



district court of colorado departs from the *rogers* test in documentary trademark suit

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On May 8, 2020, the U.S. District Court for the District of Colorado granted National Geographic's motion to dismiss an amended complaint for trademark infringement, unfair competition, and deceptive trade practices. *Stouffer v. National Geographic Partners, LLC*, No. 18-cv-3127 (May 8, 2020). In doing so, the court addressed "the question of what protections the First Amendment provides to those accused of trademark infringement."

Plaintiffs Marty Stouffer and his production company were producers of the long-running "Wild America" nature documentary series. Plaintiffs alleged that National Geographic's nature TV series (marketed under the names "Untamed Americas," "America the Wild," "Surviving Wild America," and "America's Wild Frontier") replicated the "Wild America" series style and mark. Stouffer brought claims for federal trademark infringement, federal trademark dilution, unfair competition under Colorado common law, and deceptive trade practices under Colorado's Consumer Protection Act. National Geographic argued that all claims were fundamentally trademark-based and should be dismissed in favor of First Amendment interests..

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