

Supreme Court of the Kingdom of Thailand
S.C. 1740/2554
Mr. Sarangsan Ruengsri v. Metro Records (1981) Ltd., Co.

Court : Supreme Court
Case : Civil Case
Date of Judgment : 2011/3/14
Plaintiff : Mr. Sarangsan Ruengsri or Nu Meter
Defendant : Metro Records (1981) Ltd. Co., Defendant Number 1;
Mr. Pipat Boribun, Defendant Number 2.
Area of Law : Intellectual Property, Actors' rights, name use without
permission
Statute : Copyright Act B.E. 2537 (1994)
Panel of Justices
Prinya Deepadung – Aram Senamonti – Maitree Sriarun

Background

The Plaintiff filed a claim stating that he was a singer and musician. The two Defendants together produced Karaoke VCD's and music CD's. They used the Plaintiff's alias in their sales. They printed the Plaintiff's picture on the VCD covers and disks without permission. This gave the general public the impression that the Defendants were doing this as a for profit business but without the permission of the Plaintiff. The Plaintiff petitioned for both Defendants to pay damages and cease selling the music CD's and karaoke VCD's.

Both Defendants testified that they hired the Plaintiff to sing. Defendant Number 2 composed the music. Defendant Number 2 created the music work, with exclusive copyrights to his work. Defendant Number 2 sold and transferred his rights to Defendant Number 1. Both Defendants acted in good faith and did not cause any damage. Defendants petitioned the court to dismiss the case.

Issues

1. Did both Defendants have the Plaintiff's permission to use his alias and picture on the music CDs and karaoke VCDs, or not?
2. Was the action of both Defendants an infringement of the rights of the Plaintiff and did it cause the Plaintiff damage, or not?

Procedural History

The Central and Intellectual Property and International Trade Court ruled that both Defendants pay the Plaintiff for damages.

The Defendants appealed to the Supreme Court.

The Supreme Court for Intellectual Property and International Trade upheld the lower court's ruling.

Analysis

1. The Supreme Court reasoned that neither Defendant denied that the Plaintiff did not give his permission for his alias and picture to be used, which was the same as an admission to such. The only point of disagreement was over whether or not the Defendants' actions were an infringement on the rights of the singer, musician and actor and was that the cause of the Plaintiff's damage or not.

2. By using the Plaintiff's alias and picture without permission both Defendants caused damage, since the Plaintiff did not receive compensation from the two Defendants.

Inevitably, this gives the Plaintiff the right to demand that both Defendants jointly pay for damages. The Plaintiff did not provide testimony of how many music CDs and Karaoke VCDs the Defendants produced and sold, or how many covers and CDs and VCDs the Plaintiff's picture appeared on, or how much compensation was required for each disk. The Central and Intellectual Property and International Trade Court ruling that specified damages be paid by the Defendants to the Plaintiff shall be considered justice to the Plaintiff.

Key Words: name use without permission

Summarized: Tavinwong Jitviwat

Edited: