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Library Copyright Alliance Statement on the Supreme Court’s Decision in Kirtsaeng v. Wiley—Total Victory for Libraries and Their Users

Washington, DC—Today the US Supreme Court announced its much-anticipated decision in Kirtsaeng v. Wiley, a lawsuit regarding the bedrock principle of the “first sale doctrine.” The 6-3 opinion is a total victory for libraries and our users. It vindicates the foundational principle of the first sale doctrine—if you bought it, you own it. All who believe in that principle, and the certainty it provides to libraries and many other parts of our culture and economy, should join us in applauding the Court for correcting the legal ambiguity that led to this case in the first place. It is especially gratifying that Justice Breyer’s majority opinion focused on the considerable harm that the Second Circuit’s opinion would have caused libraries.

The case involves a US graduate student named Supap Kirtsaeng who coordinated with his family to buy less expensive foreign editions of textbooks abroad and resell them to college students in the US. These books were not pirated copies; they were genuine textbooks authorized by Wiley for manufacture and sale abroad. Nevertheless, Wiley brought suit, alleging that the purchase and resale of foreign-made copies in the US infringed copyright.

In his defense, Kirtsaeng invoked a principle known as the first sale doctrine: a lawful owner of a lawful copy of a copyrighted work can generally do whatever she wants with that copy—resell, lend, donate, and even destroy it—without asking permission from the copyright holder. To put it another way, the author’s right to control a particular copy of her work ends after the first sale. The first sale doctrine is especially important to libraries, whose primary activity throughout history has been to buy copies of works and make them available to their communities by lending.

The Court’s decision ensures that libraries can rely on the critically important principle of first sale to continue lending the estimated 200 million foreign-made volumes in our collections. Wiley and others who sought a right of perpetual control over these materials may turn to Congress to roll back the Court’s wise decision. Libraries and our allies remain vigilant in defense of first sale and all of the rights that make it possible to serve our communities.

For more information on first sale, download “First Sale Fast Facts for Libraries.”

The Library Copyright Alliance (LCA) consists of three major library associations—the American Library Association, the Association of Research Libraries, and the Association of College and Research Libraries. These three associations collectively represent over 300,000 information professionals and thousands of libraries of all kinds throughout the United States and Canada. Find us on the web at http://librarycopyrightalliance.org/.

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