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[Pendleton, Oregon: Company Town?](#)

Posted on May 27, 2011 by [Dan Kelly](#)

If you are not familiar with Pendleton, Oregon, you may have heard of it. Pendleton is home to an annual rodeo known as the [Pendleton Round-Up](#), and Pendleton's most famous exports are probably the wool and clothing goods of [Pendleton Woolen Mills](#). The two have grown up together for more than a hundred years, but last week they came to blows: Pendleton Woolen Mills sued the Round-Up Association over rights to the PENDLETON trademark for use in connection with fragrances. Portland Business Journal coverage is [here](#) and [here](#) (PDF of complaint [here](#)).

As probably every resident of Pendleton could attest, this is a sad turn of events for the city of 18,000 and two of its greatest corporate residents. The city's own [website](#) demonstrates that the Round-Up and the Woolen Mills are nearly synonymous with the town. It hits close to home for me, too, as I have the good fortune to be married to a Pendleton export (ok, more like a Pendleton expat).

Yet, while sad for the local discord of this story, the trademark attorney in me cannot see this suit going the distance, for two reasons. First, the fight is about the rights to the PENDLETON mark in connection with fragrances. Fragrances do not appear to be core goods for either company, and it does not make much business sense to fight a war over ancillary goods.

Second, the fight centers on rights to a geographic term. Terms that are primarily geographically descriptive are like descriptive trademarks: they are weak and cannot function as trademarks unless they acquire distinctiveness in connection with the goods on which they are used. Pendleton Woolen Mills probably has a slight edge in this regard, as it is not uncommon to see clothing manufacturers also produce fragrances, so there may be an argument that the acquired distinctiveness of the PENDLETON brand for clothing--which may be substantial--should extend to fragrances. (On the other hand, if [Smith & Wesson can extend to cologne](#), maybe it is not such a stretch for a rodeo.)

If you read the complaint, check out paragraph 15, which discusses how the Round Up Association must know about the Woolen Mills' rights in the PENDLETON mark through a co-branding arrangement that each has with a mutual third party. I bring this up as I think I ran across [the co-branded product](#) just days ago:



WINTHROP WEINSTINE

ATTORNEYS AND COUNSELORS AT LAW

Capella Tower | Suite 3500 | 225 South Sixth Street | Minneapolis, MN 55402
Main: (612) 604-6400 | Fax: (612) 604-6800 | www.winthrop.com | *A Professional Association*



P.S. It's actually pretty good whisky--for Canadian, at least.

(H/T [Michele Vaillancourt](#))



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