



Banner & Witcoff represents Converse in Federal Circuit win over iconic sneakers

On appeal before the Federal Circuit, Banner & Witcoff represented Converse in successfully obtaining a vacature and remand of the International Trade Commission, setting the stage for Converse to reclaim its initial victory at the ITC against entities selling knock-off versions of Converse's iconic Chuck Taylor All Star sneaker.

The Federal Circuit vacated the ITC's finding that Converse's asserted trade dress was invalid, adopting Converse's arguments that the ITC improperly "relied too heavily on prior uses long predating the first infringing uses and the date of registration" and improperly relied on a survey of "little probative weight" that failed to show a lack of secondary meaning. The Federal Circuit instructed the ITC to reevaluate secondary meaning on remand by giving the appropriate, diminished weight to that evidence, and by conducting a separate analysis as of the date of first use for each infringer. The Court also instructed the ITC to reevaluate a subset of infringements.

Judge O'Malley, concurring-in-part and dissenting-in-part, agreed with the majority's analysis on those points, and added that it was improper for the ITC to invalidate the registered federal trademark in the first place.

Converse is represented by Christopher J. Renk, Michael J. Harris, Audra C. Eidem Heinze, Aaron Bowling and Timothy Haugh.

Click [here](#) to read the Federal Circuit's opinion.

Click [here](#) to read a Law360 article highlighting Converse's win.

Posted: October 30, 2018