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Trademark case: RiseandShine Corp. v. PepsiCo, Inc., USA

Matthew Hersh (Wolters Kluwer) · Monday, September 26th, 2022

Pepsi earns reversal of pretrial order that would have required it to stop marketing a new Mountain Dew product.

A federal district court was wrong to enjoin Pepsi from continuing to market a canned energy drink under the Mountain Dew line under the name of “rise energy” because the owner of the RISE mark was unlikely to eventually prevail in its trademark lawsuit against the soft drink behemoth, the U.S. Court of Appeals for the Second Circuit has held. The court, reversing the injunction and ruling against the trademark holder, found that the RISE label was a weak trademark because it strongly suggested the qualities of the product it labeled and there was extensive third-party usage of the same or similar marks (*RiseandShine Corp. v. PepsiCo, Inc.*, July 22, 2022, Leval, P.).

Case date: 22 July 2022

Case number: No. 21-2786

Court: United States Court of Appeals, Second Circuit

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

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