

Lack of Knowledge May Excuse Inaccuracy in Copyright Registration

Unicolors, Inc. v. H&M Hennes & Mauritz, L.P., No. 20-915 (U.S. Feb. 24, 2022)

By: Carey Prill & Andrew Choi | March 11, 2022

Recently, the Supreme Court held that “[l]ack of knowledge of either fact or law can excuse an inaccuracy in a copyright registration,” as “§411(b) [of the Copyright Act] does not distinguish between a mistake of law and a mistake of fact.” Fabric designer Unicolors sued retailer H&M for copyright infringement based on a group copyright registration for 31 designs. After a jury finding in favor of Unicolors, H&M moved for judgment as a matter of law and argued that Unicolors’ registration certificate was invalid for containing inaccurate information. Relying on a Copyright Office regulation which provides that a single registration can cover multiple works only if those works were “included in the same unit of publication,” H&M argued that the designs at issue were not published as a single unit of publication: Unicolors had initially made a portion of the designs available exclusively to certain customers, while others were immediately made available to the public. The District Court held that, based on §411(b)(1)(A), because Unicolors did not know that it failed to satisfy the “single unit of publication” requirement when filing its application, the purported inaccuracy could not invalidate the registration.

On appeal, the Ninth Circuit agreed with H&M that Unicolors did not meet the “single unit of publication” requirement for registration, as it offered some of the 31 designs to certain customers. Further, the Ninth Circuit found that knowledge of the inaccuracy was irrelevant, since it interpreted the statute as excusing only good-faith mistakes of fact, not law. The Ninth Circuit held that Unicolors had known the relevant facts and that its knowledge of the law was irrelevant under the safe harbor provision.

In its reversal, the Supreme Court focused on the scope of the phrase “with knowledge that it was inaccurate.” Examining case law, dictionary definitions, and adjacent statutory provisions, the Court noted that “knowledge” means the “fact or condition of being aware of something,” and held that nothing in the statutory language suggests a distinction between a mistake of fact and a mistake of law. Thus, since Unicolors contended that it was not aware of the legal requirement that rendered the information in its application inaccurate, it could not include said information “with knowledge that it was inaccurate.”

Further, the Court noted that cases decided before Congress enacted §411(b) “overwhelming[ly] held] that inadvertent mistakes on registration certificates [did] not invalidate a copyright and thus [did] not bar infringement actions.” Likewise, legislative history indicated that Congress enacted the statute to make it easier for nonlawyers to obtain valid copyright registrations. The relevant House Report notes that Congress intended to “eliminat[e] loopholes that might prevent enforcement of otherwise validly registered copyrights,” such invalidation based on mistakes on registration documents. Thus, copyright invalidation based on an applicant’s good-faith misunderstandings of copyright law’s technicalities would be contrary to legislative history.

The Supreme Court’s holding likely makes it easier for creatives to obtain valid copyright registrations without the assistance of a lawyer. However, the Court cautions that lower courts “need not automatically accept a copyright holder’s claim that it was unaware of the relevant legal requirements of copyright law,” as circumstantial evidence may lead to a finding of willful blindness or actual knowledge of legally inaccurate information.