



News Release

For Immediate Release

For more information, contact:

Tim Kolly 312-698-6220 | tkolly@dri.org

Principle Advocated in DRI Amicus Brief Reflected in Supreme Court Decision in *Lexmark International, Inc. v. Static Control Components, Inc.*

CHICAGO – (March 27, 2014)—On Tuesday, March 25, 2014, the United States Supreme Court issued a [unanimous decision](#) in *Lexmark International, Inc. v. Static Control Components, Inc.*, which adopted a statutory test to determine whether a legislatively conferred cause of action encompasses a particular plaintiff’s case.

[DRI- The Voice of the Defense Bar filed an amicus brief](#) with the Court to urge a narrower test than the one embraced by the Sixth Circuit. The DRI brief advocated that the Supreme Court adopt the most restrictive test for who could sue under the false advertising provision of the Lanham Act. DRI argued that a narrow test was important to assure the pool of potential plaintiffs was limited, and that, compatible with Congressional intent, consumers could not sue under the Lanham Act’s false advertising provision.

While the Court did not adopt the highly restrictive direct competitor test advocated by DRI, it rejected the “reasonable interest” test as DRI had urged, reversing the Sixth Circuit. The Court held that “to come within the zone of interests in a suit for false advertising under § 1125(a), a plaintiff must allege an injury to a commercial interest in reputation or sales.”

The Court explained that a “consumer who is hoodwinked into purchasing a disappointing product may well have injury-in-fact cognizable under Article III, but he cannot invoke the protection of the Lanham Act – a conclusion reached by every circuit.”

The Court also made clear that “[e]ven a business misled by a supplier into purchasing an inferior product is, like consumers generally, not under the Act’s aegis.” The Court’s analysis

clarifies the limits to who can sue under the false advertising provision of the Lanham Act, and thus will help those defending such suits by barring the courthouse door to many potential plaintiffs.

DRI's brief was written by Immediate Past President Mary Massaron Ross and Josephine DeLorenzo of Plunkett Cooney PC in Bloomfield Hills, Michigan. They can be made available for expert comment through the DRI communications department.

###

About DRI – The Voice of the Defense Bar

For more than fifty years, DRI has been the voice of the defense bar, advocating for 22,000 defense attorneys, commercial trial attorneys, and corporate counsel and defending the integrity of the civil judiciary. A thought leader, DRI provides world-class legal education, deep expertise for policy-makers, legal resources, and networking opportunities to facilitate career and law firm growth. For more information, log on to www.dri.org