
Case Name and Number: *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, No. 20-915

Introduction: Today, the Supreme Court held in a 6-3 decision that a copyright registration that is inaccurate because the registrant made a mistake of law is valid unless the registrant knew of its mistake at the time of registration.

Background: Under the Copyright Act, a copyright holder can register its copyright with the Copyright Office. *See* 17 U.S.C. § 408. A valid registration is a prerequisite for bringing a civil action for infringement. *Id.* § 411(a). The Act provides a safe harbor in case the registrant makes a mistake in the registration process: A certificate of registration that contains inaccurate information is valid unless that “information was included on the application for copyright registration *with knowledge that it was inaccurate*” and the inaccuracy was material. *Id.* § 411(b)(1) (emphasis added).

In this case, Unicolors registered its copyright in a number of fabric designs and sued H&M for infringement. H&M argued that Unicolors’ registration was invalid because Unicolors had included the designs in a single registration, which the Copyright Office allows only if the designs were all part of the “same unit of publication.” 37 C.F.R. § 202.3(b)(4). H&M argued that Unicolors had not met the single-unit requirement because it had published its designs at different times. The district court rejected H&M’s argument because there was no evidence that Unicolors knew that it had failed to satisfy the single-unit requirement at the time of registration.

The Ninth Circuit reversed, holding that the safe harbor protects only good-faith mistakes of fact, not of law. In the court’s view, it was enough that Unicolors knew of the fact that it had not published the designs in a single unit; Unicolors did not need to know that it had failed to meet the Copyright Office’s single-unit requirement.

Issue: Whether a copyright registration that is inaccurate due to a mistake of law is valid if the registrant did not know of its mistake.

Court’s Holding: In an opinion written by Justice Breyer and joined by the Chief Justice and Justices Sotomayor, Kagan, Barrett, and Kavanaugh, the Supreme Court held that the safe harbor’s knowledge requirement applies to both mistakes of fact and of law. The Court reasoned that the ordinary meaning of “knowledge” is the “fact or condition of being aware of something,” and that nothing in the text of the safe harbor or other related statutory provisions indicates this requirement applies only to factual errors.

The Court explained that its holding was consistent with the history and purpose of the registration requirement. The Court noted that cases decided before Congress enacted the safe harbor had held that inadvertent mistakes of law on certificates did not invalidate the certificates, and the Court did not find any indication that Congress had sought to change this rule when it enacted the safe harbor. The Court also noted that Congress enacted the safe harbor to make it easier for copyright holders, who often are not lawyers, to obtain valid registrations, so it would not make sense for the safe harbor to forgive good-faith factual mistakes but not legal ones.

The Court accordingly held that if Unicolors had not been aware of the single-unit requirement, it had not known that its registration was inaccurate, and so its registration remained valid.

Justice Thomas authored a dissent, in which Justice Alito joined in full and Justice Gorsuch joined in part, saying that the Court should have dismissed the case because Unicolors’ briefing addressed a different question than the one presented in its petition for certiorari.

Read the opinion [here](#).