

PRACTICAL NEWS  
INTELLECTUAL PROPERTY ARTICLE  
November 2023



## The Supreme Court Getting It Right, Sometimes

[Alan Behr](#), Phillips Nizer

Originally published in [IPWatchdog](#), November 22, 2023

We can be grateful this year that, despite all of the concerns about an ideologically divided Supreme Court, when it came to IP cases, the Court has recently provided a rational consensus. In [Jack Daniels Properties, Inc. v. VIP Products LLC](#), the Supreme Court wisely said that enough is enough with trademark infringers hiding behind the defense that ordinary commercial products are works of artistic expression. In [Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith](#), the Court was asked whether some of the works by Warhol that derive from a photograph used without authorization actually infringe on the photos. Answer: they sure do.

Most of all, IP lawyers can be grateful that AI has not yet taken our jobs.

Alan Behr, a partner in Phillips Nizer's Intellectual Property practice and chair of the Fashion Practice, concentrates his practice on international intellectual property, fashion, and entertainment law. He represents established and up-and-coming businesses and individuals in the fields of electronic entertainment, emerging technologies, publishing, fashion, and consumer products. Mr. Behr founded and serves as Editor-in-Chief of the Firm's [Fashion Industry Law](#) blog. He can be reached at [abehr@phillipsnizer.com](mailto:abehr@phillipsnizer.com).

---

This information is provided as a public service to highlight matters of current interest and does not imply an attorney-client relationship. It is not intended to constitute a full review of any subject matter, nor is it a substitute for obtaining specific legal advice from appropriate counsel.

---