Insights: Publications

Supreme Court Slants in Favor of Rock Band in Landmark Trademark Case

National Law Review

JUNE 20, 2017 Written by Tiffani D. Otey

On Monday, June 19, 2017, the U.S. Supreme Court ("SCOTUS") invalidated a 70-year-old provision of U.S. trademark law that previously barred registration of "offensive" trademarks. The high court held that the federal government cannot deny a trademark registration because some people might find the trademark offensive. The case resulting in the landmark decision involved an Asian-American rock band who call themselves "The Slants." The United States Patent and Trademark Office denied the band's application to register its name in 2011 based on the Lanham Act's "disparagement clause," which barred registration of any mark likely to disparage a person or group. The registration was refused on the ground that "Slants" is considered a pejorative term when directed toward Asian-Americans. The band challenged the denial of its registration by filing a federal law suit raising the issue of whether or not the disparagement clause violated the First Amendment's right to free speech. In December, 2015, the Federal Circuit Court of Appeals made waves in the legal landscape by agreeing with The Slants First Amendment arguments and declaring that the disparagement clause penalized protected speech by denying the substantial benefits of a trademark registration. And with Monday's decision, SCOTUS agreed with the Federal Circuit.

Related People



Tiffani D. Otey
t 336.607.7503
totey@ktslaw.com