

World Intellectual Property Review Quotes Partner Andrea Calvaruso on Supreme Court's Decision to Review "Disparaging" Trademark Dispute

September 30, 2016

Partner [Andrea Calvaruso](#) was quoted in the *World Intellectual Property Review* article "SCOTUS Slants decision could change 70 years of practice, say lawyers." The article discusses the U.S. Supreme Court's decision to review the *In re Tam* trademark dispute, in which the US Patent and Trademark Office (USPTO) denied rock band The Slants a trademark for its name, but not the *Blackhorse v Pro Football* case about trademarking the NFL team name, the Redskins. In both cases the trademarks were denied because current laws state that trademarks likely to disparage people, institutions or beliefs are barred from registration under section 2(a) of the Lanham Act. In December last year, the Federal Circuit ruled that the USPTO's decision to deny the The Slants' trademark violated the band's First Amendment rights. If the Supreme Court agrees with the Federal Circuit, it will change 70 years of USPTO practice. Ms. Calvaruso said, "The SCOTUS decision will determine whether the USPTO may continue to deny federal trademark registration of any mark on the basis that a substantial composite of the general public would perceive the mark to be vulgar, scandalous or offensive. Trademark rights in the US are derived from use of a mark in commerce, rather than registration. Therefore, even if a party such as Tam is denied a US trademark registration, it does not affect his right to use the mark as a brand name or trademark."

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