



Chastek Library
KEYCITE ON CLASSIC WESTLAW –
EXAMPLE OF A CASE THAT HAS BEEN
REVERSED
 Research Guide

This is an example of a case that has been reversed (negative history) on Classic Westlaw. The case is *Samara Bros., Inc. v. Wal-Mart Stores, Inc.*, 165 F.3d 120 (2d Cir. 1998).

1. The Full History link in KeyCite discusses the HISTORY of 165 F.3d 120 and how it has progressed through the judicial process.

The red flag means that the case is no longer good law for at least one of the points of law it contains.

This is the case you are KeyCiting, 165 F.3d 120. It is gray shaded.

Samara Bros. has PRIOR HISTORY: 969 F.Supp. 895, a United States District Court case from the Southern District of New York from 1997. *Samara Bros.* also has SUBSEQUENT HISTORY in that: (1) *Cert. was Granted in Part* by the Supreme Court at 528 U.S. 808 in 1999, and (2) it was *Reversed* by the Supreme Court at 529 U.S. 205 in 2000. This is why there is a red flag, the case has been REVERSED!

Note the court documents that cite *Samara Bros.*

2. The *Citing References* section discusses TREATMENT; how *Samara Bros.* has been treated by different courts in different cases and how it has been cited in secondary sources.

The screenshot shows the Westlaw interface for the case *Samara Bros., Inc. v. Wal-Mart Stores, Inc.* (165 F.3d 120, C.A.2 (N.Y.), 1998). The 'Citing References' section is active, showing 387 documents. The interface is divided into several sections: 'FOR EDUCATIONAL USE ONLY', 'Citing References (Showing 387 documents)', 'Negative Cases (U.S.A.)', 'Distinguished by', 'Positive Cases (U.S.A.)', and 'Cited'. The 'Cited' section lists several cases, including *Lee v. Coss*, 201 F.3d 431 (2d Cir. 1999), which is marked with a purple quotation mark. The 'Cited' section also includes cases like *Nora Beverages, Inc. v. Perrier Group of America, Inc.*, *Hamil America Inc. v. GFI*, and *Rose Art Industries, Inc. v. Swanson*.

Samara Bros. has been cited in 387 documents (cases, secondary sources, and court documents).

Depth of Treatment stars.

Cases that have cited *Samara Bros.*

The purple quotation mark means that this case, *Lee v. Coss*, 201 F.3d 431 (2d Cir. 1999) directly quotes language from *Samara Bros.*

3. This continues the *Citing References* results, which contains more TREATMENT of *Samara Bros.* by different courts and how it has been cited by secondary sources.

The screenshot shows the Westlaw interface for the case *Samara Bros., Inc. v. Wal-Mart Stores, Inc.* (165 F.3d 120, C.A.2 (N.Y.), 1998, December 28, 1998). The main results list includes:

- 38 *Amati v. City of Woodstock*, 176 F.3d 952, 956, 43 Fed.R.Serv.3d 351, 351, 15 IER Cases 1, 1 (7th Cir.(Ill.) May 04, 1999) (NO. 98-2680, 98-2681)
- 39 *MasterCard Intern. Inc. v. Nader 2000 Primary Committee, Inc.*, 2004 WL 434404, *16, 2004 Copr.L.Dec. P 28,781, 28781, 70 U.S.P.Q.2d 1046, 1046 (S.D.N.Y. Mar 08, 2004) (NO. 00 CIV.6068(GBD)) **HN: 10 (F.3d) (BNA Version)**
- 40 *Blue Cross and Blue Shield of New Jersey, Inc. v. Philip Morris, Inc.*, 190 F.Supp.2d 407, 420 (E.D.N.Y. Feb 28, 2002) (NO. 98 CV 3287 (JBW))
- 41 *Memorial Drive Consultants, Inc. v. ONY, Inc.*, 2001 WL 241781, *6 (W.D.N.Y. Mar 07, 2001) (NO. 96-CV-0702E(F)) **HN: 15 (F.3d)**

Below the cases is a section for **Secondary Sources (U.S.A.)** with the following entries:

