

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 12-12829  
Non-Argument Calendar

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D. C. Docket No. 1:11-cv-00473-WSD

UNIQUE SPORTS PRODUCTS, INC.,

Plaintiff-Appellant,

versus

FERRARI IMPORTING COMPANY,  
d.b.a. Gamma Sports,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Georgia

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(January 30, 2013)

Before TJOFLAT, MARCUS and KRAVITCH, Circuit Judges.

PER CURIAM:

Unique Sports Products, Inc. appeals the judgment the District Court entered in accordance with its May 15, 2012 order granting Ferrari Importing Company's, d/b/a Gamma Sports, motion to dismiss for failure to state a claim for relief.

The District Court dismissed with prejudice Unique's claim that Gamma's use of its String Survey rankings constituted false and misleading representations of fact in its commercial advertising and promotions in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and dismissed without prejudice Unique's claim under Georgia's Uniform Deceptive Trade Practices Act.

The District Court dismissed Unique's Lanham Act claim on the basis of our decision in Phoenix of Broward, Inc. v. McDonald's Corp., 489 F.3d 1156 (11<sup>th</sup> Cir. 2007), concluding that McDonald's controlled its disposition of that claim. We agree and therefore affirm the District Court's judgment.

AFFIRMED.