

Starbucks Corp. v. Wolfe's Borough



YOU WANTED IT DARK ...
YOU'VE GOT IT DARK!

Starbucks Corp. v. Wolfe's Borough

- Likelihood of Confusion?
- Famous?



Dilution -- Famous

“(c) . . . (2) Definitions (A) . . . a mark is famous if it is widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark’s owner. In determining whether a mark possesses the requisite degree of recognition, the court may consider all relevant factors. . . . :

(i) The duration, extent, and geographic reach of advertising and publicity of the mark

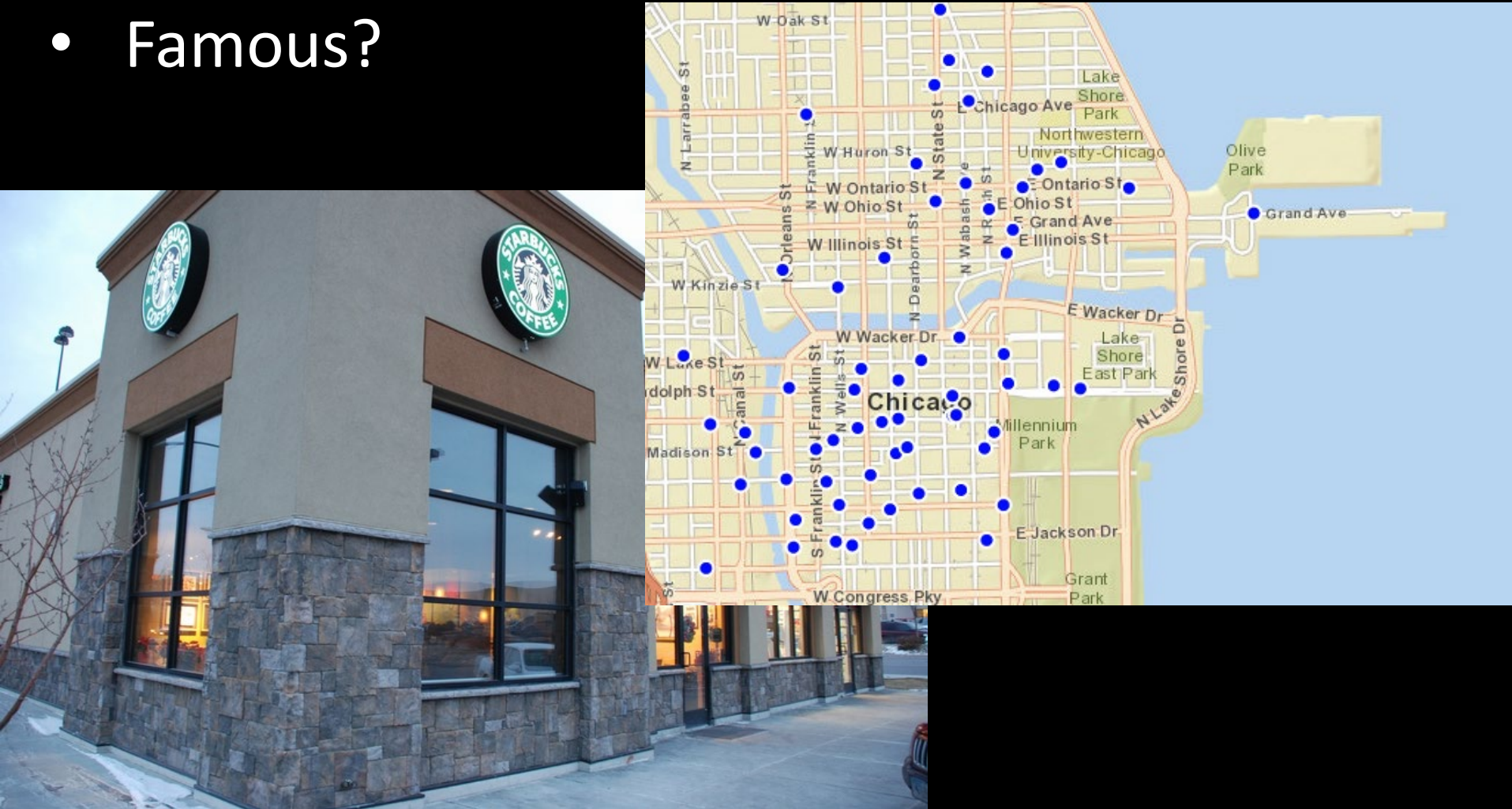
(ii) The amount, volume, and geographic extent of sales of goods or services offered under the mark.

(iii) The extent of actual recognition of the mark.

(iv) Whether the mark was registered” Lanham Act §

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- Likelihood of Confusion?
- Famous?
- Blurring?

Dilution--Blurring

“(c) . . . (2) (B) . . . “dilution by blurring” is association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, including the following:

- (i) The degree of similarity
- (ii) The degree of inherent or acquired distinctiveness
- (iii) The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark.
- (iv) The degree of recognition of the famous mark.
- (v) [Intent]
- (vi) Any actual association” Lanham Act § 43

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- Likelihood of Confusion?
- Famous?
- Blurring?
- Tarnishment?

Dilution -- Tarnishment

“(c) . . . (2) (C) For purposes of paragraph (1), “dilution by tarnishment” is association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.” Lanham Act § 43

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- Likelihood of Confusion?
- Famous?
- Blurring?
- Tarnishment?
- Exclusions?