



In Dupree, Supreme Court Unanimously Decides “Purely Legal” Issues Decided at Summary Judgment are Preserved for Appeal

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On May 25, 2023, the US Supreme Court issued its opinion in *Dupree v. Younger*, which resolved a split among the courts of appeals concerning whether “purely legal” issues raised at the summary-judgment stage must be re-raised in a post-trial motion to preserve them for appeal. In a unanimous decision, the Court said “no.” The Court reasoned that “a district court’s purely legal conclusions at summary judgment are not superseded by later developments in the litigation.” Accordingly, such rulings “merge into the final judgment” at the end of the case, “at which point they are reviewable on appeal.” The Court did not provide much guidance on what counts as a “purely legal” issue, other than to say that it is one “that can be resolved without reference to any disputed facts.”

This means that, in intellectual property cases, as in other cases, it will not be necessary to re-raise legal issues lost on summary judgment to preserve them for appeal.

A copy of the Courts opinion is available [here](#). Questions about the information herein? Please feel free to reach out to us.

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