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Danby T-shirt company that spoofed Phish back in business

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DANBY, Vt. (AP) A Danby T-shirt company that spoofed the rock band Phish with the designs on its products is back in business.

A federal judge ruled last week that Sean Knight of Knighthood Tees of Danby could resume selling all but one of his T-shirt designs.

Knighthood Tees was shut down earlier this year after a judge granted a temporary restraining order against sales of the clothing line, which spoofs Phish by melding the band's song titles and lyrics with name brand product logos.

Phish attorneys have maintained that the spoofs were an infringement on copyrights.

Following a July 24 hearing in federal court in Brattleboro, Judge J. Garvan Murtha denied Phish's request for an injunction to keep Knight from selling his products.

"The defendants have provided sufficient preliminary support for their contention that their logos are protected parodies, thereby making injunctive relief inappropriate," Murtha said in his August 15 ruling.

Phish attorneys maintained that Knight's products were confusing to Phish consumers, and cited some examples at last month's hearing. Murtha, however, wasn't convinced.

"The court believes it is just as likely that many Phish fans are sophisticated enough to understand the difference between plaintiffs' items, which clearly display an official, registered 'Phish' logo," Murtha wrote, "and the defendant's items, which uniformly and prominently incorporate artwork associated with other, non-Phish products."

Murtha called Phish's examples of customer confusion "anecdotal at best," and said that there is a "marketplace separation" between venues of official and unofficial product sales.

"We obviously intend to proceed with the case," said Phish manager John Paluska, "but we need to take some time to review it and see where we're going from here."

Phish sued Knight last March charging copyright infringement. The case could go to trial next summer.

Knight's attorney, Gordon Troy, said his client agreed not to sell one T-shirt design that has a series of antelopes arranged to spell the word Phish.

"I think the judge is sending them a loud, clear message that they have some serious hurdles to overcome in order to prove their case," said Troy. "I don't think they can come up with a quantum of evidence that they could come up with to satisfy that burden."