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News

Hinshaw Authors Consider Whether a SCOTUS Ruling on Copyright Infringement Creates an Open-Season Opportunity for Copyright Trolls

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Hinshaw attorneys David Levitt, Thaddeus Juilfs, and Kate Scolaro recently authored an article published in the latest edition of the *Intellectual Property & Technology Law Journal.* The article examines the implications of a recent U.S. Supreme Court decision that may expand the scope of copyright infringement claims.

The authors discuss the court's ruling in 2024 in *Warner Chappell Music, Inc. v. Sherman Nealy* that the three-year statute of limitations under 17 U.S.C. §507 (b) did not bar claims by a copyright owner possessing a timely claim for infringement for damages, no matter when the infringement occurred.

Under the so-called discovery rule, adopted by nearly all Circuit Courts, copyright owners may sue for alleged acts of infringement that occurred more than three years ago, so long as they did not discover or should not have discovered the infringement earlier. This rule can expose businesses and nonprofit organizations to potential liability for using images or other content from the internet, even if they did so many years ago or in good faith.

So, does that mean that it is now open season for copyright trolls to target businesses and individuals? Not so fast. As our authors explain, the U.S. Supreme Court has not ruled on the discovery rule itself, and three current U.S. Supreme Court justices have expressed doubts about its validity.

Our authors recommend that copyright infringement defendants challenge the application of the discovery rule on general grounds and the specific facts of each case. They also provide practical tips for defending against copyright infringement claims and minimizing liabilities.

Read the full article (PDF).

- "Has the Supreme Court Declared Open Season for Copyright Trolls? Perhaps Not" was published by the *Intellectual Property & Technology Law Journal* on January 2025 in Volume 37, No. 1.

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