

Lizzo Grabs 100% of That Trademark

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An interesting and precedent-setting ruling came down from the U.S. Patent and Trademark Office (USPTO) Trial and Appeal Board on February 2, 2023 in favor of Lizzo and her class #25 trademark filing for the clothing brand application in ‘100% that B-tch.’

Lizzo included the famed lyric “I just took a DNA test, turns out I’m 100% that b-tch” in her smash hit “Truth Hurts,” but she didn’t come up with the phrase herself. Instead, Lizzo pulled it from a popular internet meme. She eventually gave a songwriting credit to the meme’s creator, Mina Lioness.

A final office action from the USPTO refused registration of the phrase to Lizzo, Inc. on the grounds that the phrase did not originate with Lizzo and was merely a commonplace “motivational phrase” aimed at “female empowerment,” not the kind of unique brand name that’s eligible for trademark protection.

The USPTO Trial and Appeal Board reversed that decision, stating that Lizzo popularized the lyric and elevated the phrase into ‘memorable status’ and therefore was entitled to register the mark. “Consumers encountering ‘100% That B-tch’ on the specific types of clothing identified in the application, even when offered by third parties, associate the term with Lizzo and her music,” as quoted from the [Trial and Appeal Board ruling](#).

This is good news for artists and lyric writers who popularize their lyrical work through recordings and performances. If an artist helps to elevate a phrase to memorable status and that phrase becomes affiliated with the artist, they now have precedent to cite when arguing that they have a right to register the trademark in affiliation with specific goods or services. Of course, the artist must still demonstrate use of the goods or services in commerce in order to secure trademark registration. But they may also file an “Intent to Use” application to reserve the name until they can create the products they are looking to market under the brand name.

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