Kirtsaeng v. John Wiley & Sons, Inc., No. 15-375

The Copyright Act provides that a "court may . . . award a reasonable attorney's fee to the prevailing party" in a copyright case. 17 U.S.C. § 505. Today the Supreme Court granted certiorari to determine the standard for awarding such fees. In *Kirtsaeng v. John Wiley & Sons, Inc.*, petitioner Kirtsaeng successfully defended a lawsuit for copyright infringement based on its sale of textbooks. The Second Circuit held, however, that Kirtsaeng was not entitled to attorney's fees, placing "substantial weight" on the fact that the plaintiff's claims were not "objectively unreasonable." In its petition, Kirtsaeng argued that this standard was different from that of the Ninth and Eleventh Circuits, which award attorney's fees when the prevailing party's successful claim or defense advances the purposes of the Copyright Act; and that of the Fifth and Seventh Circuits, which employ a presumption in favor of attorney's fees for a prevailing party. The Supreme Court granted review to resolve this disagreement.