

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

48 Rutgers L. Rec. 25 (2020) | [WestLaw](#) | [LexisNexis](#) | [PDF](#)

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.

[View the entire article -->](#)