- 42 When is trade dress "inherently distinctive" for purposes of trade dress infringement actions under sec. 43(a) of Lanham Act (15 U.S.C.A. sec. 1125(a))--Cases after *Two Pesos*, 161 A.L.R. Fed. 327 (2000) **HN: 6,8,9,13,14 (F.3d)**
- 43 Practice and procedure with respect to motions for judgment notwithstanding or in default of verdict under Federal Civil Procedure Rule 50(b) or like state provisions, 69 A.L.R.2d 449 (1960)
- 44 9 Arizona Practice s 16:2, Distinctiveness of marks--Protectable marks (2010) **HN: 8 (F.3d)**
- 45 Art Law: Guid. for Collect., Invest., Dealer & Art CH 10, Chapter 10: Copyrights (2005) **HN: 18,19 (F.3d)**
- 46 Business and Commercial Litigation in Federal Courts s 75:12, Overview (2011) **HN: 4 (F.3d)**
- 47 California Business Law Deskbook s 27:2, Distinctiveness of marks--Protectable marks (2010) **HN: 8 (F.3d)**
- 48 Callmann on Unfair Compet., TMs, & Monopolies s 15:8, International News Service v. Associated Press--Federal preemption--Section 301 of the 1976 Copyright Act (2010)
- 49 Callmann on Unfair Compet., TMs, & Monopolies s 19:2, Definiteness (2010) **HN: 7,8 (F.3d)**
- 50 Callmann on Unfair Compet., TMs, & Monopolies s 19:4, Inherent distinctiveness--Determining inherent distinctiveness of trade dress (2010) **HN: 8 (F.3d)**
- 51 Callmann on Unfair Compet., TMs, & Monopolies s 21:66, Comparing trade dresses--Effect of labeling, i.e., interactions among different indicia of origin (2010)
- 52 Callmann on Unfair Compet., TMs, & Monopolies s 21:84, Junior user's intent--Evidence required (2010)

Annotations on the screenshot include:

- A box pointing to the top right of the results area: "More case law treatment."
- A box pointing to the "Secondary Sources (U.S.A.)" section: "Secondary sources that have cited *Samara Bros.* including A.L.R.s, legal encyclopedias, treatises, and legal periodicals."
- A box pointing to the "Results Plus" section: "Note the *Results Plus* materials. These materials may not cite *Samara Bros.* but they may be relevant."
- A box pointing to the "Limit KeyCite Display" button: "Note the *Limit KeyCite Display* button."

Note the *Results Plus* materials. These materials may not cite *Samara Bros.* but they may be relevant.

Note the *Limit KeyCite Display* button.

Secondary sources that have cited *Samara Bros.* including A.L.R.s, legal encyclopedias, treatises, and legal periodicals.

4. In the *Citing References* section, it states that 387 documents have cited *Samara Bros.* By using the *Limit KeyCite Display* button on the bottom left corner, you can organize, limit, and search through the documents. You can limit by jurisdiction, date, document type, headnotes, and *Depth of Treatment* stars. You can also search through the documents using keywords.

Westlaw FIND&PRINT KEYCITE DIRECTORY KEY NUMBERS SITE MAP
COURT DOCS FORMFINDER PEOPLE MAP EXPERT CENTER

NewsRoom with Reuters Public Records Westlaw Washington Law School Tax Tax (Corp)

KeyCite Limits
for: 165 F.3d 120

Document Type [Clear All](#)

Cases

- Highest court (0)
- Other courts (41)

Secondary sources

- ALR annotations (2)
- Law reviews (69)
- KeyRules (0)
- IP Filing Rules (0)
- Andrews Litigation Reporters (1)
- Others (115)

Administrative Materials

- Administrative Decisions (0)
- Administrative Filings (0)
- Federal Register (0)

Court Documents

- Verdict & Settlement Summaries (0)
- Appellate Petitions, Motions & Filings (6)
- Appellate Briefs (60)
- Joint Appendices (1)
- Oral Arguments (0)
- Trial Pleadings (0)
- Expert Testimony (1)
- Trial Depositions & Discovery (0)
- Trial Motions, Memoranda & Affidavits (86)
- Trial Transcripts (0)
- Trial Filings (3)
- Jury Instructions (2)
- Proposed Orders, Agreements & Settlements (0)
- Verdicts, Agreements & Settlements (0)
- Arbitration Awards (0)

Click one or more limits above to help restrict your citing references.

[KeyCite Limits Tips](#)

Publication
(e.g. S.Ct., F.Supp.)

