

Ninth Circuit Holds Proof of Injury Not Required for Unclean Hands

“When defending a Lanham Act claim brought by a competitor, the doctrine of unclean hands—the lawyerly version of ‘But they did it too!’—can be a case-dispositive argument. Last month, the Ninth Circuit made it a bit easier to establish this defense, holding that a defendant arguing unclean hands need not prove that the plaintiff’s unclean conduct caused ‘actual harm,’” write Michael Sochynsky and Jonah M. Knobler in *Patterson Belknap’s blog*.

“The unclean hands defense is based on the equitable maxim that ‘he who comes into equity must come with clean hands.’ ... Its roots lie in the English Court of Chancery—a royal ‘court of conscience’ that was able to grant relief in situations where the hidebound courts of law could not. Chancery’s unique focus on conscience and morality meant that plaintiffs seeking its aid were held to a high standard of behavior.”

“Unclean hands remains a viable defense today in the context of equitable claims.”

Read the article.