

In The Media

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Michael Kelber Quoted in *World Trademark Review* Article on U.S. Supreme Court's Ruling in *Jack Daniel's* Case

Michael Kelber, co-chair of the Intellectual Property practice group, was quoted in the article "Brand owners breathe a "sigh of relief" as Supreme Court sides with Jack Daniel's," which was recently published by *World Trademark Review*. The article discusses the U.S. Supreme Court's ruling in favor of Jack Daniel's in a dispute over a parody dog toy, overturning the Ninth Circuit's decision. The court held that the *Rogers* test, which determines the application of trademark law to expressive works, does not apply when a trademark is used for source identification. The decision is seen as a significant win for brand owners, providing clarity and strengthening their ability to enforce their rights. It also strikes a balance between freedom of expression and preventing consumer confusion. The ruling narrows the protection for those using another party's mark in parody or humor when selling a commercial product.

Kelber stated that the *VIP v. Jack Daniel's* decision brings clarity and removes a significant barrier for brand owners. He added, "By ruling that the *Rogers* test – which originally protected artists' use of another's trademark in an expressive work, like a film – is not applicable when a party uses another's trademark as the name of its own product, the court will allow brand owners to challenge infringers who are causing confusion in the marketplace or tarnishing their brands. While

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brand owners will still face hurdles in proving infringement, at least they now have an opportunity to try.”

Kelber also addressed this landmark case in a recent client alert which can be found [here](#).

[Click here](#) to read the full article on *World Trademark Review* (subscription may be required).