The NFL and Its Teams Must Defend Restraint of Trade Claims: Supreme Court Reverses Seventh Circuit in American Needle v. NFL

Date: 05/26/10

In the American Needle opinion handed down on May 24, 2010, the Supreme Court ruled that the decision of the National Football League and its teams to grant the plaintiff's rival an exclusive license to make NFL team hats was not categorically beyond the coverage of §1 of the Sherman Act and would have to be judged under the Rule of Reason. The unanimous decision authored by Justice Stevens overturned the Court of Appeals for the Seventh Circuit's determination that the NFL and its teams should be treated as a single entity that is incapable of engaging in concerted action subject to §1. The decision does not reach the question of whether the arrangement violated the antitrust law. It emphasizes the distinction between the question of whether action by a group of several entities should be treated as the action of a single actor for legal purposes and the question of the lawfulness of the conduct even if the conduct is treated as the action of multiple actors. The opinion is also a valedictory for Justice Stevens, an acknowledged antitrust authority who was a prominent voice, sometimes for the majority, more recently in dissent, in many of the Court's most significant antitrust decisions in recent decades.