

## News

# PENN STATE SUIT SETS OFF DEBATE OVER TRADEMARKS' FUNCTION

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BCLP Partner Jeff Wakolbinger was quoted in [Law360](#) on Pennsylvania State University's infringement allegations against sports apparel retailer Vintage Brand — claiming unauthorized use of the school's trademarks on shirts.

In 2021, Pennsylvania State sued Vintage Brand for trademark infringement. Despite Vintage Brand's efforts to dispose of claims on summary judgment, the court ruled in February that the infringement claim will proceed to trial in Pennsylvania's federal court. Vintage Brand argues that the university trademarks it has used are ornamental designs, not an indicator of source for the shirts and other goods Vintage Brands sells. The legal battle could force courts to reexamine the role of trademarks in merchandise licensing — potentially making it harder to prevail on counterfeiting claims.

"Trademarks are supposed to stand for the quality of the item. So when you've got something on a shirt, do consumers really see this as a trademark for the shirt? I'm not sure, and the court seemed to be struggling with that too," said Jeff.

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