Morris Comm. Corp. v. PGC Tour, Inc.,

117 F.Supp.2d 1322 (M. D. Fla. 2000)

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Plaintiff, Morris Communications Corporation, is a media organization that covers the PGA Tour and is alleging that the Defendant has violated Section 2 of the Sherman Act, the Florida Antitrust Act, and the Florida Deceptive and Unfair Trade Practice Act. Defendant, PGA Tour, Incorporated, issues credentials to members of the media who are invited to its tournaments for the purpose of providing media coverage.

The controversy involves "real-time" scores that are transmitted over the internet, almost simultaneously, as they are being gathered at a central location on the golf course. Plaintiff requested to be credentialed to syndicate real-time scores onto its website from the Defendant's on-site media center. The request was granted for the Tampa Bay Classic, with the condition that the scoring information collected on site only be used in publications within the Morris Communication Group. In the past, Plaintiff had used the scores that it collected from Defendant and had published them on its own website as well as contracted with third parties to syndicate them. Plaintiff filed suit against Defendant alleging that Defendant possessed a monopoly over access to its golf tournaments and that Defendant was attempting to stifle competition in the separate market of syndicating real-time golf scores. The court found that the Plaintiff had not met its burden to merit a grant of injunctive relief and denied the motion.

In order for the court to grant a preliminary injunction, the moving party must carry its burden of persuasion with respect to: (1) a substantial likelihood of success on the merits; (2) the moving party suffering irreparable harm unless the injunction is granted; (3) injury to the moving party outweighing any harm the injunction may cause the opposing party; and (4) that the injunction, if issued, will not disserve the public interest. In order to prevail on a claim of illegal monopolization under Section 2 of the Sherman Act, the Plaintiff must show that the Defendant possessed market power and that it deliberately used that power in such a way as to injure not only a competitor, but competition itself. Further, it is not unlawful for a Defendant, even one who possesses monopoly power, to refuse to deal with its competitors if there are legitimate competitive reasons for the refusal.

Since Plaintiff cannot gather the real-time scores it needs without using Defendant's system of score gathering, the court held that if it were to grant the injunction it would be granting a form of free riding. Free riding becomes detrimental to competition when the ability of other parties to free ride on the efforts of the Defendant would so reduce the incentive to produce the product or service that its existence or quality would be substantially threatened. The court found that Plaintiff wanted to capitalize not just on the golf scores but also on Defendant's mechanism for simultaneously gathering and generating the scoring information. In response, the court said "he who has paid a fair price should have the beneficial use of the property." Hence, Defendant's decision to limit access to the Tampa Bay Classic and place a condition on the scoring information it collects is a legitimate business decision intended to allow the Defendant to reap the benefit of the system it built.

To demonstrate irreparable harm, a plaintiff must show that it has no adequate remedy at law; meaning that its injury cannot be undone through monetary remedies. The only irreparable harm the Plaintiff alleges is harm to its reputation.

The court found that since Plaintiff is still allowed to gather real-time scores for publication on its own web site, the only harm would be to Plaintiff's reputation as a seller in the syndication market. Moreover, the court stated that Defendant had a protected property interest in its real-time scoring system which would be unfairly infringed upon if Plaintiff were granted unrestricted use. Thus, Plaintiff may suffer harm from not competing in the syndication market and from the loss of existing syndication contracts, but this harm did not outweigh the harm to Defendant.

The court held that Plaintiff could not demonstrate that the Defendant's conduct was anti-competitive because of the reasonable likelihood that Defendant's restriction on syndication of real-time golf scores represented a legitimate business decision to safeguard its property interest.