

## 08-661 AMERICAN NEEDLE V. NATIONAL FOOTBALL LEAGUE

DECISION BELOW:538 F.3d 736

LOWER COURT CASE NUMBER: 07-4006

### QUESTIONS PRESENTED:

The Seventh Circuit affirmed the district court's grant of summary judgment, holding that the National Football League and its member teams constitute a single entity that is exempt from rule of reason claims under Section 1 of the Sherman Antitrust Act. The antitrust claims arose from the teams' activities in the licensing and sale of consumer headwear and clothing decorated with the teams' respective logos and trademarks ("Team Products"). In 2000, the teams entered into an agreement among themselves and with Reebok International, a Team Products licensee, pursuant to which the teams agreed (1) not to compete with each other in the licensing of Team Products and (2) not to permit any licenses to be granted to Reebok's competitors for a period of ten years, thus creating in Reebok a monopoly in the markets for Team Products. Petitioner American Needle, Inc., a former licensee, challenged the restrictive agreements as violative of the Sherman Act. The NFL claimed that the teams' agreements were exempt from the Sherman Act because the teams and the League constitute a single entity for purposes of the Act's plurality requirement. The district court granted summary judgment in favor of the NFL on the single entity issue and the Seventh Circuit affirmed, holding that the NFL is a single entity simply because they collectively produce NFL football games. In holding that the NFL and its member teams are exempt from rule of reason claims under the Sherman Act, the Seventh Circuit's decision directly conflicts with the Supreme Court's decision in *Radovitch v. NFL*, 352 U.S. 445 (1957), as well as the holdings of the First, Second, Third, Sixth, Eighth, Ninth, and D.C. Circuits. Two questions are presented:

1. Are the NFL and its member teams a single entity that is exempt from rule of reason claims under Section 1 of the Sherman Act simply because they cooperate in the joint production of NFL football games, without regard to their competing economic interests, their ability to control their own economic decisions, or their ability to compete with each other and the league?
2. Is the agreement of the NFL teams among themselves and with Reebok International, pursuant to which the teams agreed not to compete with each other in the licensing and sale of consumer headwear and clothing decorated with the teams' respective logos and trademarks, and not to permit any licenses to be granted to Reebok's competitors for a period of ten years, subject to a rule of reason claim under Section 1 of the Sherman Act, where the teams own and control the use of their separate logos and trademarks and, but for their agreement not to, could compete with each other in the licensing and sale of Team Products?

CERT. GRANTED 6/29/2009