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

MAGICAL PARK CORPORATION:

Petitioner

v.

No. 2145 N.D. 2013

FAMILY PARKS INCORPORATED:

Respondent

**MAIN BRIEF OF**

**PETITIONER, MAGICAL PARK CORPORATION**

Respectfully submitted,

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**Statement of Jurisdiction**

The U. S. District Court of Appeals has jurisdiction over this matter pursuant to 98 Ne. C.S. §213 and 67 MS. Code §83.144 as this matter regards a copyright infringement by Family Parks Incorporated.

**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, Park World Network v. Extreme Rides*, 751 A.2d 619 (9th Cir. 2011).

The standard of review of the District Court is whether the findings of fact by the administrative agency are supported by substantial evidence. 67 MS. Code §83.144

**Statement of Questions**

1. Whether the name Magical Memories is a copyright infringement as set forth in 67 MS. Code §83.144 on the part of Family Parks Incorporated?

Suggested Answer: Yes

1. Whether to permit the sales of photo albums with the name Magical Memories?

Suggested Answer: No

**Introduction**

On May 4, 2014, Family Parks Incorporated (“Respondent”) began selling photo albums with the name *Magical Memories*. The respondent operates numerous theme parks throughout the United States, including Amazing Park, which is located in Aurora, Colorado. Magical Park Corporation considers this to be a copyright infringement. 67 MS. Code §83.144 has been in effect since January 21, 1997.

**Statement of the Case**

A statute regarding trademark infringement under 67 MS. Code §83.144 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, 67 MS. Code §83.144 states:

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