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

Jonathan Anderson (Wolters Kluwer Legal & Regulatory US) · Friday, March 21st, 2025

The panel said that the district court properly analyzed the strength-of-mark factor as a question of law.

The U.S. Court of Appeals for the Second Circuit has affirmed a district court judgment that held the strength-of-mark factor strongly favored PepsiCo, Inc. in a trademark infringement lawsuit brought by RISE canned coffee drink maker RiseandShine Corporation over PepsiCo's use of the mark MTN DEW RISE ENERGY. The panel said that the district court properly analyzed the strength-of-mark factor as a question of law and did not disregard material facts regarding the mark's acquired strength. Further, the appeals court said that the district court properly treated the likelihood of confusion question as a matter of law, despite some earlier circuit rulings to the contrary (*RiseandShine Corp. v. PepsiCo, Inc.*, No. 23-1176-cv (2d Cir. Dec. 19, 2024)).

Case date: 19 December 2024

Case number: No. 23-1176-cv

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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