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# bursting the [red]bubble? northern district of california considers online retailer's scope of liability for copyright and trademark infringement

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On January 28, 2021, the U.S. District Court for the Northern District of California addressed an online retailer's liability for copyright and trademark infringement arising out of its users' submissions. *Atari Interactive, Inc. v. Redbubble, Inc.*, Case No. 4:18-cv-03451. The court on cross-motions for summary judgment deferred on most issues, holding that Plaintiff Atari Interactive, Inc. ("Atari") could proceed on some infringement claims but not others. However, the detailed opinion highlights some factual and legal nuances that brand-owners and platforms will want to consider in their enforcement and operations.

Atari makes and sells video games. Defendant Redbubble, Inc. ("Redbubble") is an online retailer of products printed with user-submitted designs. The Redbubble platform allows independent artists to upload their designs for sale. The artist then selects the products on which the art may be printed and sold from a predetermined list that Redbubble provides. Thereafter, Redbubble "undertakes at least four of the five steps necessary to complete a sales transaction: the artist uploads the art, but Redbubble manages the order, coordinates the creation of the goods, arranges for delivery, and handles all customer service issues, returns, and refunds."

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