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Supreme Court Leaves Undisturbed Landmark Decision in Brand Control Against Unauthorized Resellers

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AUTHORED ARTICLE | 1.22.2024

We're thrilled to share a groundbreaking victory from Vorys eControl that significantly strengthens brands' abilities to take legal action against unauthorized resellers.

Last July, the Ninth Circuit Court of Appeals issued a **pivotal ruling** in a case initiated by a Vorys client. The court ruled that an unauthorized reseller can be sued in a brand's home state under most circumstances as long as the reseller has received notice of the brand's location, continues to sell products bearing the brand's trademarks into the brand's state, and has some level of control over where its products are sold.

The case involved unauthorized resellers who utilized Amazon's "Fulfillment By Amazon" service. The Ninth Circuit ruled that the resellers were properly sued in the brand's state even though they sold products nationwide and used Amazon's packaging and shipping services.

After the decision was issued, the resellers asked the Supreme Court to take up the case and establish different rules that would make it challenging to sue unauthorized resellers outside their home state. Vorys vehemently opposed the request and argued that the Ninth Circuit's rules align with Supreme Court decisions.

Today, the Supreme Court has officially declined to disturb the Ninth Circuit's decision. This means that the Ninth Circuit's ruling stands as controlling law in federal lawsuits filed in specific states, including California, Washington, Oregon, Nevada, Arizona, Idaho, Montana, Hawaii, and Alaska. Additionally, the decision holds persuasive weight in federal lawsuits filed in other states.

The Supreme Court's order cements the Ninth Circuit's conclusion—which adopted Vorys' arguments—that trademark owners are not obligated to file suits in an unauthorized reseller's home state when the reseller has chosen to sell allegedly infringing products in the trademark owner's state.

This victory is a testament to Vorys eControl's commitment to protecting brand interests and maintaining control in the eCommerce landscape.

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