

High Court Steps Into Copyright Case

Mark Sherman, Associated Press

WASHINGTON (AP) — The Supreme Court agreed Monday to decide a copyright case with important implications for the large and growing markets in discount and Internet sales.

The justices said they will hear an appeal from a Thai student doing graduate work in the United States who tried to make ends meet by re-selling textbooks that family and friends first purchased abroad. A jury awarded textbook publisher John Wiley & Sons \$600,000 after deciding that math graduate student Supap Kirtsaeng infringed on the company's copyrights.

The issue at the Supreme Court is whether U.S. copyright protection applies to items that are made abroad, purchased abroad and then resold in the U.S. without the permission of the manufacturer. The high court split 4-4 when it tried to answer that question in a case in 2010 involving Costco and Swiss watch maker Omega.

Justice Elena Kagan sat out the Costco case, but will join the other justices in hearing the new dispute.

Discount sellers like Costco and Target and Internet giants eBay and Amazon help form an estimated \$63 billion annual market for goods that are purchased abroad, then imported and resold without the permission of the manufacturer. The U.S.-based sellers, and consumers, benefit from the common practice of manufacturers to price items more cheaply abroad than in the United States. This phenomenon is sometimes called a parallel market or gray market.

The high court already has ruled that copyright protections do not apply when the goods are made in the U.S., sold abroad and reimported. This case concerns only foreign-made items.

Federal judges have come to different conclusions about whether copyright law applies in Kirtsaeng's and other cases.

Kirtsaeng returned to Thailand in 2010 after doing graduate work at the University of Southern California, said his lawyer, Joshua Rosenkranz. Earlier, he received his undergraduate degree from Cornell University in Ithaca, N.Y.

While at USC, Kirtsaeng arranged for family and friends living abroad to purchase textbooks and ship them to him. He resold the copies on eBay. Eight textbooks sold by Kirtsaeng were published by Wiley's Asian subsidiary. The company sued the student in federal court in New York.

eBay was among the outside parties urging the court to hear the case and decide it in Kirtsaeng's favor.

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The case will be argued in the fall.

The case is Kirtsaeng v. John Wiley & Sons, 11-697.

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