

Kristin Achterhof Quoted by *Managing Intellectual Property* on Aftermath of *Jack Daniel's v. VIP Products*

June 20, 2024

Intellectual Property Partner Kristin Achterhof was quoted in an article by *Managing Intellectual Property* about the 2023 ruling in *Jack Daniel's v. VIP Products*, and how, one year later, ambiguities still exist in determining whether a mark is being used as a source identifier in the context of trademark infringement disputes.

Although the Supreme Court of the United States (SCOTUS) determined in *Jack Daniel's* that VIP Products had used the term "Bad Spaniels" as a designation of source for its own goods, Kristin, who advises many companies with famous marks, said the ruling left open the issue of what is exactly required for a mark to be source-identifying. "In crafting complaints, I'm very careful to make sure that we allege that the marks are being used as source identifiers by the defendant to avoid any attempt to invoke the *Rogers* test," she said.

The SCOTUS opinion provided some guidance on the issue, "but source identification could go beyond whether the defendant is using a particular mark or a term on a tag," Kristin said, noting that the case mostly focused on how VIP Products used the logo on tags. "So, it would have been great to have more guidance" in that regard, she added.

["One-year hangover: counsel still scratching heads in JD aftermath,"](#) *Managing Intellectual Property*, June 6, 2024

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