

Does the First Amendment Protect the Use of Parody for Commercial Purposes?

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The US Supreme Court Will Decide

On March 22, the US Supreme Court will hear arguments in *Jack Daniel's Properties, Inc. v. VIP Products LLC*. In a case that pits trademark rights against free speech claims, Jack Daniel's has sued VIP Products for trademark infringement due to VIP Products' sale of a dog chew toy in the shape of a Jack Daniel's bottle with a label replacing "Jack Daniel's" with "Bad Spaniels" and engaging in other parodying of the Jack Daniel's label in a manner referring to dog defecation. VIP Products takes the position that its parody should be protected under the First Amendment Freedom of Speech Clause. Jack Daniel's view is that a company selling a commercial product that makes humorous use of the Jack Daniel's brand should not be entitled to First Amendment protection.

I discovered in a store in Colorado that "Bad Spaniels" is just one of a line of dog toys parodying liquor brands.

Although it may be that Jack Daniel's is the only brand worked up enough about this to bring a lawsuit (and take it all the way to the Supreme Court), several third parties have filed briefs in support of Jack Daniel's position, including Campbell Soup Company, Nike, and several trade associations. The Supreme Court's decision will likely issue in June.