

IN THE
Supreme Court of the United States

ACI INFORMATION GROUP,

Petitioner,

v.

MIDLEVELU, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

SUPPLEMENTAL BRIEF

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SUPPLEMENTAL BRIEF

On May 28, 2021, Newstex, LLC d/b/a ACI Information Group submitted a petition for writ of certiorari in this matter. The petition brought forward two questions, one of which is the proper interpretation of Section 411(b) of the Copyright Act.

In the petition, Newstex pointed out that the lower courts have interpreted the statute differently. Among other decisions evidencing such a split, Newstex cited *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, 959 F.3d 1194 (9th Cir. 2020). Pet. 20, 24. Newstex also noted that a petition for writ of certiorari had been docketed in the *Unicolors* case. Pet. 20 n.13.

On June 1, 2021, the Court granted the petition in *Unicolors* to address the meaning of Section 411(b). Specifically, the Court accepted for review the following question:

Did the Ninth Circuit err in breaking with its own prior precedent and the findings of other circuits and the Copyright Office in holding that 17 U.S.C. § 411 requires referral to the Copyright Office where there is no indicia of fraud or material error as to the work at issue in the subject copyright registration?

Petition for a Writ of Certiorari, *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, No. 20-915 (U.S. Jan. 4, 2021).

Thus, the Court will be addressing one of the issues raised in Newstex's petition in the October Term 2021. Given the overlap, Newstex respectfully requests the granting of the petition in this case on the issue concerning the meaning of Section 411(b) and also on the additional issue raised in Newstex's petition regarding the

implied-license defense. Alternatively, Newstex would ask that the two matters be consolidated for hearing on the Section 411(b) issue. At the very least, this petition should be held pending the Court's disposition of *Unicolors*.

Respectfully submitted.

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