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October 4, 2016

VIA CM/ECF

Patricia S. Connor
Clerk of Court
U.S. Court of Appeals for the Fourth Circuit
Lewis F. Powell, Jr. U.S. Courthouse & Annex
1100 East Main Street, Suite 501
Richmond, VA 23219

Re: ***Pro-Football, Inc. v. Blackhorse, No. 15-1874 (oral argument scheduled for December 9, 2016)***

Dear Ms. Connor:

I write on behalf of Plaintiff-Appellant Pro-Football, Inc. (“PFI”) to request that oral argument in this case, currently scheduled for December 9, 2016, be rescheduled for a date after the U.S. Supreme Court decides *Lee v. Tam*, No. 15-1293. The Court granted certiorari in *Tam* on September 29, 2016 to consider the question “[w]hether the disparagement provision in 15 U.S.C. 1052(a) is facially invalid under the Free Speech Clause of the First Amendment.” Pet. for Writ of Cert. at (I), No. 15-1293 (filed Apr. 20, 2016).

First, good cause exists to reschedule oral argument in this case for a date after the Supreme Court decides *Tam*. If the Court affirms the Federal Circuit’s decision, which held 1052(a)’s disparagement provision unconstitutional, the Court’s decision will control this appeal, which likewise presents the question whether the disparagement provision violates the First Amendment. See PFI Br. 13-33; see also Pet. for Writ of Cert. at 23 n.8 (United States acknowledging that the question in *Tam* is among the questions in this case). It would be inefficient and wasteful for this Court and the parties to have oral argument in this case when the Supreme Court’s decision in *Tam* may dispose of this case in its entirety, and at a minimum will inform this Court’s resolution of the First Amendment question.

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Second, the requested relief could not have been granted during the notice period, which closed on September 2, 2016. See ECF No. 106. The Supreme Court did not grant certiorari in *Tam* until September 29, 2016, and the Supreme Court denied PFI's petition for certiorari before judgment yesterday, on October 3, 2016. PFI is therefore making this request as soon as practicable.

Defendants-Appellees consent to PFI's request. The United States takes no position on PFI's request.

Respectfully submitted,

/s/ Lisa S. Blatt
Lisa S. Blatt

cc: All Counsel of Record (via CM/ECF)