

CASE STUDY

Quickly Clearing a Disputed Trademark

“With limited time to prepare and in the context of an aggressive adversary, Pillsbury was able to achieve an excellent result for Clearwire at the preliminary injunction phase of the litigation.”

—Chuck Lobsenz, Senior Corporate Counsel/Director of Intellectual Property, Clearwire

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Client:	Clearwire
Industry:	Wireless broadband
Area of Law:	Trademark infringement
Venue:	U.S. District Court for the Eastern District of Virginia
Result:	Clearwire defeated Sony Ericsson’s request for a preliminary injunction

After spending tens of millions of dollars to promote its CLEAR C trademark, Pillsbury client Clearwire was sued by Sony Ericsson in the U.S. District Court for the Eastern District of Virginia. Sony Ericsson claimed the logo for the CLEAR broadband product was confusingly similar to Sony Ericsson’s own logo, and immediately moved for a preliminary injunction prohibiting its use anywhere in America. Compliance would have cost Clearwire more than \$8 million.

The Pillsbury team had just 11 days to get up to speed on the case and file opposition papers.

The court recognized some similarity between the marks, but rejected the speculative nature of Sony Ericsson’s argument in favor of Clearwire’s argument that the best proof of whether the marks were indeed confusingly similar was the real-world marketplace. Clearwire successfully argued that the lack of any real-world confusion was determinative of whether there existed a likelihood of confusion between the two marks. The court also accepted Clearwire’s argument that its harm in being enjoined was greater than any demonstrable harm to Sony Ericsson from Clearwire’s use of its mark.

The court denied Sony Ericsson’s request in its totality, freeing Clearwire to use its CLEAR C mark on any and all products anywhere in America.

