

Forever 21 Prevails in Express Suit

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Forever 21 scored a legal victory last week in its copyright battle with Express.

Express sued the fast-fashion chain last year, claiming that it duplicated four of its copyrighted plaid patterns for men's shorts.

But Otis D. Wright 2nd, a federal judge in California's central district, said Express did not prove any of the four plaid designs in question incorporated "sufficient original creativity to qualify for copyright protection." Wright granted a summary judgment in Forever 21's favor.

Testimony from Express designer Michael Tower on the design process proved to be key in the decision.

Wright noted that each of the four plaids was based on a preexisting plaid that Tower had a CAD designer replicate. He also said the designer was unable to identify a single difference between any of the plaids and its source and Express did not keep records of any of the preexisting designs.

Additionally, the judge pointed out that Express failed to note the plaids were based on preexisting designs in its copyright application.

Wright also rejected a trade dress claim by Express.

Competitors have sued Forever 21 over 50 times for alleged intellectual property violations. Almost all of those cases have been settled out of court.