

Asian-American band The Slants take battle over trademark to federal court

Members of the Portland-based Asian dance-rock band The Slants are taking their trademark battle to federal court. The band, which features Simon Young on bass, Tyler Chen on drums, lead guitarist Will Moore, Thai Dao on guitar and keys, and vocalist Ken Shima, has tried for years to trademark its name, but has been rejected twice by the U.S. Patent and Trademark Office.

Band founder and leader Simon Tam, whose stage name is Simon Young, formally applied for a trademark for “The Slants” in 2010, but the application was rejected. According to Tam, the reason given by the trademark examiner was that a substantial portion of the Asian-American community would be offended. Tam applied again in 2011, dropping his “reclaiming a stereotype” position and arguing there is nothing inherently racist about the word “slants.” The same trademark examiner again rejected the application, Tam said.

“I consider the name a point of cultural pride,” Tam said. “One of the first things people say is that we have slanted eyes. I thought, ‘What a great way to reclaim that stereotype and take ownership of it,’ and, in doing so, take away the power from those who try to use it as a term of hate. Our band uses our name to refer to our perspectives and experiences in life as people of color. It’s our ‘slant,’ if you will — and we choose to empower others that way.”

Earlier this month, the attorney for The Slants argued to the U.S. Court of Appeals



for the Federal Circuit that the Trademark Trial and Appeal Board lacks the constitutional authority to decide whether a mark is “disparaging” or “scandalous” and therefore unworthy of registration. Furthermore, he argued that the U.S. Trademark Office denied Tam due process when it copied and pasted old arguments and evidence from the band’s first abandoned application into the second application.

Tam, who is also a public speaker on issues of race, has held three TED Talks (Technology, Entertainment, Design Talks) on issues of racism, the power of language, and the trademark problem his band is facing. He is also scheduled for upcoming talks and presentations at Stanford University, the University of Indiana,

and Portland State University.

The battle with the trademark office has made international headlines, according to Tam, who explained that people are trying to understand why the Trademark Office is making such a big deal of it despite issuing trademark registrations to groups such as N.W.A. and Queer Eye for the Straight Guy in addition to hundreds of other non-Asian trademarks containing the term “slant.”

“The actions of the trademark office were clearly racist, but they continue to defend their decision because they forgot what racism actually means. For marginalized communities, such as Asian Americans, re-appropriation can be a powerful tool to fight systemic racism and that’s

TRADEMARK BATTLE. Members of the Portland-based Asian dance-rock band The Slants (pictured) are taking their trademark battle to federal court. The band has tried for years to trademark its name, but has been rejected twice by the U.S. Patent and Trademark Office. (Photo courtesy of The Slants) what The Slants is doing with our name.”

The band’s latest album, *The Yellow Album*, furthers their quest for ethnic pride and awareness. According to the group, the juxtaposition of a tongue-in-cheek album title and some deeply serious songs reflect the band’s ability to embrace pain and hurt with a punk rock swagger.

Previously, the U.S. Justice Department announced that it will defend the constitutionality of Section 2(a) of the Lanham Act against similar claims being pursued by the Washington Redskins in district court. The publicist for the band said both cases come amid the backdrop of a U.S. Supreme Court that has taken an increasingly hardline view on discrimination.

Tam said the government regulator told him to drop the case, saying the band can still call itself The Slants, even without a trademark. In response, Tam said, “To me, that’s like saying you can still ride the bus, you’ve just got to sit in the back. You can have the name, but have fewer rights than anyone else. That only made me want to fight even harder.”

A decision from the Federal Court could arrive by April. Depending on the outcome, the case may advance to the Supreme Court.

To learn more about The Slants, visit <www.theslants.com>.

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