

Jason Bloom in Law360: Attys React To High Court's Copyright Attys' Fees Ruling

By Jason P. Bloom | June 20, 2016

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The U.S. Supreme Court Thursday decided in *Kirtsaeng v. John Wiley & Sons* that to determine the award of attorneys' fees to successful copyright litigants a heavy emphasis should be placed on whether the case is "objectively unreasonable." Here, attorneys tell Law360 why the decision is significant...

[Jason Bloom](#), Haynes Boone LLP

"The court's decision does not appear to substantially modify the law in the Second Circuit, but it will likely modify the application of it by causing lower courts to give serious consideration to factors other than the (un)reasonableness of the losing party's position rather than considering reasonableness to be dispositive of the issue. Although *Kirtsaeng* involved a fee request by a defendant, the Supreme Court has reaffirmed that courts should apply the same consideration when awarding fees to prevailing plaintiffs and defendants. Thus, in those jurisdictions where fees are routinely awarded to prevailing plaintiffs in copyright cases with little consideration for the reasonableness of the defendant's position, courts will now have to take a different approach, and may end up awarding fees to prevailing plaintiffs less routinely. That being said, the Supreme Court has still left lower courts very broad discretion in deciding whether to award fees to prevailing parties in copyright cases."

Excerpted from *Law360*. To read the full article, please [click here](#) (subscription required).