



a “prince” of an opinion or a drag on creativity? scotus decides fair use issues in andy warhol foundation for visual arts, inc. v. goldsmit

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MSK Client Alert

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On May 18, 2023, in a 7-2 ruling, the United States Supreme Court held that Andy Warhol's use of a photograph of the late musician Prince to create a new image for licensing in a magazine was not “transformative” under the first fair use factor set forth in 17 U.S.C. § 107. Because Petitioner Andy Warhol Foundation for Visual Arts, Inc. (“AWF”) did not challenge the Second Circuit's conclusion that the other three fair use factors weighed against fair use, the Court affirmed the holding against AWF.

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