

# 'Demon Hunter' IP Suit Highlights Reverse Confusion Perils

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On Aug. 18, Hyde Lane Inc. filed Hyde Lane v. Netflix Inc. in the U.S. District Court for the Central District of California. Hyde Lane is the Washington-based corporate home of Demon Hunter, a Christian metal band with more than 25 years of use under its name.

The complaint alleges trademark infringement under Title 15 of the U.S. Code, Section 1114; false designation of origin under Section 1125(a); and California statutory and common-law claims. It pleads both forward confusion (consumers mistaking Netflix's offerings for Hyde Lane's) and reverse confusion (consumers believing Demon Hunter is connected to or copying Netflix's larger brand).

Demon Hunter, however, is not a marginal claimant. The complaint alleges 363,000 Spotify followers, 348,000 monthly listeners, more than 100 million cumulative streams on its top tracks and Billboard milestones, including No. 1 on the independent and Christian albums charts. Hyde Lane owns registered marks.

Netflix's "KPop Demon Hunters" became the most-watched Netflix animated original film of all time, with 325.1 million views. Its soundtrack reached 10 billion global streams, became the first soundtrack with four simultaneous Top 10 songs on the Billboard Hot 100, won a Golden Globe and an Oscar, and received five Grammy nominations. Netflix also announced a 150-city global concert tour with AEG Presents.

Those numbers explain why the dispute matters beyond two names. A band can spend decades building a source identifier, yet a junior entertainment brand with overwhelming reach can redefine what consumers see when they encounter that identifier.

In music, the same word appears across recordings, playlists, tickets, merchandise, social posts and search results. Reverse confusion therefore threatens not only lost sales but also control over the band's identity, reputation and ability to reach its own audience. The Demon Hunter complaint makes that existential risk concrete, and provides a useful vehicle for examining the doctrine and its practical implications.

## Reverse Confusion as an Existential Threat

In ordinary forward confusion, consumers see the junior user's mark and mistakenly think it comes from or is sponsored by the senior user. Reverse confusion reverses that perception. A larger junior user overwhelms a smaller senior user's brand identity, so consumers dealing with the senior user think they are dealing with the junior one, or think the senior is the imitator.

The harm is not that the junior user is palming off as the senior. It is that the junior user's reach can eclipse the senior user's source significance and deprive it of control over goodwill it built first. That is the theory Hyde Lane says applies to Netflix.

The U.S. Court of Appeals for the Ninth Circuit analyzes both theories under eight Sleekcraft factors, established in its 1979 decision in *AMF Inc. v. Sleekcraft Boats*: strength, relatedness, similarity, actual confusion, marketing channels, purchaser care, intent and likelihood of expansion.

The factors are applied flexibly, and their meaning changes in reverse confusion. Courts ask whether the junior user's commercial power, similarity and market overlap are likely to swamp the senior mark, with the totality of the circumstances controlling.

The Ninth Circuit's 1998 decision in *Dreamwerks Production Group v. SKG Studio* recognized this as actionable, and later decisions clarified how the familiar framework operates when the smaller, older user is the one at risk.

The strength factor operates differently in reverse confusion. In a standard forward confusion claim, a strong senior mark weighs in the plaintiff's favor. Reverse confusion inverts this inquiry. There, the relevant question is whether the junior user's mark is commercially powerful enough to overwhelm the senior one.

The Ninth Circuit addressed this directly in *Ironhawk Technologies v. Dropbox* in 2021, drawing on its earlier analysis in *Cohn v. PetSmart* in 2002, and confirmed that a plaintiff with a commercially weak mark can still prevail, particularly when facing a significantly stronger junior mark. A weak senior mark does not defeat the claim. Instead, it identifies the precise vulnerability that the reverse confusion doctrine exists to remedy.

The intent factor shifts as well. Under the Ninth Circuit's 2017 decision in *Marketquest Group v. BIC Corp.*, intent in a reverse confusion case is not principally about an effort to palm off the junior user's goods as the senior user's. It asks whether the junior user knew, or should have known, of the senior mark and culpably disregarded the risk of reverse confusion. Evidence can include copying, knowledge of the mark, a failure to conduct an adequate search or a deliberate decision to flood the market. No intent to confuse is required, but careless disregard can matter.

The complaint puts those principles directly at issue. It alleges Netflix filed 10 applications for *KPop Demon Hunters* but omitted audio recordings featuring music and clothing from the identifications of goods and services, even though those goods were central to the film's commercial rollout.

Hyde Lane alleges the omissions were strategic, designed to avoid a U.S. Patent and Trademark Office citation of its existing *Demon Hunter* registrations. If discovery supports that account, the filing strategy would be evidence not merely of a missed search, but of knowledge followed by a deliberate effort to avoid scrutiny, the type of culpable disregard contemplated by *Marketquest*.

