

## Foreign Copyright Protected by Court

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Toys are popular among Russian children. An individual entrepreneur was selling “Super Wings” toys, a toy transformer. It so happened that a series of images of the “Super Wings” Flip, Chase, Todd, Jett, and Dizzy were works of art protected by copyrights owned by Alpha Group Co, a Chinese company.

The copyright owner monitored the market and found unauthorized sales of the toys at one of the outlets in the vicinity of Moscow. He made a test purchase of the toy and recorded the process of handing over the toy by the vendor. There was also a sales slip confirming the purchase.

The copyright owner sued the entrepreneur (Case No A41-47266/20). He supported his claims by certificates of authorship issued by Guangbond Alpha Animation & Culture Co. Ltd. and also made reference to the above copyrights. He demanded that the infringement should be stopped and a small compensation should be paid to him. Before that, the plaintiff sent a warning letter to the infringer asking her to reimburse him for the inflicted damage. The letter was left without a response by the alleged infringer.

The court examined the video attached to the suit and stated that the video confirms that the product had been bought exactly in the outlet indicated in the suit. The video was sufficient and undisputable evidence of purchase of the product from the respondent. The moment of sale was fixed in the video as well as the issuing of the sales slip attached to the suit. The sales slip contains information on the sold item, the name of the slip, a stamp of the entrepreneur, the date of payment, the price and the name of the item.

Information regarding the seller in the sales slip tallies with the information contained in the Commercial Register.

The court quoted a number of law provisions and issued a judgment in favor of the plaintiff. The entrepreneur appealed the judgment but lost. She again appealed the judgment at the IP court in its capacity as a cassation instance.

The IP court noted that the basis for reconsideration of the case at the cassation instance court is substantial violation of material and procedural law that affected the outcome of the case and without correction of which it is not possible to restore justice. In the case under consideration, the plaintiff submitted all the required documents. Among them, the plaintiff provided the documents confirming ownership of the copyright and evidence of infringement.

The court reviewed all the documents on file and did not find any inconsistencies in the application of material and procedural laws. It also noted that it could not re-evaluate evidence on file and re-examine circumstances of the case because it is prohibited by the Commercial Procedure Code. Therefore, the fact that the respondent complained that evidence submitted by the plaintiff did not confirm the sale of the disputed product was not examined by the IP court in view of the aforementioned provision of the Procedural Code. The respondent also wanted the court to order expert examination of the disputed product. The court explained that such examination could not be ordered by the court because similarity of the product should be evaluated from the point of view of a rank and file consumer.

Finally, the court confirmed the findings of the lower courts and upheld the judgment.

It should be noted that enforcement of copyrights in Russia is not rare. The court routinely examines such conflicts and awards compensation. In this particular case, the compensation

requested by the plaintiff was very small, and it was aimed basically to prevent further infringement. In other cases, compensation was claimed and awarded in millions.

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