



Who owns the IP?

Points to note include:

- it is always important in transactions to identify what the intellectual property rights are and who owns them
- if any agreements are entered into in relation to the IP then they should identify what will happen to the IP in various circumstances

The case

Animatrix Limited (1) Doctor Snuggles Animatrix Partnership LLP (2) Rupert Lywood (3) -v- Jeffrey O'Kelly, (10 March 2008),

The case concerned the intellectual property ('IP') rights in a cartoon character (**Dr. Snuggles**).

The defendant, Jeffrey O'Kelly ('J') created Dr. Snuggles. Rupert Lywood (**R**) would provide the financial backing for the production of a new cartoon series and Animatrix Limited (**AL**) was used by R to represent his interests in the transaction.

It had been agreed between the parties that a partnership would be formed: Doctor Snuggles Animatrix Partnership LLP (**Partnership Company**). J would assign by deed all his IP rights in Dr. Snuggles to AL and that R would provide further funding. It was agreed that AL would hold the IP on trust for the Partnership Company.

Subsequently, the relationship between the parties broke down.

J argued that the assignment was ineffective, did not pass the relevant rights to AL and he also represented to production companies that he was the owner of the rights. The claimants (being the AL, the Partnership Company and R) issued proceedings claiming that the assignment by J to AL was indeed valid.

Settlement agreement

Before trial, the parties entered into a settlement agreement (**Settlement Agreement**) to stay proceedings, to allow J the opportunity to market the Dr. Snuggles project himself with the intention to buy out the claimants' claims to any interest in it.

J did not make the specified payment to the claimants during the following six-month period, in contravention of the terms of the Settlement Agreement and so the claimants applied for judgment against J.

The decision

The claimants were granted the declarations and injunction as set out in the Settlement Agreement. The contractual stipulation in the Settlement Agreement that they 'will be at liberty to enter judgment' was deemed an apt expression of a right the claimants were to enjoy against J.

Implications

It is important to ensure who owns the IP rights and what will happen if relations between the parties break down.

The nature of settlement agreements is that they are of course meant to lead to a full and final settlement of the matter. However, if a party does not abide by the terms of the settlement agreement then the terms in the settlement agreement can be enforced against the defaulting party. Hence, settlement agreements should be carefully drafted so that each party can be confident of relying on its rights in that settlement agreement.

Can we help?

If we can assist with any intellectual property deals or matters which you are involved with then please contact us.

Contact

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