

# Supreme Court Rules: Ignorance of Fact or Law Can Excuse Inaccuracies in Copyright Registration

*Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, 595 U.S. \_\_\_\_ (2022)

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To obtain a copyright registration, an author must submit an application to the Register of Copyrights. If it comes to light that the information in that application was inaccurate, the copyright registration is vulnerable to invalidation, which could negate the author's standing to sue for infringement. However, a safe-harbor provision in the Copyright Act protects a copyright applicant from the harsh consequences of an inadvertent misstatement. Under that provision, a copyright registration is invalidated for inaccuracy only when "the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate." 17 U.S.C. § 411(b)(1)(A).

In *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, the U.S. Court of Appeals for the Ninth Circuit held that the claimant's improper reliance on the "unit of publication" rule to register 31 fabric designs in a single application was improper, because the works were not all initially distributed to the general public at the same time, as required by the rule. The Ninth Circuit then held that this was a mistake of law, not a mistake of fact, and therefore was not subject to the safe harbor.

The Supreme Court majority reversed, adopting a forgiving interpretation of the safe harbor provision, holding that "[l]ack of knowledge of either fact *or law* can excuse an inaccuracy in a copyright registration" (emphasis added). The ruling reflects the Court's recognition that novelists, painters,

musicians, and others without legal training are equally as likely to file copyright applications as seasoned intellectual property lawyers—and should not be punished for their honest mistakes.