

Licences and joint ventures: why contract terms should be "crystal clear"

- ▶ Court finds a jewellery business did licence its partners in an informal joint venture to use some of its intellectual property
- ▶ Licence was not written down so some uncertainty over its scope
- ▶ Court clear that although an unwritten licence is revocable, the intention to terminate must still be clearly communicated

What's it about?

The parties are Janet and Laura Helme (the **Claimants**), partners in a small jewellery business operating under the "Hidden Gem Jewellery Company" brand, and two individuals (the **Defendants**) with whom (from 2008) the Claimants informally partnered to help market their products and business to a wider audience, including the development of a franchise model.

Integral to this strategy were the brand name, a logo commissioned by Mrs Helme and some photographs of the Claimants' product. It was accepted that Claimants owned the rights in these.

The Court found that the Claimants had informally granted the Defendants a licence to use these, via a website and in press advertisements. Whilst the Claimants were not specifically aware of all activities undertaken by, or specific advertisements placed by, the Defendants, there was sufficient ongoing communication to ensure that the Defendants' activities (including placing advertisements and engaging a mail order sales partner) were within the general scope of the authority granted by the licence.

Although relations between the Claimants and Defendants subsequently deteriorated and the Claimants were obviously unhappy with the Defendants, the Court found that the Claimants did not take effective steps to terminate the licence until April 2010, when a letter before action was issued. Even this letter was held to be insufficiently precise to terminate the sub-licence by the Defendants to the mail order partner. The Court therefore dismissed the Claimants' allegations of copyright infringement.

Why does it matter?

The case demonstrates the importance of ensuring that the terms of a licence are clear and in writing. For example, if the licensee is required to seek permission for certain acts, this should be expressly stated. Equally, the case highlights the uncertainty that can arise where a party fails to be absolutely clear that it intends to revoke an informal licence.

Now what?

Make sure that all licences to which your business is party (whether as licensee or licensor) are clearly defined, and in writing. If informal licenses arise which you wish to terminate, you should ensure that this intention is clearly and unambiguously communicated to the licensee.

[Helme and others v Maher and another \[2015\] EWHC 3151 \(IPEC\)](#)

For further on this or any other IP related matter please contact Richard.oldroyd@addleshawgoddard.com on 0161 934 6232.