

Kluwer Trademark Blog

Trademark case: Iancu v. Brunetti, USA

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Monday, August 1st, 2022

Like the previously invalidated bar on “disparaging” marks, the “immoral/scandalous” marks prohibition violated the First Amendment as a viewpoint-based restriction on free speech.

The Lanham Act’s prohibition against registration of “immoral” or “scandalous” trademarks violates the First Amendment as a viewpoint-based restriction on expression, the U.S. Supreme Court has held. A divided Court affirmed a decision by the U.S. Court of Appeals for the Federal Circuit, holding that the immoral/scandalous prohibition of Lanham Act Section 2(a), 15 U.S.C. §1052(a), was facially invalid as an unconstitutional abridgement of free expression, and reversing the USPTO’s refusal to register the mark “FUCT” for street clothing. The majority opinion was written by Justice Kagan and joined by Justices Thomas, Ginsburg, Alito, Gorsuch, and Kavanaugh. Justice Alito wrote a concurring opinion. Chief Justice Roberts and Justice Breyer filed opinions concurring in part and dissenting in part. Justice Sotomayor filed an opinion concurring in part and dissenting in part, in which Justice Breyer joined (Iancu v. Brunetti, June 24, 2019, Kagan, E.).

Case date: 24 June 2022

Case number: No. 18-302

Court: Supreme Court of the United States

A full summary of this case has been published on [Kluwer IP Law](#).

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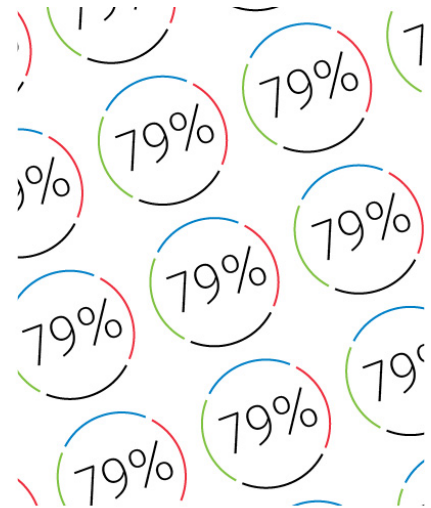
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