Washington Redskins Ask Supreme Court to Reconsider "Disparaging" Trademark Rule

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DC Client Alert

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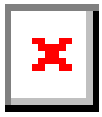
The owners of the Washington Redskins have petitioned the Supreme Court to reinstate the canceled "Washington Redskins" trademark registration. If the Supreme Court takes up the case, it will bypass a pending appeal by the team in front of the U.S. Court of Appeals for the Fourth Circuit.

The Washington Redskins' petition comes shortly after the U.S. Patent and Trademark Office (USPTO) filed a writ of certiorari to the Supreme Court in a related case involving a trademark for the band name "The Slants." The USPTO had ruled that "The Slants" trademark could not be registered under the its disparaging trademark rule. In December 2015, however, the Federal Circuit disagreed with the USPTO and ruled that the disparaging trademark rule violated the First Amendment.

The Washington Redskins had their U.S. federal trademark registration canceled by the USPTO under the disparaging trademark rule in 2014. The team appealed and the case is now pending before the Fourth Circuit.

The Washington Redskins believe that The Slants decision from the Federal Circuit in December is correct. The Washington Redskins hope that the Supreme Court will deny certiorari in The Slants case, so that the Federal Circuit ruling stands.

The team filed its current, unusual petition to the Supreme Court in the hopes that if the Supreme Court does consider The Slants case, it will also consider the same issue for the Washington Redskins and allow the team a say in the decision. The team believes their case is an ideal companion to The Slants case.