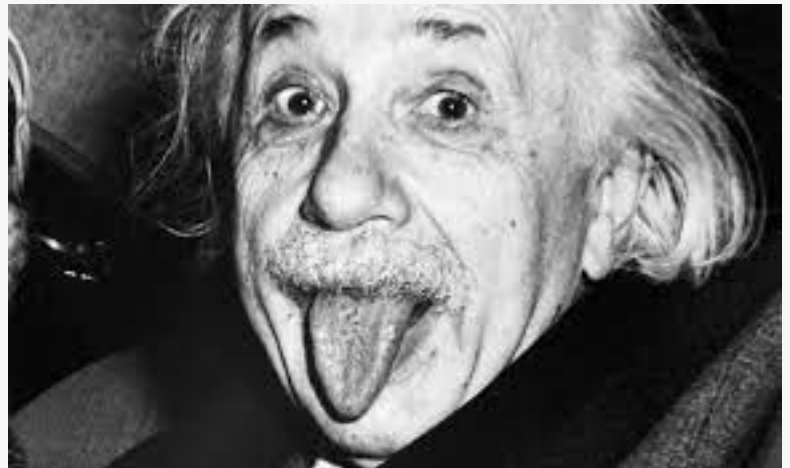


Federal Court Shoots Down Outrageous Einstein Claims

A small Amazon store from China was surprised when he was sued for copyright and trademark infringement for a mousepad with the famous Einstein photo.

PALO ALTO, CALIFORNIA, UNITED STATES, August 22, 2022 /EINPresswire.com/ -- In a ruling issued by Judge Manish S. Shah of U.S. District Court for the Northern District of Illinois on August 1, 2022, online stores are allowed to call Albert Einstein's portrait "Albert Einstein's image" instead of "photo of famous German scientist," 'picture of theory of relativity scientist,' 'mousepad featuring E = mc² physicist,' as previously suggested by The Hebrew University of Jerusalem.



The image used on the mousepad sold on Amazon which was alleged as infringing

Albert Einstein is one of the most recognizable people in human history. His popularity has scarcely waned in the 67 years since his death, and his image appears everywhere from memes to mugs. So, the founder of a small Amazon store was surprised when, late last year, Hebrew University of Jerusalem (HUJ) sued his small company for copyright and trademark infringement in connection with Einstein-related merchandise. Worse, HUJ asked the U.S. District Court for the Northern District of Illinois to use provisions usually applied to counterfeiters to freeze the company's financial accounts.

“

[T]o freeze a defendant's financial accounts and force e-commerce platforms ... to delist the products—all without the benefit of a hearing, or even prior notice ... can have devastating consequences”

Wesley Johnson

The merchant wasn't alone. The lawsuit targeted 140 individuals and companies with claims of trademark infringement, counterfeiting, false designation of origin,

copyright infringement, and violation of the Illinois state Uniform Deceptive Trade Practices Act. (1:21-cv-05492, The Hebrew University of Jerusalem v. The Partnerships and Unincorporated Associations Identified) This wasn't the first time. In three previous nearly identical suits, HUJ had

prevailed against hundreds of foreign e-commerce sellers.

The problem: In many (perhaps all) of those claims, HUJ didn't actually own the copyrights to the images in question.

The defendants also didn't appear to be using Einstein's name in a manner that violated trademark law or suggested that the product had been manufactured by or was offered by the plaintiff.

For example, the merchant, dealzEpic, was sued for copyright infringement based on the use of a classic portrait of Albert Einstein that is in the public domain. HUJ only asserted copyright to a small number of images, unrelated to the portrait dealzEpic used on its product. And HUJ asserted trademark infringement though Einstein's name was not used as a trademark and appeared only as a descriptor of the portrait—which was, indeed, a portrait of Albert Einstein.

HUJ won, by default, similar cases against hundreds of retailers, largely because those small sellers didn't know how to or didn't believe they could afford to fight the claims. It's not uncommon for unscrupulous companies with superior resources to take advantage of the fact that smaller businesses don't know they can fight back.

HUJ takes it even further. These lawsuits have exclusively targeted sellers in China, who would naturally have difficulty defending themselves in U.S. courts, while ignoring retailers in the United States and other countries who sell similar products.

dealzEpic decided to fight back.

Attorney Wesley Johnson, in conjunction with and Of Counsel to Intelink Law Group P.C., represents the small company. Johnson is a partner in the Chicago law firm Goodman, Tovrov, Hardy & Johnson.

Johnson demonstrated to the court that HUJ had failed to state a copyright claim, and that the uses of Einstein's name in product titles and descriptions HUJ alleged were purely descriptive and fell within fair use—an affirmative defense set forth in the Lanham Act. The Court took the unusual step of dismissing the claim with prejudice, meaning HUJ can't try again. But the dismissal applies only to dealzEpic—the case is moving forward against the 139 defendants who haven't pushed back.

Johnson says, "Federal law provides extremely powerful weapons against counterfeiters: the power to freeze a defendant's financial accounts and force e-commerce platforms like Amazon to delist their products—all without the benefit of a hearing, or even prior notice. These tools can have devastating consequences when a powerful entity uses them not to fight counterfeiting, but to clear the market for their own products by targeting legitimate small competitors. It's unfortunate that a well-respected University like the Hebrew University of

Jerusalem would file such obviously false claims.”

Intelink and Johnson are committed to fighting this type of abuse and hope their victory will empower more small sellers to defend their rights.

Intelink Law Group P.C. is an all-service firm focusing on complex cross-border legal issues. It has handled numerous intellectual property and commercial litigations as well as commercial transactions with global aspects. Its founding shareholders Brad Bertoglio and Ning Zhang are very active in supporting foreign companies when they encounter U.S. legal issues.

Goodman, Tovrov, Hardy & Johnson LLC is a trusted Chicago law firm with a focus in commercial commercial, real estate and intellectual property litigation.

Ning Zhang

Intelink Law Group P.C.

nzhang@intelinklaw.com

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