

## IP File

The IP File's mission is to scour the universe for compelling stories in intellectual property law. In the United States, there are four main types of intellectual property protection available: patents, copyrights, trademarks and trade secrets.

March 30, 2016

### **Freedom of Speech Protects “Disparaging” Marks, Federal Circuit Holds**

**By:** Dan Liu

In a recent landmark ruling, the Federal Circuit, sitting en banc, held that Section 2(a) of the Lanham Act's ban on “disparaging” marks violates the First Amendment.[1] Section 2(a) provides that no trademark shall be refused registration “unless it consists of or comprises . . . matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols[.]”[2] The majority found that the government's prohibition of registration of disparaging marks “amounts to viewpoint discrimination, and under the strict scrutiny review, . . . is unconstitutional.”[3] It further concluded that such prohibition is unconstitutional even under the intermediate scrutiny review because the government offered no legitimate interests to justify such prohibition.[4]

**TAGS:** Federal Circuit, First Amendment, Intellectual Property, Intellectual Property, Lanham Act, Trademark & Trade Dress, Trademarks, USPTO

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March 7, 2016

### **Glaser Weil Named AMEC's Law Firm of the Year**

The Association of Media and Entertainment Counsel (AMEC), the leading trade association serving general counsel and business affairs attorneys, has named Glaser Weil the 2016 Law Firm of the Year.

**TAGS:** AMEC, AMEC, Copyright & Idea Theft, Copyrights, Intellectual Property, Intellectual Property, Trade Secret & Unfair Competition, Trade Secrets, Trademark & Trade Dress, Trademarks

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January 28, 2016

## **Glaser Weil Partner Mieke Malmberg Moderated a Panel for the AIPLA Mid-Winter Institute in La Quinta, CA**

On January 27, 2016, Glaser Weil Partner, Mieke Malmberg, moderated a panel for the AIPLA Mid-Winter Institute in La Quinta, California.

**TAGS:** Copyrights, Intellectual Property, Intellectual Property, Litigation, Patent Litigation, Trade Secrets, Trademarks

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January 28, 2015

## **For the Redskins, NFL Playoff Season Means. . . Constitutionality Questions?**

The NFL playoffs aren't the only big football news happening this month! The U.S. Department of Justice recently decided to intervene in the Washington Redskins trademark litigation over the constitutionality of certain provisions of the Lanham Act.

**TAGS:** commercial speech, doj, eastern district of virginia, federal court, fifth amendment, first amendment, football, free speech, intellectual property, lanham act, lanham act section 2a, native americans, nfl, notice of intervention, redskins, registered trademark, trademark & trade dress, trademark litigation, trademarks, ttab, u.s. department of justice, u.s. district court, u.s. trademark trial and appeal board, washington redskins

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January 22, 2015

## **Who A-Tacks a Decision on Tacking? U.S. Supreme Court Rules That Tacking Trademarks to Gain Earlier First Use Is a Question Of Fact**

It's a historic week for trademarks! On January 21, 2015, the U.S. Supreme Court issued a decision in the case of Hana Financial, Inc. v. Hana Bank, which marks the high court's first substantive ruling on trademarks in more than ten years. In its decision, the Supreme Court unanimously held that trademark tacking is a factual question, and thus, should be decided by juries.

**TAGS:** doctrine of tacking, factual question, hana bank, hana financial, hana financial inc. v. hana bank, judge, jury, justice sonia sotomayor, legal question, ninth circuit, supreme court, tacking trademarks, trademark & trade dress, trademarks, u.s. supreme court

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January 14, 2015

## **Low Octane Levels? Octane Fitness' Impact in the Trademark and Trade Secret Realms**

We have previously addressed the Supreme Court's decision in *Octane Fitness, LLC v. Icon Health & Fitness, Inc.*, 12-1184, Slip Op. at 7 (2014), which relaxed the standard for awarding attorney's fees under Section 285 of the Patent Act ("§285") and ruled that decisions on §285 are entitled to deference on appeal. In the patent litigation realm, the Octane Fitness decision does not seem to have led to an overwhelming trend toward awarding fees. It does, however, beg the question: how has this impacted the standard for awarding attorney's fees in other types of intellectual property cases, such as trademarks and trade secrets?

**TAGS:** apple inc. v. samsung elects. co., bmw of north america v. cudahar, fair wind sailing v. dempster, intellectual property, lanham act, monster daddy v. monster cable products, ninth circuit, octane fitness, octane fitness llc v. icon health & fitness inc., patent act, patent infringement, patent litigation, patent litigation, premium balloon accessories v. creative ballon mfg., sixth circuit, supreme court, third circuit court of appeals, tivo research, tns, tns media research v. tivo research, trade secret & unfair competition, trade secret statutes, trade secrets, trademark & trade dress, trademark attorney fees, trademarks, uniform trade secrets act, utsa

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April 16, 2014

## **What is Intellectual Property Law?**

Welcome to the IP File, Glaser Weil's intellectual property law blog. Our mission: to scour the universe for compelling stories in intellectual property law.

**TAGS:** copyrights, intellectual property, trade secrets, trademarks

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