

The Supreme Court Update - November 21, 2022

by Ian Blodger

Yesterday, the Supreme Court of the United States granted certiorari in one case:

Jack Daniel's Properties, Inc. v. VIP Products LLC, No. 22-148: At issue in this case is whether "poop-themed" dog toys created by VIP Products that bear Jack Daniel's trademarks infringed upon Jack Daniel's trademarks. The questions presented are: (1) Whether humorous use of another's trademark as one's own on a commercial product is subject to the Lanham Act's traditional likelihood-of-confusion analysis, or instead receives heightened First Amendment protection from trademark-infringement claims; and (2) whether humorous use of another's mark as one's own on a commercial product is "noncommercial," thus barring as a matter of law a claim of dilution by tarnishment under the Trademark Dilution Revision Act.

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