

# USA: Sophia & Chloe, Inc. v. Brighton Collectibles, LLC, United States Court of Appeals, Ninth Circuit, No. 16-55290, 08 January 2018

## **Kluwer Copyright Blog**

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*Please refer to his post as: Thomas Long, 'USA: Sophia & Chloe, Inc. v. Brighton Collectibles, LLC, United States Court of Appeals, Ninth Circuit, No. 16-55290, 08 January 2018', Kluwer Copyright Blog, February 1 2018, <http://copyrightblog.kluweriplaw.com/2018/02/01/usa-sophia-chloe-inc-v-brighton-collectibles-llc-united-states-court-appeals-ninth-circuit-no-16-55290-08-january-2018/>*

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A jewelry designer's "Buddha's Kiss" earring was entitled only to "thin" copyright protection because there were a limited number of ways to design an earring containing the work's single protectable idea—a teardrop-shaped earring incorporating the henna symbol for the word "kiss" and the shape of the Buddha—the U.S. Court of Appeals in San Francisco has decided. Therefore, a competing designer's earrings had to be "virtually identical" to the Buddha's Kiss earring to infringe the copyright in the design, and a district court erred in instructing a jury to apply the more lenient "substantial similarity" standard. Because the complaining designer had admitted that it could not meet the "virtually identical" standard, the appellate court reversed the district court's denial of the defending designer's post-trial motion for judgment of a matter of law in its favor on the issue of infringement (Sophia & Chloe, Inc. v. Brighton Collectibles, LLC, January 8, 2018, per curiam).

A full summary of this case has been published on [Kluwer IP Law](#).