

No.

In the Supreme Court of the United States

ULTRAFLO CORPORATION,

Petitioner,

v.

PELICAN TANK PARTS, INCORPORATED;
THOMAS JOSEPH MUELLER;
PELICAN WORLDWIDE, INCORPORATED,

Respondents.

**On Petition for a Writ of Certiorari to
the United States Court of Appeals
for the Fifth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Section 102(b) of the Copyright Act renders “ideas” outside the subject matter of copyright; it provides that “[i]n no case does copyright protection for an original work of authorship extend to any idea.” 17 U.S.C. § 102(b).

Section 301(a) provides that the Copyright Act “exclusively” governs all rights relating to “works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103.” 17 U.S.C. § 301(a).

The circuits are expressly divided as to whether Section 301(a) preempts state-law claims relating to ideas expressed in tangible media. Here, the Fifth Circuit held that, despite the fact that an idea is not within the subject matter of copyright, Section 301(a) nonetheless preempts petitioner’s Texas-law claim for unfair competition by means of misappropriation. The question presented is:

Whether Section 301(a) preempts state-law claims relating to ideas expressed in tangible media.

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