

The Supreme Court - May 14, 2020

Today, the Supreme Court of the United States issued the following opinion:

Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc., No. 18-1086: Petitioner Lucky Brand Dungarees and respondent Marcel Fashions Group have been engaged in three separate rounds of trademark-related litigation over a twenty-year period involving both companies' use of the word "Lucky" on their clothing. In the third round of litigation brought by Marcel, the District Court granted Lucky Brand's motion to dismiss on the basis of Lucky Brand's defense that Marcel's claims were barred because they were released in the parties' settlement agreement ending the first round of litigation. The Second Circuit vacated and remanded, claiming that "defense preclusion" prohibited Lucky Brand from asserting the release defense, which the court reasoned Lucky Brand could have raised but didn't in the second round of litigation. Today, the Court reversed. The Court reasoned that any preclusion of defenses must, at a minimum, satisfy the long-established strictures of issue preclusion or claim preclusion. And the Court held that here neither applied. The parties agreed issue preclusion was inapplicable. And the Court found claim preclusion didn't apply because the second and third rounds of litigation did not share any required common nucleus of operative facts given that they involved different conduct, involving different marks, occurring at different times. Justice Sotomayor issued the Court's unanimous opinion.

The Court's decision is available [here](#).

Related Capabilities

- Appellate
- Trademark, Copyright + Advertising
- Intellectual Property Litigation