

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

BIG CANOE PROPERTY OWNERS
ASSOCIATION, INC.,

Plaintiff,

v.

MARGOT WEATHERFORD,

Defendant.

Civil Action No.

2:26-CV-14-RWS

ORDER

This case comes before the Court on Plaintiff Big Canoe Property Owners Association, Inc.’s (“Big Canoe”) Motion to Dismiss Defendant Margot Weatherford’s Counterclaim [Dkt. 10]. Having reviewed the record and the parties’ briefing, the Court enters the following Order.

Big Canoe is a property management and realty services company located in Jasper, Georgia. [Dkt. 1 – Compl., at ¶¶ 1, 10]. It brought this action for trademark infringement against Defendant Weatherford, a realtor. Big Canoe generally alleges that Weatherford infringed its federally registered trademark, BIG CANOE. [Id. at ¶ 22]. In Weatherford’s Answer to the Complaint, she denies the allegations of infringement and raises several affirmative defenses. [Dkt. 8]. Weatherford also

asserts a counterclaim, seeking a declaration that her conduct does not infringe any of Big Canoe's trademark rights. [Id. at 17–25].

Big Canoe moves to dismiss Weatherford's counterclaim on procedural grounds. It argues that the counterclaim is both redundant of Big Canoe's own claims for infringement and duplicative of Weatherford's affirmative defenses. [Dkt. 10, at 6]. Big Canoe says that resolving those other matters would necessarily "resolve all issues raised in Weatherford's Counterclaim." [Id. at 7]. Thus, Big Canoe asks that the Court exercise its discretion under the Declaratory Judgment Act to dismiss Weatherford's counterclaim for non-infringement.

The Federal Declaratory Judgment Act provides that federal courts "may declare the rights and other legal relations of any interested party seeking such declaration." 28 U.S.C. § 2201(a) (emphasis added). The text of the Act thus "confer[s] on federal courts unique and substantial discretion in deciding whether to declare the rights of litigants." Wilton v. Seven Falls Co., 115 S. Ct. 2137, 2142 (1995).¹ At its core, the Act "only gives the federal courts competence to make a

¹ The Act does not contain a separate grant of jurisdiction but can be invoked by litigants in cases where federal jurisdiction otherwise exists. See 28 U.S.C. § 2201(a). Federal question jurisdiction exists here because Weatherford's counterclaim arises under the Lanham Act.

declaration of rights; it does not impose a duty to do so.” Ameritas Variable Life Ins. Co. v. Roach, 411 F.3d 1328, 1330 (11th Cir. 2005).

The Court must weigh various considerations in deciding whether to dismiss or strike a counterclaim on redundancy grounds. On the one hand, “[n]umerous courts have used their discretion to dismiss or strike redundant counterclaims asserted under the Declaratory Judgment Act.” Mount v. America’s Insured, LLC, 2023 WL 4455489, at *4 (M.D. Fla. July 11, 2023) (citing cases). Courts generally do so where the counterclaims are “repetitious of issues already before the court via the complaint or affirmative defenses.” Id. (quoting Ortho-Tain v. Rocky Mountain Orthodontics, Inc., 2006 WL 3782916, at *3 (N.D. Ill. Dec. 20, 2006)). On the other hand, striking a counterclaim is a “drastic remedy” that “should be sparingly used by the courts.” Manhattan Constr. Co. v. McArthur Elec., Inc., 2007 WL 295535, at *6 (N.D. Ga. Jan. 30, 2007) (quoting Quitto v. Bay Colony Golf Club, Inc., 2006 WL 3837495 (M.D. Fla. Dec. 29, 2006)). Thus, “[i]t is ‘the generally accepted view that a motion to strike for redundancy ought not to be granted in the absence of a clear showing of prejudice to the movant.’” Id. (quoting 5C Wright & Miller’s Fed. Prac. & Proc. § 1382) (explaining that “[m]odern litigation is too protracted and expensive for the litigants and the court to expend time and effort pruning or polishing the pleadings”).

After careful review, the Court declines to dismiss or strike Weatherford's counterclaim for non-infringement. Big Canoe is correct that resolving this counterclaim may require determining issues that overlap with issues in the Complaint or in Weatherford's affirmative defenses. But dismissing or striking on redundancy grounds is generally disfavored, and the Court observes that Weatherford's counterclaim is not "facially identical" to the other claims or defenses in this case. Manhattan Constr. Co., 2007 WL 295535, at *7 (declining to dismiss overlapping claim because claimant "assert[ed] additional, different facts to support the claim"). Further, as Weatherford points out, Big Canoe has failed to articulate any clear prejudice that it will suffer should the counterclaim proceed. Accordingly, the Court will deny Big Canoe's motion to dismiss the counterclaim.

For the foregoing reasons, Big Canoe's Motion to Dismiss Weatherford's Counterclaim [Dkt. 10] is **DENIED**.

SO ORDERED this 15th day of July, 2026.



RICHARD W. STORY
United States District Judge