

High Court's 'Narrow' Jack Daniel's Opinion Having Big Impact

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When the US Supreme Court decided a year ago that the maker of a squeaky dog toy that looks like a Jack Daniel's whiskey bottle had no free speech protections against trademark infringement claims, the justices described their holding as narrow, but the opinion is having broader implications.

In an ongoing dispute, Disney Industries Inc. is fighting a Texas federal suit from Diece-Lisa Industries Inc., which accuses Disney of infringing the company's trademarks for "Lots of Hugs" stuffed animals by featuring a character named "Lots-o'-Huggin' Bear" in "Toy Story 3." Disney won several rounds in the lower courts using the Rogers test, but after the Jack Daniel's decision, the Supreme Court granted a petition from Diece-Lisa Industries and remanded the case.

Although it is too early to get a full picture of how courts are interpreting the Jack Daniel's decision, Bracewell's **Jonathon Hance** told *Law360* that he sees another possible path.

"I fancy myself an IP licensing professional, and so I'm always trying to promote licensing," said Hance. "I think [the decision] is the kind of thing that could promote additional licensing of brands into films."

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Jonathon K. Hance

Partner

HOUSTON

+1.713.221.1125

jonathon.hance@bracewell.com

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