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## ***Re-Sale of Gray Market Goods Latest Supreme Court Ruling***

*July 30th, 2013*

**New:** Under the **First Sale** Doctrine, a person who buys lawfully made copyrighted goods outside the United States may re-sell those goods in this country. The result of this decision will be to allow the free and unfettered importation of "gray market" goods into this country.

The First Sale Doctrine recognizes that a copyright owner does not have control over distribution of a particular copy of his work forever, but that the Copyright owner's exclusive right to control distribution of a particular copy of his work *ends with the work's first commercial sale. From that point forward, the copy can then be resold without permission of the copyright's owner.*

This is the second time that this issue has been before the United States Supreme Court. The Court heard argument in 2010 on the applicability of the First Sale Doctrine to goods manufactured outside the United States in *Costco Wholesale Corp. v. Omega, S.A.* Due to the recusal of newly appointed Justice Elena Kagan, the Court split 4-4 and could not reach a decision.

In 1976 the language of the Copyright Act provided that "the owner of a particular copy or photo record lawfully made under this title...is entitled...to sell or otherwise dispose of the possession of that copy or photo record".

**The Supreme Court took a different approach**, ruling that there was no geographical limitation on application of the First Sale Doctrine.

The practical effect of the Court's holding will be to make it more difficult for manufacturers who frequently price goods differently in different areas of the world to maintain those prices. Now, creators of content may also rely more on content *licensing* rather than sale.

[Click here](#) for the entire article.

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