

Jason Bloom Discusses SCOTUS Ruling on Scandalous Trademark

July 3, 2019 Jason Bloom

PRACTICES Intellectual Property, Trademark and Advertising, Trademark Litigation

Haynes Boone Partner [Jason Bloom](#) spoke with *Managing Intellectual Property* and *World Trademark Review* about the U.S. Supreme Court's ruling in *Iancu v Brunetti*.

Here are excerpts:

Managing Intellectual Property:

In its June 24 *Iancu v. Brunetti* decision, the US Supreme Court affirmed the Federal Circuit's 2017 ruling and found that the Lanham Act's bar on registering immoral or scandalous marks is an unconstitutional restriction of free speech. As *Managing IP* reported previously, the justices grappled with many issues during oral arguments, which bore out in the court's 6-3 decision.

Writing for the majority, Justice Kagan's opinion stated: "The First Amendment does not allow the government to penalize views just because many people, whether rightly or wrongly, see them as offensive ... There are a great many immoral and scandalous ideas in the world (even more than there are swear words), and the Lanham Act covers them all."

Essentially, the USPTO's ban on scandalous and immoral marks was found to be viewpoint-discriminatory.

Jason Bloom, partner at Haynes Boone in Dallas, Texas, agrees: "Having trademark examiners make determinations on what is and isn't immoral naturally leads to inconsistent results. And there just aren't any compelling policy reasons for the government to be able to deny registrations on morality grounds — certainly none that outweigh the First Amendment concerns."

To read the full article, click [here](#). (Subscription required)

Bloom was also quoted in *World Trademark Review*:

"Post *Tam*, the outcome is not surprising at all, and is the right one. The court properly found the morality clause, like the disparagement clause, to be viewpoint discrimination. Moreover, having trademark examiners make determinations on what is and isn't immoral naturally leads to inconsistent results. And there just aren't any compelling policy reasons for the government to be able to deny registrations on morality grounds — certainly none that outweigh the First Amendment concerns."

To read the full article, click [here](#).