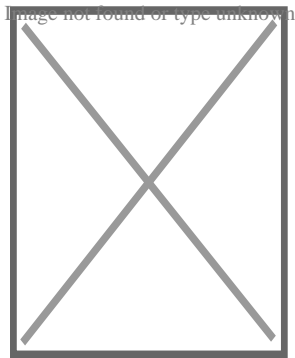


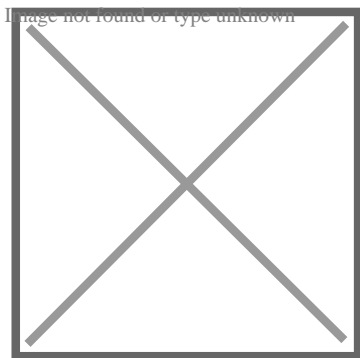
Hey Rob Gronkowski, Don't Let Nike Push You Around!

Dear Rob Gronkowski,

All the news outlets are reporting that Nike doesn't like your new logo, a silhouette of you spiking a football, because they think it is too confusing to their Michael Jordan basketball silhouette logo, which they call the "Jumpman" logo. They have even gone as far as opposing your application to register your logo with the U.S. Patent and Trademark Office.



Gronk Logo



Nike "Jumpman" Logo (Source: USPTO)

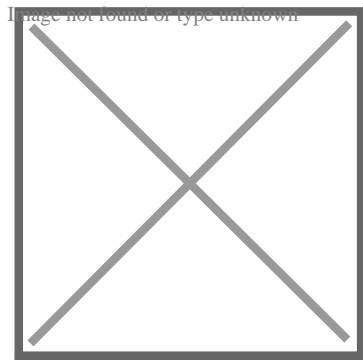
Here is some unsolicited advice from the best trademark attorney you have never met.

Unless Nike makes you an offer you can't refuse, you should just stand up to them and let them try and prove their case. Your own trademark attorneys have told you that, in order to succeed, Nike has the burden to prove that there is a likelihood of confusion between the two logos. They have also told you that the only downside here, if Nike does somehow win, is that you will need to change the logo to make it less confusing. No money changes hands (except to the lawyers) and no one goes to jail. All the Patent and Trademark Office can do is turn down your application to register the logo. So all the pressure is on Nike.

Now, in order to prove its case, Nike has to demonstrate that there is a likelihood of confusion between the two marks. Normally, they would spend tens of thousands of dollars on a survey to show that the two logos confuse consumers. But how are they going to do that in this case? Is Nike going to claim that any silhouette of a sports activity with an extended arm is "too confusing" to their Jumpman logo?

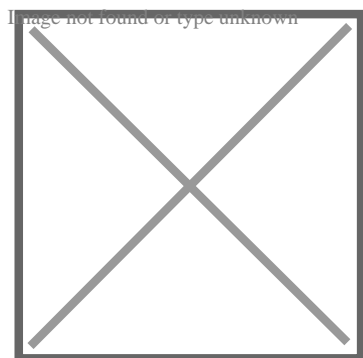
What about the hockey silhouette magnets on 90% of the cars in New England, New York, Michigan,

Minnesota and the Dakotas?



Credit: www.Sportsilhouettes.com

Or a silhouette of someone playing cornhole?



Credit: Cornhole-Express.com

Where does Nike draw the line?

And that's one of your best arguments. So far, the opposition papers they have filed just say that there is a "likelihood of confusion." Nike has not identified how the two marks are confusing. Once they start drawing the line, you can point out differences between the marks, and the fact that no one is going to be confused into buying your shoes or clothes because they think the logo is really Nike's. You can also point out that your logo is so identified with you and the "Gronk spike" that no reasonable consumer could possibly be confused.

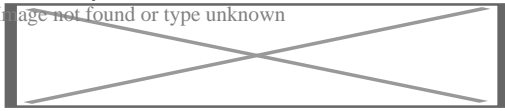
Understand that Nike is just doing what any other trademark owner would do to protect its brand. Is Nike really worried about the confusion? Probably not. Nike's trademark lawyers are just worried that, if they don't oppose you, someone else will come along and get a little closer the next time. Nike's accounting folks probably are more worried that they will be spending money on legal fees. The way Nike's margins have been shrinking lately, they need to save every dollar possible.

So stand your ground, unless they make it worth your while. In this case, the best offense is a good defense. In order to win, Nike is the one that has to prove its case. The odds are in your favor. Just run out the clock and keep them from scoring.

Best wishes for another successful season, and many more!

Sincerely,

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John Ottaviani

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