

Three Things: Trademark Law

Description

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1. IMMORAL AND SCANDALOUS MARKS. You may have read about this trademark case — ANDREI IANCU v. ERIK BRUNETTI, 18-302 (SCOTUS) — pending before the Supreme Court of the United States (SCOTUS) right now, regarding whether the U.S. Patent and Trademark Office can refuse to register marks that are “immoral” and “scandalous.” (Some might even call them profane.) The decision expected this month is going to be an important one to watch, as it could open the door for other such trademarks to be registered. The U.S. Patent and Trademark Office (USPTO) has reported an upsurge in applications containing similar trademarks.

2. TRADEMARKING CANNABIS-RELATED PRODUCTS? Marijuana use is legal for medical purposes in at least 33 states, and for adult recreational use in at least 10 states and the District of Columbia. Yet, because buying, selling and marijuana is still illegal under federal law, the USPTO refuses to register trademarks for cannabis-related products and services. We have been assisting cannabis companies with strategies for obtaining as much trademark protection as possible. You can read more about this here and here.

3. INTERNATIONAL TRADEMARK APPLICATIONS. The trademark registration process in the U.S. can be complex but does not have to be expensive. There are ways to save money in the process, which can be of particular interest to international trademark applicants as well as to applicants from the U.S. They include: drafting the identification of goods and services more narrowly than is typical in other countries, using common commercial terms; gathering and retaining documentation early in the process that supports your claim that you have an “intent to use” the mark in the U.S.; and confirming that the mark is in use on each item listed in the registration application.

For more information on these or any related topics, feel free to contact [John E. Ottaviani](#) or Geri Rosman.

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