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Ninth Circuit Court of Appeals Rules in Favor of Foster Garvey Client in Copyright Infringement Suit

07.27.23 Foster Garvey Newsroom

Foster Garvey successfully assisted author client Enterprise Management Limited, Inc. ("Enterprise") in a copyright infringement suit against software company Construx Software Builders, Inc. and its CEO ("Construx") in the Ninth Circuit Court of Appeals to obtain a reversal of a district court's summary judgment in favor of the defendants.

The case involved a claim alleging that Construx infringed copyrights in two charts depicting organizational change. The central issue examined in the case was whether the copyright for one of the charts was properly registered with the Copyright Office, thereby allowing Enterprise to bring suit.

Following arguments on behalf of our client, the Ninth Circuit ruled in favor of Enterprise, stating that it had created a genuine dispute regarding the registration of the chart.

The Ninth Circuit reversed the district court's partial grant of summary judgment, vacated a jury verdict and an award of attorneys' fees, and remanded an action alleging infringement of the copyrights in both charts.

In a matter of first impression, the court also stated that when an author registers a derivative work, all of the material included in the derivative work, even those from an unregistered original work created by the author, are considered registered.

The case is *Enterprise Management Limited, Inc., et al v. Construx Software Builders, Inc., et al*. The Foster Garvey team representing Enterprise comprised IP Litigation attorneys Ben Hodges and Kelly Mennemeier.

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