



ninth circuit clarifies requirement to determine validity of knowingly filed incorrect copyright registration

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SUMMARY

The Ninth Circuit recently decided a copyright infringement case that pitted fabric designer Unicolors against clothing retail giant H&M regarding an artwork design that H&M used on a jacket and skirt in its fall 2015 collection. The dispute involved one fabric design in a copyright registration containing 31 designs as a "single-unit registration." In *Unicolors, Inc. vs. H&M Hennes & Mauritz, L.P.*, No. 18-56253, 2020 WL 2781317 (9th Cir. May 29, 2020), the Ninth Circuit reversed the denial of H&M's renewed motion for judgment as a matter of law after a jury trial for Unicolors and remanded to the district court with instructions to submit a request to the Register of Copyrights to determine the validity of Unicolors' copyright registration in light of known inaccuracies. The Ninth Circuit reaffirmed or newly held three significant rules regarding the threshold issue of a copyright registration's validity:

- 1) if a copyright holder knowingly submits inaccurate information and the copyright certificate contains those inaccuracies, the district court cannot by itself determine whether the Register of Copyrights would have refused registration, but must first submit a request to the Register to advise the court on whether the inaccurate information, if known by the Office, would have caused it to refuse a copyright registration;

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