

6 KEY TAKEAWAYS

Annual Update on Recent Trademark Case Law

Kilpatrick partner [Ted Davis](#) recently presented his “**Annual Update on Recent Trademark Case Law**” at the firm’s **2025 Advanced Trademark Law Seminar** in San Francisco.

Below, Mr. Davis highlights key takeaways from his presentation which included:

1

the Supreme Court’s adoption in *Vidal v. Elster*, 602 U.S. 286 (2024), of a history-and-tradition model for evaluating the constitutionality of some—but perhaps not all—content-discriminatory prohibitions on registrations;

2

the applications on remand and otherwise of the Court’s decisions in *Jack Daniel’s Props., Inc. v. VIP Prods. LLC*, 599 U.S. 140 (2023) and *Abitron Austria GmbH v. Hetronic Int’l, Inc.*, 600 U.S. 412 (2023);

3

yet another accounting-of-profits dispute before the Court, namely, *Dewberry Eng’rs Inc. v. Dewberry Grp.*, 77 F.4th 265 (4th Cir. 2023), *cert. granted*, 144 S. Ct. 2681 (2024);

4

the strange goings-on in *Pennsylvania State Univ. v. Vintage Brand, LLC*, 715 F. Supp. 3d 602 (M.D. Pa. 2024);

5

the USPTO’s new fee schedule; and

6

the phaseout of *United States Patents Quarterly* by the USPTO’s trademark operations.