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*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.