful infringement as a prerequisite for a court to grant the remedy of infringer's profits in instances of trademark infringement arguing a likelihood of confusion. In doing so, this note will consider the legislative intent behind the Act, analysis of relevant precedential case law, and the effective outcome of such a decision. For the purposes of this note, ?trademark infringement? is synonymous with a likelihood of confusion action.

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