

USA: Rentmeester v. Nike, Inc., United States Court of Appeals, Ninth Circuit, No. 15-35509, 27 February 2018

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Although a professional photographer plausibly alleged that he owned a valid copyright in a photo of basketball superstar Michael Jordan, and that sports apparel company Nike copied the photo to create its “Jumpman” logo that Nike uses in advertisements and on merchandise, the photographer failed to plausibly allege that Nike copied enough of the protected expression from his photo to establish unlawful appropriation, the U.S. Court of Appeals in San Francisco has decided. The photographer could not claim a copyright in Jordan’s pose in the photo—which depicted Jordan in the middle of a ballet leap, holding a basketball and reaching toward a hoop—and he was entitled to protection only for the specific way the pose was expressed. Because there were differences in the selection and arrangement of elements in the parties’ respective images, the Jumpman logo and the Nike photo from which it was derived were not substantially similar to the copyrighted photo. A decision of the federal district court in Portland, Oregon, dismissing the photographer’s infringement claims against Nike, was affirmed (*Rentmeester v. Nike, Inc.*, February 27, 2018, Watford, P.).

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