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USA: Star Athletica, L.L.C. v. Varsity Brands, Inc, Supreme Court of the United States, No. 15-866, 22 March 2017

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Wednesday, May 3rd, 2017

Designs for cheerleading uniforms owned by Varsity Brands, Inc., were copyrightable because the graphic elements of those designs were separable from the utilitarian function of a cheerleading uniform, the U.S. Supreme Court has held. In a split decision, the Court held that a feature incorporated into the design of a useful article is eligible for copyright protection only if the feature (1) can be perceived as a two- or three-dimensional work of art separate from the useful article, and (2) would qualify as a protectable pictorial, graphic, or sculptural work—either on its own or fixed in some other tangible medium of expression—if it were imagined separately from the useful article into which it is incorporated. In the Court’s view, the surface decoration features of Varsity’s uniforms—including stripes, chevrons, zigzags, and color blocks—were separable from the uniforms and could qualify as two-dimensional works of art under Section 101 of the Copyright Act. The designs were protectable, even though when they were imagined as separate works, as they essentially consisted of two-dimensional pictures of cheerleading uniforms. The Court affirmed a decision of the U.S. Court of Appeals in Cincinnati holding that the designs were copyrightable and opening the door for Varsity to pursue infringement claims against a competitor (Star Athletica, L.L.C. v. Varsity Brands, Inc., March 22, 2017, Thomas, C.).

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

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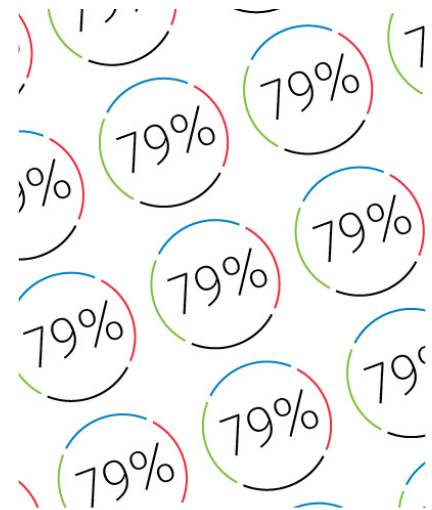
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