

Ninth Circuit Ruling Helps Brands Sue Unauthorized Resellers

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Vorys just scored a significant win for an eControl client before the Ninth Circuit Court of Appeals that makes it easier for trademark owners to sue unauthorized resellers. In a [decision issued](#) July 5, 2023, the Ninth Circuit affirmed that unauthorized resellers can be sued in the trademark owner's home state under certain circumstances, which makes litigation more convenient and less expensive for our clients. Among other things, the courts will consider whether the unauthorized reseller has been put on notice of the harm to the trademark owner, if the reseller continues to sell after being put on notice and sells at least one allegedly infringing product into the trademark owner's home state, and if the reseller has some level of control over where the products are sold, such as by using Amazon's FBA service to sell widely across the U.S. The ruling confirms that the Vorys' eControl program is an efficient and effective way for trademark owners to protect their IP rights and brand reputation, and rejects the idea that trademark owners need to chase unauthorized resellers back to the reseller's home state to start litigation. Vorys attorney Dan Wucherer, who argued the case, affirmed the value of this win, stating that he and the client "appreciate the court's conclusion that trademark owners and other parties harmed by online sales need not travel across the country to file suit when an online seller is selling products into the plaintiff's state."

For more info about eControl litigation, contact William Kloss at wdklossjr@vorys.com or Martha Motley at mbmotley@vorys.com. For more information on Vorys eControl please reach out to Daren Garcia at dsgarcia@vorys-uk.com.

About Vorys eControl: Vorys eControl is an interdisciplinary team of lawyers, brand protection professionals, investigators, technologists and data analysts that designs, implements and executes online sales control solutions focused on driving brand growth and brand value. Vorys eControl has helped more than 800 brands, including some of the world's largest companies across numerous product categories, to stop unauthorized sales, diversion and infringements, mitigate channel conflict and preserve brand value in today's eCommerce age. Learn more at vorysecontrol.com.