

United States of America

“Jack Daniel’s”

Decision of the Supreme Court of the United States

8 June 2023 – Case No. 22-148

Jack Daniel’s Properties, Inc. v. VIP Products LLC

Lanham Act, §§ 1114(1)(A), 1125

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Keywords Likelihood of confusion · Famous mark · Dilution · Infringement · Parody · Fair use · Dog toys · Whiskey · Bad Spaniels · *Rogers* test · First Amendment · Tarnishment

1. When an alleged infringer uses a trademark as a designation of source for the infringer’s own goods, the *Rogers* test does not apply.
2. When a mark is used as a source identifier, the First Amendment does not demand a threshold inquiry.
3. The Lanham Act’s exclusion from dilution liability for “any non-commercial use of a mark” does not shield parody, criticism, or commentary when an alleged diluter uses a mark as a designation of source for its own goods.
4. Parody is exempt from liability only if not used to designate source.

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