

## 4 KEY TAKEAWAYS

# Major U.S. Supreme Court Trademark and Copyright Decisions

Kilpatrick Townsend partner [Ted Davis](#) spoke recently at the annual meeting of the Intellectual Property Institute of Canada concerning recent trademark decisions of the Supreme Court of the United States.

Takeaways included the Court's:

1

increasing attention to the intersection of trademark rights and the right to Free Speech guaranteed by the First Amendment to the United States Constitution;

abrogation of the pro-defendant *Rogers v. Grimaldi* test for liability in cases in which defendants use their alleged imitations of plaintiffs' marks as marks for their own goods and services;

2

clarification of the noncommercial use "exclusion" from liability for likely dilution under Section 43(c)(3)(C) of the Lanham Act; and

3

strengthening of the presumption against extraterritorial applications of United States law, including extraterritorial applications of the federal Lanham Act.

4

For more information, please contact:  
Ted Davis: [tdavis@kilpatricktownsend.com](mailto:tdavis@kilpatricktownsend.com).

[www.kilpatricktownsend.com](http://www.kilpatricktownsend.com)