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Jenner & Block Team Authors Amicus Brief on Behalf of Copyright Alliance

News

June 1, 2021

A firm team represented Copyright Alliance, an organization that protects creators and innovators and their copyrights, as amicus curiae in the case *SAS Institute Inc. v. World Programming Ltd*.

In the case, SAS sued World Programming for infringing its software's copyright. Before trial, the lower court held a "Copyrightability Hearing" and determined that SAS's software was not protectable; SAS appealed that decision to the Federal Circuit.

In their amicus brief, the firm team sought to show why the court's determination harmed copyright holders everywhere, as the lower court failed to accord the proper protection to a registered work that copyright requires.

First, the team argued that Congress provided protections to authors and in particular authors who register their copyrights. Second, they argued that courts have consistently recognized that the non-literal elements of software are protectable. Third, the authors argued that the lower court's Copyrightability Hearing went against the copyright regime that Congress created.

Because SAS had promptly registered its copyright for the software at issue, it was the defendant's burden to show that some or all of the software was not protectable. The court instead placed the burden on SAS and comprised the protection that copyright affords software and the incentives to register that Congress had intended.

The team included Partners Matthew S. Hellman, Susan J. Kohlmann, and Gianni P. Servodidio and Associates Noah B. Bokat-Lindell and Ethan C. Wong.

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Related Capabilities

Appellate and Supreme Court

Content, Media, and Entertainment

Copyright

Related Locations

New York

Washington, DC

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