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Supreme Court to Review Fee Shifting in Copyright Cases

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This article discusses the potential that the US Supreme Court will establish a new standard for determining whether attorneys' fees should be granted to a prevailing party in a copyright case following the grant of a petition for certiorari in *Kirstaeng v. John Wiley & Sons, Inc.* In 2013, Kirstaeng had successfully defended itself against a copyright infringement suit launch by John Wiley & Sons and was seeking reimbursement for legal fees as the prevailing party. The Second Circuit Court of Appeals ruled against Kirstaeng, determining that John Wiley & Sons' claims were not "objectively unreasonable", a standard which is different from that applied by other Circuits. A decision by the Supreme Court on the standard to apply may have a far-reaching impact on future copyright litigation, as the risk of fee-shifting may alter the decision of whether or not to pursue and defend litigation.

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