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You can limit the results by document type. Document types are:

- Cases
- Secondary Sources
- Administrative Materials
- Court Documents
- Specific Publication

5. You can limit results by headnotes:

The screenshot shows the Westlaw interface for a search of 165 F.3d 120. The 'KeyCite Limits' section is active, showing a list of 20 headnotes. The 'Headnotes' section is highlighted with a black arrow pointing to a callout box. The list of headnotes is as follows:

- COPYRIGHTS AND INTELLECTUAL PROPERTY (64)
 - [16] Remedies.◊109 (49)
 - [17] Remedies.◊109 (43)
 - [18] Other works.◊83(7) (11)
 - [19] Certificate as prima facie proof, in general.◊83(3.5) (1)
- FEDERAL CIVIL PROCEDURE (13)
 - [3] In general.◊2608.1 (5)
 - [5] In general.◊2173.1(1) (8)
 - [5] Instructions.◊2336 (8)
- FEDERAL COURTS (20)
 - [1] Trial de novo.◊776 (1)
 - [1] Directed verdict.◊798 (1)
 - [1] Judgment n. o. v.◊801 (1)
 - [2] In general.◊763.1 (1)
 - [4] Taking case from jury.◊764 (10)
 - [15] Refusal of requested charge.◊632 (9)
- TRADEMARKS (170)
 - [6] Trade dress.◊1436 (25)
 - [7] In general.◊1062 (14)
 - [8] Distinctiveness; secondary meaning.◊1065(2) (104)
 - [9] Trade dress.◊1631 (25)
 - [10] Trade dress.◊1631 (7)
 - [11] Trade dress.◊1611 (24)
 - [12] Trade dress.◊1611 (43)
 - [12] Trade dress.◊1631 (43)
 - [13] Trade dress.◊1717(6) (8)
 - [14] Loss of profits or royalties.◊1656(3) (4)

Limit by relevant headnotes: There are 20 headnotes (with 24 different topics and key numbers). You can narrow your results to cases with specific headnotes using the West Topic & Key Number System.

6. You can limit results by jurisdiction:

The screenshot shows the Westlaw KeyCite Limits interface. At the top, there are navigation tabs: NewsRoom with Reuters, Public Records, Westlaw, Washington, Law School, Tax, and Tax (Corp). Below these are links for FIND&PRINT, KEYCITE, DIRECTORY, KEY NUMBERS, SITE MAP, COURT DOCS, FORMFINDER, PEOPLE MAP, and EXPERT CENTER. The main section is titled "KeyCite Limits for: 165 F.3d 120". On the left, there are filter categories: Document Type, Headnotes, Locate, Jurisdiction, Date, and Depth of Treatment. The "Jurisdiction" section is expanded, showing a list of federal and state courts with checkboxes and case counts. Federal cases include: Second Circuit Ct. App. (3), Connecticut (2), New York (29), Third Circuit Ct. App. (1), Fourth Circuit Ct. App. (0), Virginia (1), Sixth Circuit Ct. App. (1), Seventh Circuit Ct. App. (1), and Tenth Circuit Ct. App. (0). State cases include: Michigan (1). There are "Apply" and "Cancel" buttons at the bottom of the filter section. A "Clear All" link is also present. At the bottom of the page, there is a copyright notice: Copyright © 2011, Thomson Reuters. | Privacy | Customer Service: 1-800-REF-ATTY (1-800-733-2889) | Help.

Limit the *Citing References* by jurisdiction.

There are 3 cases from the 2d Circuit Court of Appeals, 2 cases from the U.S. District Court for the District of Connecticut, and 1 case from the Michigan Court of Appeals that cite *Samara Bros.*

7. You can limit results by *Depth of Treatment* stars and/or by running a keyword search using the *Locate* feature.

Westlaw. FIND & PRINT KEYCITE DIRECTORY KEY NUMBERS SITE MAP
 COURT DOCS FORMFINDER PEOPLE MAP EXPERT CENTER
 NewsRoom with Reuters Public Records Westlaw Washington Law School Tax Tax (Corp)

KeyCite Limits
 for: 165 F.3d 120

★★★★★ **Examined** The citing case contains an extended discussion of the cited case, usually more than a printed page of text.

★★★ **Discussed** The citing case contains a substantial discussion of the cited case, usually more than a paragraph but less than a printed page.

★★ **Cited** The citing case contains some discussion of the cited case, usually less than a paragraph.

★ **Mentioned** The citing case contains a brief reference to the cited case, usually in a string citation.

Document Type
 Headnotes
 Locate
 Jurisdiction
 Date
Depth of Treatment

Click one or more limits above to help restrict your citing references.

