IN THE U. S. COURT OF APPEALS – NINTH CIRCUIT

MAGICAL PARK CORPORATION:

Petitioner

v.

No. 32497 N.D. 2015

FANTASY FAMILY PARKS:

Respondent

**MAIN BRIEF OF**

**PETITIONER, MAGICAL PARK CORPORATION**

Respectfully submitted,

Martin F. Rothermel, Esquire

49 Maple Avenue

P.O. Box 197

Las Vegas, NV 89179

(702) 555-0080

(702) 555-0081 (fax)

Attorney for Magical Park Corporation

Dated: January 23, 2017

**Statement of Jurisdiction**

The U. S. District Court of Appeals has jurisdiction over this matter pursuant to 37 Ne. Code §216 and 64 MS. C.S. §57.226 as this matter regards a copyright infringement by FANTASY FAMILY PARKS.

**Scope and Standard of Review**

The Ninth Circuit U. S. District Court’s scope of review is whether the respondent has infringed on the copyright of the petitioner. *See, Ramos Sports v. Algieres,* 316 Ca. 928, 133 A.7d 504 (Sup. 2012).

The standard of review of the District Court is whether the findings of fact by the administrative agency are supported by substantial evidence. 37 Ne. Code §216

**Statement of Questions**

1. Whether the logo is a copyright infringement as set forth in 37 Ne. Code §216 on the part of Fantasy Family Parks?

Suggested Answer: Yes

1. Whether to permit the continued use of the logo by Fantasy Family Parks?

Suggested Answer: No

**Introduction**

On September 9, 2015, Fantasy Family Parks. (“Respondent”) began using a logo to advertise their parks. The respondent operates numerous theme parks throughout the United States, including a Fantasy Family Resort and Park, which is located in Flagstaff, Arizona. Magical Park Corporation considers this to be a copyright infringement. 37 Ne. Code §216 has been in effect since January 21, 1997.

**Statement of the Case**

A regulation regarding trademark infringement under 37 Ne. Code §216 includes the provision:

Using a confusingly similar name is a form of unfair competition. No company shall create a new entity that uses a variation of a name of a competitor (in the same business).

In addition, 37 Ne. Code §216 states:

A party found guilty of infringing on the trademark of another entity must cease and desist use of the slightly changed business name immediately, recall all advertising, and pay damages.