

SUIT FOR DECLARATION AND INJUNCTION FOR INFRINGEMENT OF COPYRIGHT.

Plaintiff: DOLLAR INDUSTRIES (PVT.) LIMITED, through Authorized signatory/Director and another
Defendants: KAMRAN AKHLAQ
Decision: The suit decreed as prayed

The question before the court was whether there was Copyright in a cartoon character, whether the Plaintiff had a copyright in the said cartoon, and whether the said cartoon character was infringed by the Defendant. The Plaintiffs and its predecessors started their business more than half a century ago by manufacturing and marketing fountain pens, inks, ball points, pens, glue, adhesives and other stationary items of international standard, which were sold around the world including Pakistan. In order to distinguish their goods from those of other traders, the Plaintiff adopted and coined a number of distinctive trademarks, labels/designs and artistic works, which were duly protected and registered under the applicable laws including Copyrights Ordinance, 1962. The Plaintiff claimed to be the first original creator, adopter, sole owner and exclusive right holder of the cartoon character “Dollar Mascot” and its various forms and variation including colour scheme and artistic work therein since 2005. The cartoon character was extensively and continuously advertised since 2006 by virtue of wide and extensive publicity and sales under the said copyrighted work. This resulted in the cartoon character attaining enviable reputation and goodwill.

In order to deceive and cause confusion amongst the buyers, the Defendant was displaying, uploading and offering for sale the same cartoon character and its various forms/modes through an internet website, which was available across the globe for buying royalty free images, allowing individuals and professionals to buy and share such images and illustrations without any authorization of the Plaintiffs, which amounted to illegal reproduction and piracy of the Plaintiffs’ right in the said cartoon character.

Despite repeated summons through all modes prescribed under law, none affected appearance on behalf of the Defendant, consequently, the court fixed the matter for final argument on following issues:

- Whether there was copyright in a cartoon character?
- Whether Plaintiff had copyright in the said cartoon character?
- Has the Defendant infringed Plaintiffs’ copyright in the said cartoon character?

After considering the proposed test, the court offered an in-depth analysis that compared various elements of two works; and after comparing the original with the alleged infringing character, the court held that, it was an established legal position that offering independent protection to fictional



characters would limit the pool of raw material and would do a great disservice to the public. The main concern of Copyright law was to promote the progress of the arts and at the same time to secure an everlasting source of revenue for the creator of a fictional character. For the reasons as stated it became obvious that the Defendant infringed the copyrighted work of the Plaintiffs as he took the entire work from the Plaintiffs' platform and offered it for sale (or downloads) to third parties, not only infringing copyright but at the same time inducing dilution of the Plaintiffs' trade mark rights in the said character. It is established law that where a copyright in any way has been infringed, its owner is entitled to all such remedies by way of injunction, damages and accounts. There was no cavil which the Defendant left any stone unturned to infringe the Plaintiffs' copyrighted work and the scheme of law fully supported the case of the Plaintiffs and thus the suit was decreed as prayed with no order as to cost.

