

Copyright Licensor wins large award from Egyptian Court

Mariam Sabet - Senior Associate - Intellectual Property / Competition
m.sabet@tamimi.com - Dubai International Financial Centre

Munir Suboh
m.suboh@tamimi.com

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The Claimant (the Licensor), a major broadcasting company, entered into various licence agreements with an Egyptian broadcasting channel (the "Licensee") for the broadcasting of some of the Claimant's exclusive content comprising of TV titles and series (the "Content").

After a few years of contract performance, the Licensee defaulted in payment of its royalty obligations stipulated in the licence agreement and subsequently the Claimant filed a suit before the Economic Court of First Instance in Cairo ("the Court") demanding (i) recovery of the outstanding amounts due as royalties (estimated at around USD 4 million); and (ii) payment of liquidated damages worth approximately USD 2 million as damages for the breach of the copyright licensing contracts as agreed between the parties.

The governing law clauses in the contracts referred to UAE laws and regulations. The Egyptian court did not challenge the implementation of this clause nor refuse to enforce the UAE regulations over the dispute. Therefore, the Court reviewed the merits of the case and entered a favorable judgment for the Claimant, ordering the Licensee to pay the outstanding royalties due worth approximately USD 4 million. The Court applied the laws of the UAE as the governing law to the merits of the case and made references to specific principles from the UAE civil code relevant to the case at hand.

In addition to the recovery of the outstanding amounts, the Claimant has also sought from the Court, an award of USD 2 million as liquidated damages. The relevant licence agreements granted the non-breaching party the right to claim a pre-determined liquidated damages sum in the event the breaching party breached its obligations and failed to cure such breaches within the cure period. Whilst the liquidated damages are regulated under the UAE Civil transaction code, the said law gives the court the right to amend, adjust or waive this type of damages according to the breach. In examining the merits of the liquidated damages claim, the Court rendered a judgment ordering the Licensee to pay the amount of liquidated damages in full as contractually agreed in the relevant licence agreements. The Court did not interfere in the assessment of the sum of liquidated damages and rather upheld the contractually agreed liquidated damages clause.

The main highlights of this judgment can be summarised as following:

- It is one of the highest compensatory award received in the Middle East region for non-payment of royalties fees related to exploiting of copyrights;
- The Court upheld the liquidated damages clause and did not reduce the sum;
- The Court followed UAE laws and upheld the governing law clause agreed upon by the parties without entertaining the traditional challenges from the local courts, such as sovereignty or other public order restrictions.

This award is a positive step for owners of all Intellectual Property Rights in Egypt, where courts are demonstrating adherence to the contractual terms as agreed between the parties even if these terms

involve significant and high amounts of compensation.

This judgment is proof of the development of the Egyptian Judicial system in handling commercial disputes which comprise a foreign element. As the country enters into many financial and development projects by foreign investors (such as the “New Egypt” project) with a view to building and maintaining sustainable economic growth, this case shows that the local courts can take action to support foreign investors in upholding relevant contractual obligations and commercial commitments.