The complaint also points to the USPTO's treatment of "KPop." The agency required Netflix to disclaim "KPop" as merely descriptive, leaving "Demon Hunters" as the protectable core of the composite mark for registration purposes. That does not decide likelihood of confusion, but it sharpens the comparison: The dominant shared wording is not a generic reference to a music genre. It is the part of Netflix's mark that overlaps most directly with Demon Hunter's established identity. The allegations, of course, remain allegations until tested in the case.

Actual-confusion allegations make the reverse theory especially concrete. As alleged, a parent spent nearly \$500 on Demon Hunter concert tickets, believing they were tickets to a KPop Demon Hunters show suitable for her young children.

According to the complaint, an "Inside Edition" producer contacted Demon Hunter's manager seeking an interview with KPop Demon Hunters' Oscar-winning songwriter. Social media posts incorrectly used #demonhunter for KPop Demon Hunters content. And Ticketmaster and Google searches for Demon Hunter were allegedly overwhelmed or mixed with KPop Demon Hunters listings. These examples point in the critical direction of people encountering the senior user's name and being pulled toward the junior user's brand.

Reverse confusion doctrine traces to the U.S. Court of Appeals for the Tenth Circuit's 1977 decision in *Big O Tire Dealers v. Goodyear Tire & Rubber* and has been recognized by other circuits.

The circuits differ on whether they formally rework the factors and how they frame intent, but no federal circuit has categorically rejected reverse confusion involving source or sponsorship. That breadth matters to practitioners. A smaller band's claim is not asking a court to invent a new form of trademark injury. It is asking the court to apply familiar likelihood-of-confusion principles to a modern power imbalance.

## **Practical Takeaways**

The first takeaway follows from the complaint's strongest facts around clearance and ownership work. Demon Hunter did the core things practitioners should urge early. It searched the marketplace, obtained federal registrations and placed the marks in a corporate entity, Hyde Lane Inc.

Those steps do not make a band immune from a dispute with a much larger company, but they provide standing, presumptive validity, nationwide rights and the legal infrastructure needed to respond. A band without registrations facing the same market takeover would have a materially weaker position, and might first have to prove the scope and geography of its common-law rights.

Federal registration is therefore not optional for a serious working band. It supplies nationwide constructive notice, which bears directly on whether a later user can claim ignorance and on a willfulness or culpable-disregard record. Registration also supports claims for enhanced damages and, in exceptional cases, attorney fees under Title 15 of the U.S. Code, Section 1117(a).

After five years of continuous use, incontestability under Title 15 of the U.S. Code, Section 1065, as confirmed by the U.S. Supreme Court's 1985 decision in *Park 'N Fly Inc. v. Dollar Park & Fly Inc.*, narrows the validity defenses available to an accused infringer. Registration does not guarantee victory, but it changes the leverage and proof available when the fight begins.

Corporate ownership is the second part of that infrastructure. Hyde Lane's structure places the band's marks in one owner that can license, police, renew and litigate them. Without that structure, individual members may face standing, chain-of-title and control questions before a court reaches infringement.

The complaint also highlights the need to register across relevant classes and maintain each registration: Demon Hunter's Class 41 registration for live performances was inadvertently canceled after a missed USPTO Section 8/9 deadline, forcing Hyde Lane to refile. The ownership agreement should state who owns the name, who controls quality and licensing, what happens when a member leaves, and how the mark survives a breakup or death.

Streaming and touring make trademark issues global from Day 1. Bands with international ambitions should use the Madrid Protocol where appropriate, anchored by a U.S. application or registration, and should file early in priority-driven jurisdictions rather than waiting for a tour or breakout release. The practical rule is simple: Clear and protect the name in the markets where fans, distributors and live events will appear.

Ownership disputes show why the paperwork matters. The U.S. Court of Appeals for the Eleventh Circuit's 2018 decision in *Commodores Entertainment Corp. v. McClary* treated continuous commercial use by the band's remaining members and corporate entity as decisive against a departing original member, while the U.S. District Court for the Southern District of New York's 1983 decision in *Kingsmen v. K-Tel International* examined founding, use, quality control and agreements to determine superior rights. A band partnership or limited liability company agreement should resolve those questions before the name becomes valuable.

## Next Steps

Hyde Lane's lawsuit remains at an early stage. The court has not decided whether Netflix's conduct infringes, whether the marks are likely to be confused or whether the alleged filing strategy reflects culpable disregard. Those issues will turn on the evidentiary record, including the parties' actual uses, consumer perception, search and clearance work, marketing scale, and the relationship among recordings, merchandise and live performances.

Regardless of the outcome, the case already illustrates the stakes of reverse confusion. A band can be senior in time, careful in building goodwill and correct in registering its marks, yet still watch its identity disappear from the channels where fans find music and buy tickets.

The best defense is a proactive trademark strategy that clears the name, registers the relevant rights, centralizes ownership, monitors the marketplace and preserves the band's ability to be recognized on its own terms.

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