
Kluwer Copyright Blog

Copyright case: Allen v. Cooper, USA

Cheryl Beise (Wolters Kluwer Legal & Regulatory US) · Thursday, May 7th, 2020

Like the very similar Patent Remedy Act previously invalidated by the Court, the Copyright Remedy Clarification Act failed to abrogate States' sovereign immunity.

Congress lacked the authority to abrogate the States' immunity from copyright infringement suits through enactment of the Copyright Remedy Clarification Act of 1990 (CRCA), a unanimous Supreme Court has held. Writing on behalf of the Court, Justice Elena Kagan explained that the CRCA was "materially similar" to the Patent Remedy Act, a statute the Court struck down in *Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank*, 527 U.S. 627 (1999). In *Florida Prepaid*, the Court held that Congress could not use its Article I power over patents to remove the States' immunity and that the Patent Remedy Act's sweeping remedy was out of proportion to any due process problem created by a pattern of "unconstitutional patent infringement" committed by the States. While there was no justification for overruling *Florida Prepaid*, the Court observed that nothing prevented Congress from passing a valid copyright abrogation law in the future to "effectively stop States from behaving as copyright pirates" (*Allen v. Cooper*, March 23, 2020, Kagan, E.).

Case date: 23 March 2020

Case number: No. 18-877

Court: Supreme Court of the United States

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

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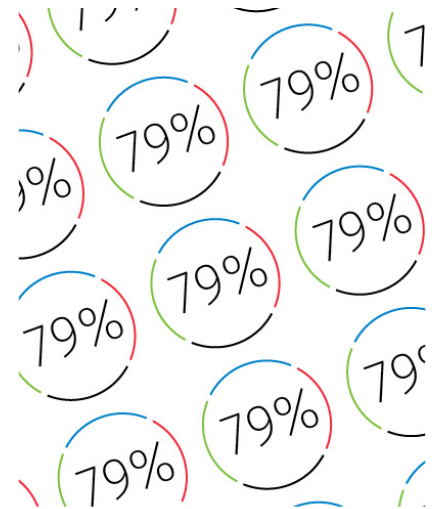
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