

Jason Bloom Co-Authors SCOTUS Amicus Brief for INTA in Key Copyright Case

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PRACTICES Intellectual Property Litigation, Copyright, Intellectual Property

The International Trademark Association (INTA) tapped Haynes Boone Partner [Jason Bloom](#) to co-write an amicus brief in *Fourth Estate Public Benefit Corporation v. Wall-Street.com, LLC*, a pending U.S. Supreme Court case that will address a key issue regarding when copyright owners can sue for infringement.

Some U.S. Circuit Courts of Appeal have adopted the “application approach,” holding that a copyright claimant may sue for infringement immediately once the claimant has applied for copyright registration with the U.S. Copyright Office. But other circuit courts apply the “registration approach,” requiring copyright claimants to wait for the Copyright Office to grant or deny the registration — a process that can take several months — before they can file suit. This issue is of particular importance to copyright owners who have not obtained a copyright registration but must sue quickly to enforce their rights.

Trademark and copyright lawyers are paying close attention to the *Fourth Estate* case, which is expected to resolve the circuit split between the application and registration approaches.

The [INTA brief](#) forcefully argues that the application approach is more in line with the Berne Convention, an international agreement intended to remove unnecessary administrative obstacles to the procurement and enforcement of copyright interests. In contrast, the brief states, the registration interpretation “requires that a copyright claimant wait many months for the Copyright Office to issue a certificate, as it does 97 percent of the time. This is a meaningless formality that Congress could not have intended,” especially after acceding to the Berne Convention in 1988. Moreover, INTA’s brief explains the importance of the issue to brand owners, which must often simultaneously sue to enforce trademark and copyright interests to protect their brands.

Bloom, who chairs the Enforcement Subcommittee of INTA’s Copyright Committee, co-authored the amicus brief with Noel M. Cook from Owen Wickersham & Erickson, P.C., and Lawrence K. Nodine of Ballard Spahr LLP, along with vital assistance from several other members of INTA’s Amicus and Copyright committees. Bloom previously helped draft an INTA resolution supporting the application approach and wrote about the issue in the [INTA Bulletin](#). Bloom is the head of Haynes Boone’s Copyright Practice Group and has tried a broad array of intellectual property and business cases in state and federal courts.

With more than 7,200 members in 191 countries, INTA supports the advancement of trademarks and related intellectual-property concepts as essential elements of trade and commerce. The organization has more than 7,200 members in 191 countries who share the goal of promoting an understanding of the essential role that brands and related intellectual property play in fostering effective commerce, fair competition, and informed decision-making by consumers.