

5 KEY TAKEAWAYS

New Developments in U.S. Trademark and Unfair Competition Law

Kilpatrick partner [Ted Davis](#) spoke recently on new developments in U.S. trademark and unfair competition law at the [San Francisco Intellectual Property Law Association's](#) annual seminar.

That presentation addressed, among other things, the following topics:

1

The mass extinction of precedential opinions from the Trademark Trial and Appeal Board;

2

Supreme Court review in *RiseandShine Corp. v. PepsiCo, Inc.*, 41 F.4th 112 (2d Cir. 2022), *cert. granted*, 146 S. Ct. 2779 (2026);

3

The continued viability of the *Rogers v. Grimaldi* test for liability in cases not presenting trademark uses by defendants;

4

The Ninth Circuit's latest end run around the text of Section 43(c) in *VIP Products, LLC v. United States*; and

5

The continued split among federal courts on the evidentiary value of federal registrations.