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Catalina Abbott, the well-known Chilean artist, obtains a favourable ruling in protection of her copyright

Francisco Carey (Carey) · Monday, May 6th, 2019

Earlier this year, the Civil Court of Santiago^[1] ruled in favour of Catalina Abbott, a famous Chilean artist, issuing a historic judgment in relation to the protection of her moral and economic rights as an author. The ruling established that the conduct of a local vineyard regarding one of Abbott's works caused moral and economic damage, and ordered the payment of USD 580,000, in addition to the cessation of the vineyard's illegal conduct.

Catalina Abbott filed an intellectual property infringement lawsuit in April 2018. She claimed that her rights were violated through the misuse of one of the illustrations that were made for a specific wine label. Such misuse action consisted in the unauthorized modification of Abbott's artwork, and its use in different formats and setups (including several merchandising products and advertisements), none of which was approved by Abbott.



The Court's ruling sustains a restrictive comprehension of the authorization that must be given by artists for the use of their artworks, requiring explicit and specific consent (thus proscribing any kind of "tacit" authorization).

The ruling established important elements to be taken into account by any company and artist when it comes to agreeing on commercial exploitation of protected artworks. Particularly significant are references to areas that the parties want to include in the scope of the company's use (such as term, remuneration, territory of application), without which any authorization becomes invalid.

Finally, the judgment stated that the right of ownership that requires a mandatory association between the name of the author and his work has two aspects. First, the

right that the artist retains ownership, and secondly, the right to protect his reputation, making it impossible to ascribe to the artist a work that is deformed or departs from his creation. Therefore, the Court argued that the inclusion of the name of Abbott in the adulterated expression of her work was a serious infringement of her right of ownership, as much as the adulteration itself (which violated the moral right of integrity).

For all these reasons, the ruling becomes an important case that must be reviewed by all agents that use copyright-protected works.

[1] Case number (9° Civil Court of Santiago).

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