

News & Insights

IP Attorney Randy McCarthy Westlaw Journal Intellectual Property - SCOTUS to rule on Pepsi win; trademark enforcement changes could follow

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Westlaw Intellectual Property

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The U.S. Supreme Court has agreed to consider a trademark dispute involving PepsiCo Inc. over whether trademark strength is a question of fact in a likelihood-of-confusion analysis, and attorneys say the ruling could affect trademark litigation.

Randy McCarthy a patent partner at Hall Estill, said trademark plaintiffs could find preliminary injunctions easier to get if the justices overturn the appellate court's decision.

"Regardless of the outcome, trademark litigants should calibrate their evidence strategy early in the case, such as by developing robust consumer perception proof to shape how a jury understands both inherent and commercial strength," he said.

Attorneys

- Randall K. McCarthy

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