

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CIVIL ACTION NO. 3:10-CV-259-H

BUFFALO WILD WINGS, INC.

PLAINTIFF

V.

SCHANEN INVESTMENTS, LLC, and  
WRIGHT WING INVESTMENTS, LLC

DEFENDANTS

**MEMORANDUM OPINION AND ORDER**

Defendants in this trademark infringement action are franchisees of the defendant in a similar action filed in the United States District Court for the District of Minnesota. Defendants here have moved to stay these proceedings pursuant to the “first-to-file” doctrine. The Court exercises its sound discretion in determining whether the doctrine applies here and, if so, whether equity requires its use. For the reasons stated briefly below, the Court will not apply the doctrine here.

First, in these circumstances, it cannot be said that the two actions involve identical parties. In fact, the parties are different. The Minnesota defendant is Buffalo Wings & Rings (“BWR”), which is a franchiser of sports-theme restaurants. Defendants here are two of its franchisees. The ownerships do not overlap. In summary, the actions involve different Defendants. The “first-to-file” doctrine does not apply.

Moreover, even if these ownership’s interests did overlap, not all of their legal interests do. Plaintiff says that Defendant in the Minnesota action has asserted defenses separate from

those of its franchisees. Plaintiff also says that the Defendants here have engaged in different conduct than BWR. Plaintiff also says that BWR may not be responsible for all of the conduct of its franchisees. Moreover, the separate Kentucky forum may be the only appropriate jurisdiction to pursue Plaintiff's claims against the franchisees. Under these circumstances, it would be unfair to stay and delay Plaintiff's separate proceedings against the franchisees.

For all these reasons and being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Defendants' motions to stay are DENIED.

cc: Counsel of Record