

What's New in the July 2026 Edition

This July 2026 edition contains two volumes and replaces the two-volume November 2025 edition. Highlights in the July 2026 edition include:

- The lower court did not abuse its discretion in finding exceptional circumstances to award attorneys' fees, but the lower court award of attorneys' fees was vacated and remanded for recalculation because the First Circuit vacated part of the lower court's judgment on infringement. *Focus Prods. Grp. Int'l, LLC v. Kartri Sales Co.*, 156 F.4th 1259, 1288–89 (Fed. Cir. 2025).
- A federal lawsuit alleging that the use of “personalized” for a weight loss drug proximately caused harm to plaintiff by diverting consumers from plaintiff's drug to defendant's drug was dismissed for failure to plead an actionable proximate cause and lack of standing under Article III. *Novo Nordisk A/S v. Amble Health, Inc.*, 2026 WL 776100 (N.D. Ohio March 19, 2026).
- The right of a union to engage in protected labor advocacy did not extend to trademark protection for use of employer's name in merchandise sold by union as part of its labor advocacy. The union could use the employer's name in labor advocacy, but that protection does not extend to commercial activities involving trademark infringement. *Trader Joe's Co. v. Trader Joe's United*, 150 F.4th 1040 (9th Cir. 2025).
- Allegations were sufficient to state claim against a developer of text-to-image generators for false endorsement under the Lanham Act. *Andersen v. Stability AI Ltd.*, 744 F. Supp. 3d 956 (N.D. Cal. 2024).
- Defendant's survey evidence was reliable and did not indicate a likelihood of consumer confusion. *Casa Tradicion, S.A. de C.V. v. Casa Azul Spirits, LLC*, 2024 WL 1622638 (S.D. Tex. Apr. 15, 2024).
- The Lanham Act does not protect generic trade dress, and the defendant was entitled to summary judgment on the trade dress claims. *Deckers Outdoor Corp. v. Last Brand, Inc.*, 2025 WL 2822685 (N.D. Cal. Oct. 2, 2025).
- The U.S. Supreme Court's decision on *TrafFix Devices, Inc. v. Mktg. Displays, Inc.*, 532 U.S. 23 (2001), does not hold that for a patent to be evidence of a claimed feature's functionality, the patent must explicitly disclose that the claimed feature is functional. Nor does *TrafFix* state that for a trademark to be subject to a *TrafFix* analysis it must be used for the goods described in the patent. Rather, the “central advance” language was used by the *TrafFix* Court to illustrate why the patent in that case was particularly strong evidence that the design feature at issue was functional. *CeramTec GmbH v. Coorstek Bioceramics LLC*, 124 F.4th 1358 (Fed. Cir.), cert. denied, 146 S. Ct. 202 (2025).

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- The user of the mark, who had assigned all rights to the name, was not the party in interest in an infringement case. *Ripple Analytics Inc. v. People Ctr., Inc.*, 153 F.4th 263 (2d Cir. 2025).