

Lessons and
Takeaways from
Buc-ee's v. Choke Canyon



Parties and Lead Counsel

Plaintiff – Buc-ee's, Ltd.



Represented by Tracy Richardson (Buc-ee's GC, shown below) and Banner & Witcoff, Ltd.



Defendants (Choke Canyon)



Represented by Charles Hanor and Hanor Law Firm PC



Basic Case Facts

- Filed in S.D. Tex. on December 23, 2015
- Buc-ee's originally alleged:
 - Trademark infringement
 - Dilution under federal and state law
 - Trade dress infringement
 - Unfair competition and false designation of origin
 - Misappropriation
- Buc-ee's later amended complaint to add an unjust enrichment claim and drop the trade dress claim

Basic Case Facts

- Case was bifurcated into liability and damages
- Liability trial was held in May 2018; jury found in favor of Buc-ee's on every count in the verdict form
- Choke Canyon was permanently enjoined from using its logo or any colorable imitation, along with similar prohibitions
- In October 2018, the case was referred to mediation and settled before the damages trial

Buc-ee's Trade Dress Claim

20 allegedly distinguishing aspects of their stores, including:

- Large square footage
- Horse-shoe shaped in-store carving stations
- Oversized bathrooms
- Country-themed signage
- Entrances from three of the four sides of the building
- Use of red, white, yellow, and black color scheme in signs



Buc-ee's Trademark Claim



Buc-ee's Logo	Choke Canyon Logo
Beaver	Alligator
Brown animal	Green animal
Aquatic creature	Aquatic creature
Red tongue	Red tongue
Bulging eyes	Bulging eyes
Upright	Upright
Right-facing	Right-facing
Wearing hat	Wearing hat
Teeth showing	Teeth showing
Drawn in black	Drawn in black
White front	White front
Yellow circle	Yellow circle



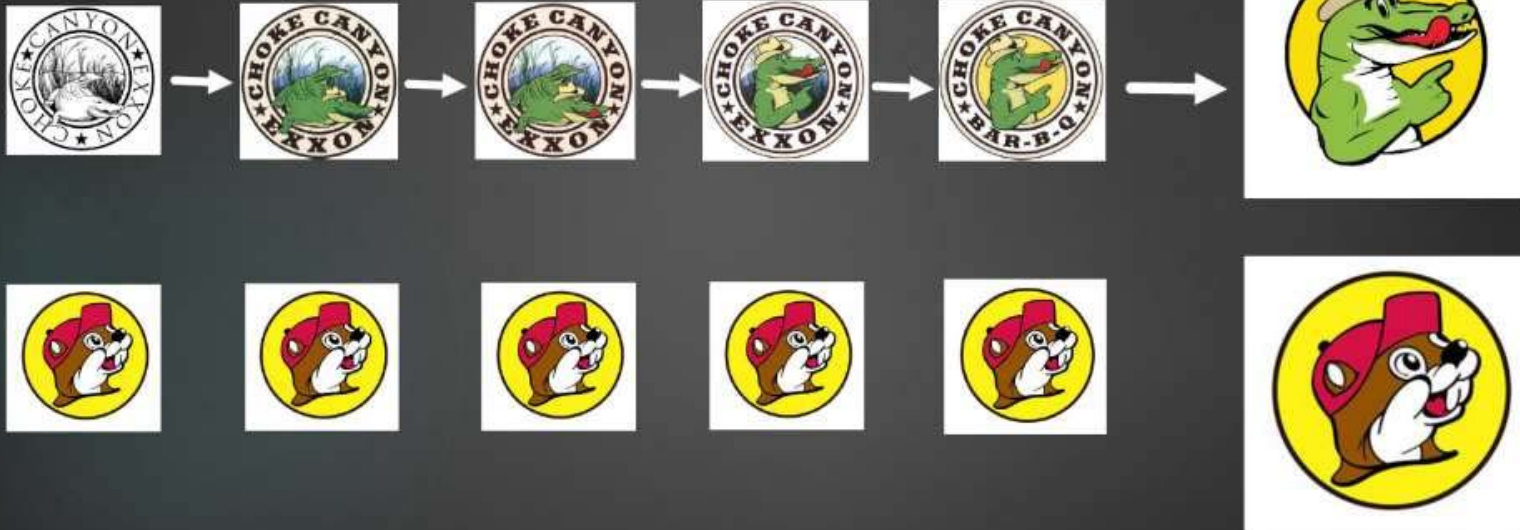
Comparison of Branded Products



Evolution of Choke Canyon Mark

The Similarity Between the Marks

Buc-ee's, Ltd.



PTX 56-58 – Logo Development Drafts

News about the Trial



Buc-ee's wins federal court trademark fight against competitor Choke Canyon

By [Gabrielle Banks](#) Updated 8:20 am CDT, Wednesday, May 23, 2018

"I'm surprised that Buc-ee's won," said Chris Schwegmann, a trademark attorney at Lynn Pinker Cox & Hurst in Dallas. "I haven't seen any of the trial evidence, but I just can't see how any reasonable juror could find a likelihood of confusion between those two logos. One is a beaver, the other is an alligator. One has a ball cap, the other has a cowboy hat. The design of the logos is different and the alligator logo even has the name of the store directly on the sign, further diminishing any confusion between the two stores."



Buc-ee's TM Win Could Draw Fire Over Unheard Evidence

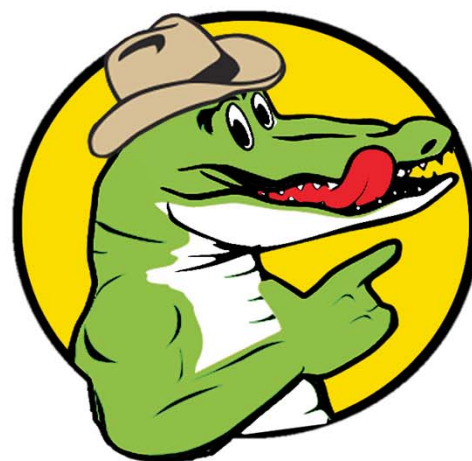
By [Michelle Casady](#)

Law360 (June 20, 2018, 5:49 PM EDT) -- Texas intellectual property lawyers did a double take when jurors sided with convenience store chain Buc-ee's in a trademark infringement fight over its beaver logo, and say rival convenience store Choke Canyon's best shot on appeal may be challenging rulings that restricted their evidence in the case.

New Choke Canyon Logo



Discussion with Trial Counsel



Additional Buc-ee's Challenges

