

## Jason Bloom, Annie Allison and Abbey Gauger in Law360: 'Texas Ruling Shows Weight of State Immunity in IP Claims'

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PRACTICES Intellectual Property

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On June 18, the Texas Supreme Court held that a governmental unit's copyright infringement does not qualify as a constitutional taking in the matter of *Jim Olive Photography, dba Photolive Inc. v. University of Houston System*.

However, the most remarkable aspect of the decision was not the resolution of the takings claim, but rather the fact that the state Supreme Court considered a copyright infringement case at all, when the law is clear that federal courts have exclusive jurisdiction in the area.

This article examines the unusual circumstances that led to a state court ruling on what was indisputably a copyright infringement case.

### The Decision

The underlying dispute arose after the University of Houston used photographer Jim Olive's image of the city of Houston without permission in its C.T. Bauer College of Business promotions.

Although the university promptly removed the photo upon receipt of a cease-and-desist order from Olive, it declined to pay Olive for its use, and Olive sued.

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