

File Name: 05a0482p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

MOUNTAIN TOP BEVERAGE GROUP, INC.,
Plaintiff-Appellant,

v.

WILDLIFE BREWING N.B., INC.; JAMES SORENSON,
Defendants-Appellees.

No. 04-4075

Appeal from the United States District Court
for the Southern District of Ohio at Cincinnati.
No. 01-00832—Susan J. Dlott, District Judge.

Argued and Submitted: December 7, 2005

Decided and Filed: December 22, 2005

Before: MOORE, ROGERS, and McKEAGUE, Circuit Judges.

COUNSEL

ARGUED: David L. Petitjean, CHAPPANO WOOD, Columbus, Ohio, for Appellees. **ON BRIEF:** Thomas P. Whelley II, Rachael L. Rodman, CHERNESKY, HEYMAN & KRESS, Dayton, Ohio, for Appellant. David L. Petitjean, CHAPPANO WOOD, Columbus, Ohio, for Appellees.

OPINION

ROGERS, Circuit Judge. Plaintiff Mountain Top Beverage Group appeals the district court's grant of summary judgment in favor of Wildlife Brewing and James Sorenson on Mountain Top's trademark infringement claims under the Lanham Act, 15 U.S.C. §§ 1114, 1125(a), and related state law claims, and the district court's cancellation of Mountain Top's "Wildcat" trademarks. After reviewing the record, the parties' briefs, and the applicable law, this court affirms the district court's decision for the reasons stated in Judge Dlott's order below. *See Mountain Top Beverage Group, Inc. v. Wildlife Brewing N.B., Inc. et al.*, 338 F. Supp. 2d 827 (S.D. Ohio 2003).¹ The district court properly granted summary judgment in favor of Wildlife and Sorenson and cancelled Mountain Top's trademark. The judgment of the district court is therefore AFFIRMED.

¹We do not reach the issues resolved in part III.C of the district court's order, *Mountain Top*, 338 F. Supp. 2d at 836-37, as there was no cross-appeal raising those issues.