



Fame and Awareness Survey Rebuttal Draws Distinction in Trademark Dispute

A trademark dispute involving claims of forward confusion between New Prime, Inc. (also known as Prime Inc.), a trucking and transportation company, and Amazon Logistics, Inc., Amazon.com Services LLC, and Amazon Technologies, Inc. (collectively, “Amazon”) alleged that Amazon infringed on New Prime’s trademark through the use of the word “Prime” on Amazon trailers. New Prime claimed that Amazon’s branding with the “Prime” mark on trucks created consumer confusion with New Prime’s own name and logo, and suggested affiliation, endorsement, or shared origin.

The Case Challenge

Amazon’s legal team retained our litigation survey and consumer science experts to rebut the plaintiff’s expert survey reports regarding consumer confusion and brand perception. The defense also sought to measure consumer awareness of the “Prime Inc.” name.

The Expert Solution

Our survey team submitted an expert report and testified as to the reliability of the plaintiff’s consumer surveys. The rebuttal highlighted methodological and survey universe issues, including 1) that the plaintiff’s expert surveyed users of shipping services rather than trucking customers, misaligning the population with the relevant marketplace; 2) that the control stimulus was a plain truck with no branding, making it ineffective for measuring baseline reactions; and 3) that the plaintiff’s survey presented the term “Prime” outside of any transportation context.

Regarding the plaintiff’s consumer perception survey, our experts concluded it was neither legally nor methodologically relevant to the matter. The survey failed to assess confusion,