Helen Hill Minsker Pens Article on Changing Landscape of USPTO Registrability

Banner Witcoff attorney Helen Hill Minsker wrote an article for Practising Law Institute's quarterly journal examining how recent changes in the law and a pair of U.S. Supreme Court cases have affected the U.S. Patent and Trademark Office's registration policies related to certain categories of trademarks.

Helen's article, "Sex, Drugs & Rock 'n' Roll Get a Second Chance: The Changing Landscape of USPTO Registrability of Immoral, Scandalous, Disparaging, and Cannabis-Related Marks," was published in the summer 2019 issue of the PLI Current: The Journal of PLI Press.

The first part of the article focuses on the impact of two Supreme Court cases — Matal v. Tam and Iancu v. Brunetti — on the USPTO's registration policies with respect to the disparagement and immoral/scandalous clauses of Section 2(a) of the Lanham Act.

"While the Brunetti and Tam decisions opened the door for more categories of marks to be registered, because of the existence of alternative grounds to refuse registration that do not violate the First Amendment, it remains to be seen whether the decisions will have a significant impact on what marks actually end up on the Trademark Register," Helen notes in the article.

The second part of her article examines the USPTO's registration policies with respect to cannabis-related goods following the passage of the 2018 Farm Bill. Helen explains that although "there is a path for registering marks for certain cannabis-related goods, in the short term at least, it appears that there may be many hurdles to overcome before a registration issues."

Click here to view Helen's article, and here for more information about the PLI Current: The Journal of PLI Press.

Posted: October 10, 2019