Apply Cancel

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Westlaw. FIND & PRINT KEYCITE DIRECTORY KEY NUMBERS SITE MAP
 COURT DOCS FORMFINDER PEOPLE MAP EXPERT CENTER
 NewsRoom with Reuters Public Records Westlaw Washington Law School Tax Tax (Corp)

KeyCite Limits
 for: 165 F.3d 120

Document Type
 Headnotes
Locate
 Jurisdiction
 Date
 Depth of Treatment

Click one or more limits above to help restrict your citing references.

Apply Cancel

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Locate
 The Locate feature allows you to refine your KeyCite result by searching the text of cases, administrative decisions, and analytical materials in the citing references list of the KeyCite display.

Terms and Connectors

Locate: internet

Look for terms in the same paragraph as the cited reference
 (When choosing this selection, neither an ampersand (&) nor a but not connector (%) may be used.)

Note: KeyCite Locate works for KeyCite results of less than 2000 documents.

Add Connectors or Expanders [Help](#)

8. Results after using the *Limit KeyCite Display*.

The screenshot shows the Westlaw interface for the case *Samara Bros., Inc. v. Wal-Mart Stores, Inc.* (165 F.3d 120, C.A.2 (N.Y.), 1998). The results are filtered to show only 100 of 387 citing references. The results are categorized into 'Positive Cases (U.S.A.)' and 'Secondary Sources (U.S.A.)'. A callout box with the text 'Limited to 100 of 387 documents' points to the 'Citing References: limited to LOCATE TERMS (Showing 100 of 387 documents)' text.

FOR EDUCATIONAL USE ONLY

Citing References: limited to LOCATE TERMS
(Showing 100 of 387 documents)

Positive Cases (U.S.A.)

★ ★ Cited

- 1 Hermes Intern. v. Lederer De Paris Fifth Avenue, Inc., 50 F.Supp.2d 212, 220+, 50 U.S.P.Q.2d 1257, 1257+ (S.D.N.Y. Mar 19, 1999) (NO. 82063, 98 CIV 2820 (SAS)) **HN: 8 (F.3d)** (BNA Version)
- 2 Chalfant v. Tubb, 453 F.Supp.2d 1308, 1319, 2006 Copr.L.Dec. P 29,261, 29261 (N.D.Okla. Aug 28, 2006) (NO. 05-CV-0549-CVE-SAJ) **HN: 16,17 (F.3d)**
- 3 X-IT Products, L.L.C. v. Walter Kidde Portable Equipment, Inc., 155 F.Supp.2d 577, 624, 2002-1 Trade Cases P 73,685, 73685 (E.D.Va. Jul 09, 2001) (NO. CIV. A. 200CV513) **HN: 12 (F.3d)**

★ Mentioned

- 4 MasterCard Intern. Inc. v. Nader 2000 Primary Committee, Inc., 2004 WL 434404, *16, 2004 Copr.L.Dec. P 28,781, 28781, 70 U.S.P.Q.2d 1046, 1046 (S.D.N.Y. Mar 08, 2004) (NO. 00 CIV.6068(GBD)) **HN: 10 (F.3d)** (BNA Version)

Secondary Sources (U.S.A.)

- 5 Art Law: Guid. for Collect., Invest., Dealer & Art CH 10, Chapter 10: Copyrights (2005) **HN: 18,19 (F.3d)**
- 6 Callmann on Unfair Compet., TMs, & Monopolies s 15:8, International News Service v. Associated Press--Federal preemption--Section 301 of the 1976 Copyright Act (2010)
- 7 Callmann on Unfair Compet., TMs, & Monopolies s 21:84, Junior user's intent--Evidence required (2010)
- 8 Fed. Inc. Tax. Intell. Prop. & Intangible Assets 3.01, NATURE OF THE ASSET (TRADEMARKS) (2010) **HN: 8 (F.3d)**
- 9 Federal Unfair Competition: Lanham Act 43a s 5:24, Infringement including copying of product (2010)
- 10 Patry on Copyright s 18:36, Deceptive trade practices (2010) **HN: 16 (F.3d)**
- 11 Patry on Copyright s 18:47, Unfair competition, including passing off and reverse passing off (2010)

The *Limit KeyCite Display* function allows you to:

- Exclude certain types of documents (e.g. secondary sources, court documents, etc.)
- Limit your results by:
 - Jurisdiction
 - Date
 - *Depth of Treatment* stars
 - West headnotes (using Topics & Key Numbers)
- Locate specific words in the documents