

# 1-800-SKI VAIL Wins Trademark Lawsuit Against Vail Associates

**'Small Business Takes on Conglomerate in Modern-Day David vs. Goliath Case'**

DENVER, CO /Send2Press Newswire/ – On January 3, 2005, Vend-Tel-Co, Ltd., a small business from Fort Collins, Colorado won a federal trademark lawsuit against skiing giant Vail Associates, Inc. over the right to use 1-800-SKI VAIL. In the lawsuit, Judge Matsch of the U.S. District Court determined that Vail Associates could not use its registered trademark VAIL to prevent Eric Hanson from using his registered trademark, 1-800-SKI VAIL. The small business makes well-priced condo, hotel, and resort reservations at a variety of ski area locations through dozens of 1-800-SKI phone numbers ranging from 1-800-SKI ASPEN to 1-800-SKI TELLURIDE.

Vail Associates first became aware of the business in 1995, but it was not until 2001 – when the 1-800-SKI VAIL trademark became registered – that Vail Associates felt threatened by the business and filed suit to try to stop the 1-800-SKI VAIL telephone number. In the lawsuit, Vail Associates claimed the use of 1-800-SKI VAIL constituted trademark infringement, unfair competition, and a deceptive trade practice. It also requested that the 1-800-SKI VAIL trademark registration be canceled. In the Judgment filed January 3, Judge Matsch sided with the owners of 1-800-SKI VAIL on all counts. Noting that Vail Pass predated the Vail ski area, the Federal Court rejected each of Vail Associates' claims and awarded the Defendant their costs.

Commenting on testimony by one of Vail Associates' witnesses, the Court found that contrary to what Vail Associates was trying to prove, their own witness showed that "most people can't identify a specific company with the purchase of their ski vacations products. They are familiar with places to ski as a place, not a company." Commenting on Vail Associates' position that any association between skiing and Vail should be prohibited, the Court stated: "This claims too much." It found that there was neither actual confusion nor a likelihood of confusion by 1-800-SKI VAIL. The Court rejected the claims against 1-800-SKI VAIL because if granted, they would create a monopolistic empire requiring anyone who offers any type of recreational service to seek a license from Vail Associates.

The Court noted that this would go "far beyond the purpose of trademark law" and was "contrary to the public policy of promoting economic competition." The Court also noted that Hanson's use of 1-800-SKI VAIL was not unfair competition and was not a deceptive trade practice. Further, it refused to cancel Mr. Hanson's 1-800-SKI VAIL trademark registration and it still stands as the valid U.S. Patent and Trademark Registration No. 2,458,894.

Of the victory, Mr. Hanson stated: "This shows economic competition is alive and well in America. Now consumers can get the best deal. Our business – where one call can do it all – shows that the American Dream still exists. It takes real resolve to fight this type of battle on moral principle, but now

we can get down to business and give the consumer what they deserve, the best value in accommodations by calling 1-800 SKI VAIL or any one of our many other 1-800-SKI numbers.”

Vend-Tel-Co and Mr. Hanson were represented by the trademark and patent firm of Santangelo Law Offices, P.C. (Luke Santangelo and Kay Collins) and the trial firm of Thomas R. French (Thomas French), both in Fort Collins, Colorado. Vail Associates was represented in the matter by the Denver branch of the international law firm of Gibson, Dunn, & Crutcher, LLP.

Note to Editors: The lawsuit is captioned: “Vail Resorts, Inc., Vail Associates, Inc., and Vail trademarks, Inc. v. Vend-Tel-Co and Eric A. Hanson.” It is Case No. 01-M-1172 in the United States District Court for the District of Colorado, assigned to Judge Richard P. Matsch. The case was filed by Vail Associates June 25, 2001. Trial was held December 6 through 8, 2004, and Judgment dismissing all of Vail Associates’ claims and awarding Vend-Tel-Co and Mr. Hanson all costs was filed January 3, 2005.

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