

PRESS RELEASE

Wiley Rein Files Supreme Court *Amicus* Brief for Rutherford Institute in First Amendment Trademark Case

March 26, 2019

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Washington, DC—Wiley Rein has filed an *amicus brief* on behalf of The Rutherford Institute in an important First Amendment trademark case that the U.S. Supreme Court will hear next month. The brief was filed March 25 in support of the respondent in *Iancu v. Brunetti*, which tests the constitutionality of the Lanham Act's ban on registration of "scandalous" trademarks.

Megan L. Brown, partner in firm's Appellate Practice, is Counsel of Record to The Rutherford Institute. The Wiley Rein team also includes Scott B. Wilkens, partner in the Appellate and Intellectual Property practices; Christopher Kelly, chair of the Trademark Practice; and Wesley E. Weeks, associate in the Appellate and IP practices.

The Supreme Court case, scheduled for oral argument April 15, stems from the U.S. Patent and Trademark Office's (PTO) refusal to grant a trademark registration to a clothing line on the grounds that the brand name – which sounds like a word considered to be profane – would violate the Lanham Act's scandalous-marks provision.

The U.S. Court of Appeals for the Federal Circuit overturned the PTO decision in 2017, ruling that the scandalous marks provision is unconstitutional. The *amicus* brief urges the Supreme Court to affirm the Federal Circuit ruling.

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Practice Areas

First Amendment/Commercial Speech
Intellectual Property
Issues and Appeals
Trademark

"Trademark registration cannot be used to burden speech in an effort to shield the public from offense," Wiley Rein argued in the brief. "This is anathema to the First Amendment."

To read the *amicus* brief, [click here](#).