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SIIA Tells Supreme Court that ‘First Sale Doctrine’ Should Not Apply to Copies of Copyrighted Works Made Abroad & Resold in U.S.

Tech Association Files Brief Arguing that International Application of ‘First Sale’ will Damage U.S. Information Industry & Hurt Consumers

WASHINGTON, D.C. (Sept. 7, 2012) – The Software & Information Industry Association (SIIA), the principal association for the software and digital content industries, today filed an amicus brief in *Kirtsaeng v. John Wiley & Sons, Inc.* – a hotly contested case that could undermine U.S. publishers’ competitiveness in the global marketplace.

The case involves the legality of purchasing copyrighted works that are made and sold overseas and reselling them into the U.S. without authorization from the publisher. SIIA believes strongly that the “First Sale Doctrine” should not apply to cases where the copyrighted material has been manufactured and sold abroad. The First Sale Doctrine is a legal principle that allows a person who buys (rather than licenses) a copy of a copyrighted work to resell or distribute the copy in the U.S. without permission. If the First Sale Doctrine were to apply to materials made and sold overseas, it would severely undermine U.S. companies’ ability to compete in foreign markets.

“In this global economy, it’s essential that our laws support and encourage U.S. publishers operating worldwide,” said Keith Kupferschmid, SIIA General Counsel and Senior Vice President for Intellectual Property Policy and Enforcement. “SIIA has taken the lead in previous court filings to defend the flexibility for publishers to employ the most effective and efficient market strategies by controlling their content and price structures from country to country. This business strategy allows for targeted discounts for senior citizens and students, and increases the availability and quality of content and software for all consumers.”

In its amicus brief, SIIA argues that there are a variety of beneficial reasons for a publisher to prevent copies made for sale abroad from entering the United States. This practice of market segmentation is a vital business strategy that offers many benefits to publishers and consumers, such as “providing incentives for the creation of new copyrighted works...lower domestic prices, expansion and investment in U.S. companies, and employment.”

Kupferschmid continued, “Both publishers and consumers will face direct harm if our markets are allowed to be flooded with copyrighted material that was intended for purchase overseas. American consumers will be defrauded into buying products that may be inferior or otherwise very different from those intended for U.S. markets, while confronting higher prices in the long run. Meanwhile, consumers and students abroad will lose access to valuable U.S. resources

that were created for them.”

Kirtsaeng v. John Wiley & Sons, Inc. centers around an individual who purchased textbooks from Thailand and sold them at a profit in the U.S. without authorization from the publisher. The case will be argued before the Supreme Court on October 29. Read the SIIA [amicus brief](#) .

About SIIA

The Software & Information Industry Association (SIIA) is the principal trade association for the software and digital content industry. SIIA provides global services in government relations, business development, corporate education and intellectual property protection to more than 500 leading software and information companies. For more information, visit www.siaa.net.