



FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
THE PHILADELPHIA MUNICIPAL COURT
JUDICIAL CHAMBERS

JOFFIE C. PITTMAN, III
JUDGE

August 14, 2017

Rachel Gallegos, Esquire
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Re: Just Print It, Inc. v. 3DR Holdings, LLC (SC-17-02-21-5340)

Dear Counsel:

Enclosed please find the court's order in the above-captioned matter. Please feel free to contact my chambers if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joffie Pittman".

Honorable Joffie C. Pittman III
Judge, Philadelphia Municipal Court

IN THE PHILADELPHIA MUNICIPAL COURT

JUST PRINT, INC.

v.

3DR HOLDINGS, LLC

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SC-17-02-21-5340

ORDER

AND NOW, to wit, this 14th day of August, 2017, after a July 10, 2017 hearing, the court makes the following findings:

1. 3DR, the defendant, is a technology media company with various holdings including 3dprint.com, an online 3D printing news source.
2. Just Print, the plaintiff, is a 3D printing company.
3. As part of its business practices the plaintiff downloaded designs from websites such as “Thingiverse” and offered 3D printed models of the designs on eBay.
4. One of the designs that the plaintiff downloaded and sold on eBay was a three-dimensional design titled Aria the Dragon which was created by an artist named “Loubie.”
5. While Loubie did not have her design registered with the United States Copyright Office, she did have a secondary copyright license provided by Creative Commons which prevented use of her design for commercial purposes.
6. Upon discovering that the plaintiff was selling her designs on eBay Loubie contacted the plaintiff and requested that the plaintiff discontinue selling her design.

7. On February 17, 2016 Loubie filed a complaint against the plaintiff with eBay regarding the plaintiff's sale of her design.

8. On February 19, 2016, in response to Loubie's complaint, the plaintiff posted a comment on Thingiverse in which it defended its actions of selling 3D models of computer aided designs ("CAD") and set forth a legal justification in its comment to support its position.

9. On February 20, 2017 the defendant published a blog post on its site in which it summarized the dispute between the plaintiff and Loubie and criticized the plaintiff's February 19th response to Loubie's cease and desist request.

10. Between February 19 and February 26, 2017 several other 3D printing bloggers also posted articles regarding the Loubie-Just Print debate.

11. On February 24, 2017, the defendant posted another blog in which it again criticized the plaintiff's actions regarding his dispute with Loubie and its practice of selling 3D models of designs that it had downloaded.

12. On February 27, 2017 eBay informed the plaintiff that its account was restricted for violation of eBay policy.

13. Subsequent to eBay's restriction and termination of the plaintiff's account, the plaintiff's sales of 3D models declined and its profits plummeted

14. Prior to the plaintiff filing its complaint, the defendant published other articles regarding the Loubie-Just Print debate on June 14, 2016, October 11, 2016, and December 31, 2016.

15. The plaintiff filed the instant action on February 21, 2017.

Conclusions of law:

To prevail on a defamation claim, the plaintiff must prove the following:

- (1) The defamatory character of the communication.
- (2) Its publication by the defendant.
- (3) Its application to the plaintiff.
- (4) The understanding by the recipient of its defamatory meaning.
- (5) The understanding by the recipient of it as intended to be applied to the plaintiff.
- (6) Special harm resulting to the plaintiff from the publication.
- (7) Abuse of a conditionally privileged occasion.

A review of the facts leads this court to conclude that the plaintiff has failed to meet the first and sixth prongs of the statute.

The defendant's initial February 20th article was written in response to the plaintiff's February 19th comment on Thingiverse in which the plaintiff defended its actions regarding its copying of Loubie's design. The plaintiff even went further in its comments by setting forth a legal opinion and justification for its actions. Subsequent to its February 20th article the defendant published several other articles detailing the facts of the dispute between Loubie and the plaintiff but which also questioned and critiqued the legal analysis that the plaintiff set forth in its February 19th comment.

A close reading of the articles shows that many of the articles in question, while referencing the Loubie-Just Print dispute, address questions regarding the overall legal issues and

concerns in what appears to be a new and unaddressed area of law, copyright protection of CAD designs. Neither the plaintiff nor the defendant is qualified to give a “legal opinion” regarding the law. However, they are both permitted to give their opinions as to what they believe the law is, which they indeed both did in their respective publications.

Other than factually summarizing the dispute between Loubie and the plaintiff and on occasion using somewhat “unflattering” words to describe the plaintiff’s conduct, there is nothing in any of the articles which would lead this court to find the publications to be defamatory. In fact, the tone of the defendant’s articles is no different than the tone in the plaintiff’s February 19th comment on Thingiverse. The crux of the defendant’s articles address its position on the 3D printing copyright issue which it has an absolute right to do. Many of the articles contain actual statements from the plaintiff’s February 19th comment and offer a critique and counter argument of these statements.

It is hard for this court to find that the plaintiff should be permitted to publish its “legal opinion” and defend its position on the Loubie-Just Print issue and yet find that an entity that publishes a contrary view and opinion has engaged in defamatory conduct.

Secondly, even assuming that the court found that the publications were defamatory, the plaintiff has failed to show that there was a causal connection between the publications and the plaintiff’s damages.

The witness for the plaintiff testified that subsequent to eBay terminating its account that its sales and revenues plummeted. The evidence shows that Loubie filed her complaint with eBay against the plaintiff on February 17, 2017. The defendant wrote articles regarding the Loubie-Just Print dispute on February 20 and February 24. On February 27, 2017 eBay terminated the plaintiff’s account for violating eBay policy.

It is clear that the plaintiff's sales declined as a result of eBay terminating its account. However, the plaintiff presented no evidence to show 1) what the specific policy was that the plaintiff violated or 2) that eBay's decision to terminate its account was based on the defendant's February 20 and 24 publications. It can be just as plausible for this court to find that eBay terminated the plaintiff's account based on Loubie's sole complaint to eBay regarding the plaintiff's actions. Thus, to conclude that eBay's termination of the plaintiff's account was based on the defendant's actions would be pure speculation.

Thus this court finds that the plaintiff has failed to meet its burden of proof.

Therefore, it is hereby ORDERED that judgment is entered in favor of the defendant.

BY THE COURT:



JOFFIE C. PITTMAN, III, J.

A true and correct copy of this Order was sent via first class mail, postage prepaid on August 14, 2017 to:

- (1) Attorney for Plaintiff – Coren Jay Wise, Esquire, 1706 Race Street, Suite 200, PA 19103, and
- (2) Defendant - Racehl K. Gallegos, Esquire, 1880 John F. Kenndey Blvd., Suite 1715, Philadelphia, PA 19103.