## In The Supreme Court of the United States

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION IN SUPPORT OF RESPONDENT

## QUESTION(S) PRESENTED

- 1. Whether humorous use of another's trademark as one's own on a commercial product is subject to the Lanham Act's traditional likelihood-of-confusion analysis, or instead receives heightened First Amendment protection from trademark-infringement claims.
- 2. Whether humorous use of another's mark as one's own on a commercial product is "noncommercial" under 15 U.S.C. § 1125(c)(3)(C), thus barring as a matter of law a claim of dilution by tarnishment under the Trademark Dilution Revision Act.

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

Cases: Page(s)

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A. Robust Protection for Political, Social, and Artistic Expression Requires Latitude to Draw On Trademarks, Even in the Commercial Context.

B. The Usual Test for Trademark Infringement is More Likely to Chill Free Speech Than Protect it.

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B. Public universities and colleges attempt to block students, alumni, and faculty from using trademarked names to criticize their schools.

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