



Insights: Publications

5 Key Takeaways | Recent Developments in U.S. Trademark & Unfair Competition Law

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Kilpatrick partner **Ted Davis** spoke recently on recent developments in U.S. trademark and unfair competition law during a webinar of the [Cincinnati Intellectual Property Law Association](#).

The following were among the key takeaways from that presentation:

1. The Supreme Court's confirmation in *Dewberry Engineers Inc. v. Dewberry Group*, 604 U.S. 321 (2025), that the inherently flexible nature of the equitable remedy of an accounting of profits nevertheless is subject to guardrails;
2. revised findings of fact and conclusions of law on remand in *Jack Daniel's Properties, Inc. v. VIP Products LLC*, 599 U.S. 140 (2023);
3. the continued post-*Jack Daniel's* viability of the restrictive test for infringement first articulated in *Rogers v. Grimaldi*, 875 F.2d 994 (2d Cir. 1989), in cases not presenting trademark uses by defendants;
4. the Federal Circuit's war on claimed color marks in *CeramTec GmbH v. Coorstek Bioceramics LLC*, 124 F.4th 1358 (Fed. Cir. 2025), and *In re PT Medisafe Techs.*, 134 F.4th 1368 (Fed. Cir. 2025); and
5. the possible beginning of the end for the *Dawn Donut* Doctrine in *Westmont Living, Inc. v. Retirement Unlimited, Inc.*, 132 F.4th 288 (4th Cir. 2025).

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