

# Redskins, Rock Band Battle Government in Trademark Fight

## Portland band The Slants find themselves in odd company with Washington's NFL team

By **SAM HANANEL**  
*Associated Press*

WASHINGTON — Simon Tam has openly criticized the Washington Redskins team name as a racist slur that demeans Native Americans.

But Tam and his Asian-American rock band, The Slants, find themselves on the same side as the NFL franchise in a First Amendment legal battle over trademark protection for names that some consider offensive.

The Supreme Court could decide as early as this month whether to

members of the very group they claim to salute. The Redskins case involves the trademark office's move last year to cancel the team trademark that was first registered in 1967. A federal judge has agreed with that decision.

A federal appeals court in Richmond, Virginia, has not yet considered the team's appeal, but the Redskins are urging the Supreme Court not to wait. If the high court agrees to hear the Slants case, the team wants the justices to hear both disputes at the same time. Such requests to leap-

the First Amendment protects "even hurtful speech that harms members of oft-stigmatized communities."

"The First Amendment forbids government regulators to deny registration because they find the speech likely to offend others," Judge Kimberly Moore said for the majority.

The administration argues that the law does not restrict speech be-

reflects Congress' judgment that the federal government should not

of registration," the government said.

Jeremy Sheff, a professor at St. John's University School of Law who specializes in intellectual property, said the Supreme Court could be interested in the cases because it has been "pretty aggressive" in protecting First Amendment speech.

“The First Amendment forbids government regulators to deny registration”

cause the band is still free to use the name even without trademark protection. The law "simply

affirmatively promote the use of racial slurs and other disparaging terms by granting the benefits



ANTHONY PIDGEON/REDFERNS VIA AP

This photo provided by Anthony Pidgeon, taken Aug. 21, 2015, shows the Asian-American band The Slants, from left, Joe X Jiang, Ken Shima, Tyler Chen, Simon "Young" Tam, Joe X Jiang in Old Town Chinatown, Portland, Ore. The Supreme Court could decide as early as this month whether to hear the dispute involving the Portland, Oregon-area band. And if the Washington Redskins football team has its way, the justices could hear both cases in its new term.

hear the dispute involving the Portland, Oregon-area band. And if the football team has its way, the justices could hear both cases in its new term.

At issue is a constitutional challenge to a law barring the U.S. Patent and Trademark Office from registering trademarks that disparage minority groups. The office denied a trademark to the Slants in 2011 after finding the name disparaged people of Asian descent.

The Slants say their goal was not to offend anyone, but to transform a derisive term about the shape of Asian eyes into a statement of ethnic and cultural pride. The band won a major victory last year when a divided federal appeals court in the District of Columbia ruled the law prohibiting offensive trademarks violates free-speech rights. The Obama administration has asked the Supreme Court to overturn that ruling.

The Redskins, too, say their team name is meant to honor American Indians. But the team has faced years of legal challenges, and a testy public relations fight, from

frog lower courts are rarely granted.

Tam, in a legal brief, says if the court decides to hear the cases together, the justices should do so now rather than waiting for the appeals court to rule in the Redskins case. Otherwise, he says, a future ruling against the Redskins could end up affecting the band's status.

Anyone who has visited The Slants' website will find the band members are certainly no fans of the team. One section has a lengthy list of reasons why the cases are different. No. 1 is "unlike REDSKINS, THE SLANTS is not an inherent racial slur."

The website says the word Redskin "has a long history of oppression" and "the football team treats the people as mascots." By contrast, The Slants "breaks stereotypes about Asian-Americans, especially in the entertainment industry."

Tam does not mention those distinctions in his brief to the court, and he declined to be interviewed.

In The Slants case, the U.S. Court of Appeals for the Federal Circuit ruled in December that



Clockwise from top left: Summer Gorder, EcoREAL Solutions; Alan Beane, Geograde Constructors LLC; Rosa Martinez, Professional Minority Group, Inc (PMG) and Danny Sandoval, Sandoval's Fresh Mexican Grill.

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