

United States – Welcome to the Dollhouse – Barbie v. Bratz

On December 3, 2008, Mattel, Inc. (“Mattel”) won a major victory with the courts. *Bryant v. Mattel*, 04-09049, U.S. District Court, Central District of California (Riverside). A federal court judge recently ordered MGA Entertainment, Inc. (“MGA”) to stop selling, manufacturing, advertising or licensing its line of Bratz dolls or any other product with the Bratz name and banned MGA from using the Bratz name. A recall was also ordered in which all Bratz dolls and materials used to make the dolls were to be recalled. This ruling is stayed until early 2009, which in effect allowed retailers to sell the Bratz dolls through the holidays.

In August 2008, a jury found that Bratz dolls designer Carter Bryant, a former employee of Mattel, developed the Bratz dolls concept while working for Mattel. He signed an Inventions Agreement that gave Mattel all rights to any product that he designed while he was employed with Mattel, including rights to non-copyrightable ideas.

MGA began showing Bratz prototypes a month after Bryant left Mattel and began selling the popular dolls in toy stores five months later. Mattel claimed that since the idea for the Bratz dolls was conceived by one of its employees during the time of his employment and while bound by the terms of the Inventions Agreement, Mattel owned all rights, including the copyrights, to the Bratz dolls.

The jury agreed and awarded Mattel \$10 million in damages for copyright infringement, among other damages. The post trial dispute which brought about the most recent ruling centered on the issue of whether the jury found that only the first generation of the Bratz dolls infringed on Mattel’s copyrights or whether all the dolls in the Bratz line of dolls infringed on Mattel’s copyright. The jury, in the verdict form, was only asked to make a determination of infringement. The jury was not asked to specify which dolls infringed the company’s copyright, i.e., whether it was the first dolls sold back in 2001, the ones sold later, or all of them.

MGA planned to appeal the December ruling, and thus the future of the Bratz dolls was unknown. If that ruling was upheld, it could have meant financial ruin for MGA since the Bratz dolls were one of MGA’s best selling products and the sales of the dolls made MGA profitable. While the court encouraged a licensing arrangement in which both parties may benefit, it also acknowledged that “the hostilities between these parties is such that this form of remedy is unworkable.”

A federal judge ruled on Wednesday January 7, 2009 that the Bratz dolls may remain on store shelves throughout the year. However, the judge left open the possibility that the sales of the Bratz dolls may later be shifted from MGA to Mattel or a court-appointed receiver. This order was thus a reprieve for MGA, which, as stated above, had been ordered in December to stop making and selling the Bratz dolls. Stay tuned . . .

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