

*Summarizing
opinions from
April 1, 2017
through
June 30, 2017*

FEATURED DECISION :

Gillette Co. v. Provost, 2017 Mass. Super. LEXIS 38 (Apr. 18, 2017) (Salinger, J.);
Gillette v. Provost, 2017 Mass. Super. LEXIS 97 (June 9, 2017) (Salinger, J.).

Plaintiff, the Gillette Company (“Gillette”), alleged that four of its former employees helped ShaveLogic, Inc. (“ShaveLogic”) develop a new disposable razor cartridge using Gillette’s confidential information, thereby violating Chapter 93A. ShaveLogic, in turn, alleged that Gillette intentionally interfered with its prospective business relations and violated Chapter 93A by bringing baseless legal claims in an effort to keep ShaveLogic out of the market. The parties filed cross motions for summary judgment.

The court granted summary judgment on Gillette’s claims because Gillette failed to present any evidence that the defendants misused Gillette’s confidential information. The allegedly misused design concepts were publicly known and “using publicly available information to compete is not an unfair trade practice.” There was no evidence that ShaveLogic used any of Gillette’s confidential information to design products.

The court also denied summary judgment on ShaveLogic’s two counterclaims because a reasonable jury could conclude that Gillette “deliberately asserted baseless claims against

**Baseless
Litigation to
Keep a
Competitor Out
of the Market
May Violate
Chapter 93A**

ShaveLogic in an attempt to scare off ShaveLogic’s investors and potential business partners.” With regard to the interference counterclaim, the court explained that ShaveLogic did not need to present direct evidence that Gillette knew of any particular relationship between ShaveLogic and a

third party; it was enough for ShaveLogic to show that Gillette knowingly interfered with a prospective relationship between ShaveLogic “and an identifiable class or category of third persons.” With respect to the Chapter 93A counterclaim, although the mere filing of a lawsuit does not, without more, constitute trade or commerce under that statute, the court held that a reasonable fact finder could conclude that Gillette was acting in a business context because it brought baseless litigation in order to keep ShaveLogic out of the market.

In a separate decision in June, the court denied Gillette’s request for the court to report its summary judgment decision for interlocutory appellate review, rejecting Gillette’s argument that the summary judgment decision turned on the resolution of unsettled questions of law.



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