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**Woodcock Washburn Secures Appellate Victory for The Graham Company in
Landmark Copyright Infringement Case**

- Third Circuit rules that \$18.9 million June 2006 verdict should not have been reversed -

Philadelphia – On June 5, Woodcock Washburn received a reversal from a unanimous three-judge panel of the Court of Appeals for the Third Circuit of a district court’s decision to overturn an \$18.9 million verdict obtained by Woodcock Washburn attorneys David Wolfsohn and Aleksander Goranin in a landmark copyright case. In June 2006, a federal jury awarded the verdict, finding that insurance broker USI and former employee Thomas Haughey had infringed The Graham Company’s copyrights for a period of 13 years by copying its books and using them in hundreds of sales proposals, which netted USI tens of millions of dollars. USI had also destroyed evidence of infringement after being ordered by the court to produce it.

But on November 21, 2006, the district court reversed the verdict, ruling that The Graham Company should have known about USI’s infringement much earlier, and therefore was not entitled to damages for the entire 13 year period of infringement.

The Court of Appeals has now ruled that the district court should *not* have reversed the verdict, and that the jury’s decision that The Graham Company should not have known about the infringement was fully supported by the evidence.

Of particular note for copyright law, the Third Circuit held that a “discovery rule” governs the commencement of the copyright statute of limitations period, starting the limitations clock at the time the copyright owner knew or should have know of the infringement, not, as USI had argued, at the time the violation takes place. The Third Circuit also made clear that under a discovery rule, a copyright owner “does not have a duty to ferret out potential acts of infringement before they occur.”

“When a library lends a book, they are not expected to assume that the borrower will illegally copy it. I am pleased that the Court of Appeals agrees that businesses are subject to the same standard and will not lose copyright protection simply because a former employee kept copies of copyrighted materials at the time of termination,” said lead trial and appellate lawyer David Wolfsohn. “This is an important victory for copyright owners, since it means that infringers will not be able to avoid compensating their victims by keeping their infringement secret until the statute of limitations passes.”

The litigation will now return to the district court for further proceedings.



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The full text of the Third Circuit’s opinion is available [here](#). The case will now return to the district court for further proceedings.

About Woodcock Washburn LLP

Woodcock Washburn LLP, with offices in Atlanta, Philadelphia, and Seattle, has specialized in intellectual property law since 1946. Rated as one of the top IP law firms in the United States by IP Law & Business, the Firm was also named the top intellectual property firm in Pennsylvania by Chambers USA. The Firms’ lawyers and scientific advisors provide national and international clients a full range of services that include litigation, patent procurement, IP strategies, trademarks & copyrights, licensing, and standards & open source software across a wide range of industries and technologies. For more information: www.woodcock.com.

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