

**United States District Court**  
**Northern District of Illinois**  
**Eastern Division**

Clemens Franek

**JUDGMENT IN A CIVIL CASE**

v.

Case Number: 08 C 58

Walmart Stores, Inc., et al

- Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that pursuant to Memorandum Opinion and Order dated 3/13/09, Plaintiff, Clemens Franek's motion for partial summary judgment [41] is granted as to Count II of its Complaint for Declaratory Judgment and Other Relief and Franek's U.S. Trademark Registration No. 1,502,261 is invalid as functional. Plaintiff's motion for summary judgment [41] is also granted as to Counts I through IV of Clemens Franek's Counterclaims against Jay Franco & Sons.

Pursuant to Minute Order dated 3/30/09, the Court clarifies that (i) the March 13, 2009 memorandum opinion and order is final and appealable, (ii) Counts I, III, IV, and V of Franco's complaint are dismissed without prejudice as moot, and (iii) Counts I, II, and III of Franek's complaint against Walmart and Target likewise are dismissed without prejudice as moot.

Michael W. Dobbins, Clerk of Court

Date: 3/31/2009

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/s/ Theresa B. Kinney, Deputy Clerk