

03-409 KP PERMANENT MAKE-UP INC. v. LASTING IMPRESSIONS INC.

Ruling below: CA 9, 328 F.3d 1061

QUESTION PRESENTED

Does the classic fair use defense to trademark infringement require the party asserting the defense to demonstrate an absence of likelihood of confusion, as is the rule in the 9th Circuit, or is Fair Use an absolute defense, irrespective of whether or not confusion may result, as is the rule in other Circuits?

CERT. GRANTED: 1/9/04