

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1874

PRO-FOOTBALL, INC.,

Plaintiff - Appellant,

v.

AMANDA BLACKHORSE; MARCUS BRIGGS-CLOUD; PHILLIP GOVER;
JILLIAN PAPPAN; COURTNEY TSOTIGH,

Defendants - Appellees,

UNITED STATES OF AMERICA,

Intervenor - Appellee,

CONSTITUTIONAL LAW PROFESSORS; CATO INSTITUTE; THE
RUTHERFORD INSTITUTE; DON BETTELYOUN; FORT MCDERMITT
PAIUTE SHOSHONE TRIBE; BOYD GOURNEAU; NATIVE AMERICAN
GUARDIANS ASSOCIATION; PETER MACDONALD; AMERICAN CIVIL
LIBERTIES UNION; AMERICAN CIVIL LIBERTIES UNION OF VIRGINIA;
AMERICAN CIVIL LIBERTIES UNION OF THE NATION'S CAPITAL;
FIRST AMENDMENT LAWYERS ASSOCIATION; RUSS VERSTEEG,

Amici Supporting Appellant,

NATIVE AMERICAN ORGANIZATIONS; THE NAVAJO NATION; FRED T.
KOREMATSU CENTER FOR LAW AND EQUALITY; NATIONAL NATIVE
AMERICAN BAR ASSOCIATION; NATIONAL ASIAN PACIFIC AMERICAN
BAR ASSOCIATION; NATIVE HAWAIIAN BAR ASSOCIATION;
CALIFORNIA INDIAN LAW ASSOCIATION,

Amici Supporting Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (1:14-cv-01043-GBL-IDD)

Submitted: December 22, 2017

Decided: January 18, 2018

Before KING, FLOYD, and HARRIS, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Robert L. Raskopf, Todd Anten, Jessica A. Rose, QUINN EMANUEL URQUHART & SULLIVAN, LLP, New York, New York; Lisa S. Blatt, Robert Alan Garrett, ARNOLD & PORTER, LLP, Washington, D.C., for Appellant. Jesse A. Witten, Jeffrey J. Lopez, Tore T. DeBella, Patrick H. Thompson, DRINKER BIDDLE & REATH, LLP, Washington, D.C.; Thomas W. Krause, Acting Solicitor, Christina J. Hieber, Thomas L. Casagrande, Associate Solicitors, OFFICE OF THE SOLICITOR, UNITED STATES PATENT AND TRADEMARK OFFICE, Alexandria, Virginia; Benjamin C. Mizer, Principal Deputy Assistant Attorney General, Dana J. Boente, United States Attorney, Douglas N. Letter, Mark R. Freeman, Daniel Tenny, Joshua M. Salzman, Molly R. Silfen, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellees. Rodney A. Smolla, Wilmington, Delaware; Floyd Abrams, CAHILL GORDON & REINDEL LLP, New York, New York, for Amici Constitutional Law Professors. Ilya Shapiro, CATO INSTITUTE, Washington, D.C.; John W. Whitehead, Douglas R. McKusick, THE RUTHERFORD INSTITUTE, Charlottesville, Virginia; Megan L. Brown, Joshua S. Turner, Christopher J. Kelly, Jennifer L. Elgin, Dwayne D. Sam, WILEY REIN LLP, Washington, D.C., for Amici Cato Institute and The Rutherford Institute. Thomas C. Goldstein, Bethesda, Maryland, Kimberly N. Brown, GOLDSTEIN & RUSSELL, P.C., Chevy Chase, Maryland, for Amici Don Bettelyoun, Fort McDermitt Paiute Shoshone Tribe, Boyd Gorneau, Native American Guardians Association, and Peter MacDonald. Lee Rowland, Esha Bhandari, AMERICAN CIVIL LIBERTIES UNION, New York, New York; Hope R. Amezquita, AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF VIRGINIA, INC., Richmond, Virginia; Arthur B. Spitzer, AMERICAN CIVIL LIBERTIES UNION OF THE NATION'S CAPITAL, Washington, D.C., for Amici American Civil Liberties Union, American Civil Liberties Union of Virginia, and American Civil Liberties Union of the Nation's Capital. Marc J. Randazza, RANDAZZA LEGAL GROUP, PLLC, Las Vegas, Nevada, for Amicus First Amendment Lawyers Association. Russ Versteeg, NEW ENGLAND LAW | BOSTON, Boston, Massachusetts, for Amicus Russ Versteeg. Robert S. Chang, FRED T.

KOREMATSU CENTER OF LAW AND EQUALITY, Seattle, Washington; William C. Rava, Elvira Castillo, David A. Perez, Cara Wallace, Dane A. Westermeyer, PERKINS COIE LLP, Seattle, Washington, for Amici Fred T. Korematsu Center for Law and Equality, National Native American Bar Association, National Asian Pacific American Bar Association, Native Hawaiian Bar Association, and California Indian Law Association. Larry S. Gondelman, Brandi A. Taylor, POWERS PYLES SUTTER & VERVILLE PC, Washington, D.C.; Richard A. Guest, NATIVE AMERICAN RIGHTS FUND, Washington, D.C., for Amici National American Organizations. Ethel Branch, Attorney General, Paul Spruhan, Assistant Attorney General, Katherine Belzowski, NAVAJO NATION DEPARTMENT OF JUSTICE, Window Rock, Arizona; Mark A. Griffin, Karin B. Swope, KELLER ROHRBACK L.L.P., Seattle, Washington, for Amicus The Navajo Nation.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Pro-Football, Inc. (“PFI”), the owner of the professional football team the Washington Redskins, holds six trademarks for the team’s name and logos which are federally registered. The Defendants-Appellees, Amanda Blackhorse, Marcus Briggs-Cloud, Phillip Gover, Jillian Pappan, and Courtney Tsotigh, a group of Native Americans, filed a petition seeking the cancellation of the registrations of those trademarks, asserting that the trademarks consist of “matter which may disparage . . . persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.” 15 U.S.C. § 1052(a) (2012). The Trademark Trial and Appeal Board ordered cancellation of the registrations based on § 1052(a). On PFI’s appeal, the district court affirmed that order, and PFI now appeals.

While this appeal was pending, the Supreme Court in *Matal v. Tam*, 137 S. Ct. 1744, 1751 (2017), determined that § 1052(a) violates the free speech clause of the First Amendment. In light of this determination, we vacate the district court’s order and remand for further proceedings consistent with *Tam*. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid in the decisional process.

VACATED AND REMANDED