SPC Guiding Case No. 157: Zuoshang Mingshe Household Products (Shanghai) Co., Ltd. v. Beijing Zhongrong Hengsheng Timber Co., Ltd. and Nanjing Mengyang Furniture Sales Center (Copyright Infringement Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Civil / copyright infringement / works of applied art / utility / artistry

Holding

A work of applied art that possesses originality, artistry, utility, and reproducibility, and whose artistry and utility can be separated, may be determined to be a work of applied art and protected by the Copyright Law as a work of fine art. A work of applied art protected by the Copyright Law must possess artistry; what the Copyright Law protects in a work of applied art is its artistry, not its utility.

Basic Facts

In January 2009, the plaintiff, Zuoshang Mingshe Household Products (Shanghai) Co., Ltd. ("Zuoshang Mingshe Company"), designed a furniture drawing entitled "Tang Yun Cloakroom Furniture." In July of the same year, Zuoshang Mingshe Company commissioned Shanghai Aoshi Photography Design Co., Ltd. to photograph the series of furniture it produced. In September and October 2011, Zuoshang Mingshe Company successively carried out enterprise and product introductions and publicity on the Hejia website and the SouFun website, and simultaneously displayed photographs of the "Tang Yun Cloakroom Furniture" product it produced. On December 10, 2013, Zuoshang Mingshe Company applied for copyright registration of the three-dimensional design of the "Tang Yun Cloakroom Combination Cabinet."

The defendant, Nanjing Mengyang Furniture Sales Center ("Mengyang Sales Center"), was the authorized dealer of the defendant, Beijing Zhongrong Hengsheng Timber Co., Ltd. ("Zhongrong Company"), in the Nanjing region. Zuoshang Mingshe Company discovered that the "Tang Yun Rosewood Cloakroom" under the brand "Yuejie" sold in the store of Mengyang Sales Center was completely identical to the "Tang Yun Cloakroom Combination Cabinet." Zuoshang Mingshe Company considered that the "Tang Yun Cloakroom Combination Cabinet" was a work of applied art, that Zhongrong Company had infringed its reproduction right and distribution right in the work, and that Mengyang Sales Center had infringed its distribution right in the work. From November 29, 2013 to January 13, 2014, Zuoshang Mingshe Company applied for evidence preservation against the alleged infringing products and filed the lawsuit in this case.

Comparing Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" with the alleged infringing product "Tang Yun Rosewood Cloakroom," the similarities between the two lay in that: both were L-shaped as a whole, the layout of the wardrobe door panels was similar, the accessory decorations were the same, and the patterns and textures of the board colors and the overall shape were similar; these similar parts were mainly reflected in the artistic aspects. The differences mainly lay in the angle of the L-shaped corner and the internal space division of the cabinet body, which were reflected in the utility aspects, had no impact on the overall visual effect, and would not create an obvious difference between the two.

Judgment

On December 16, 2014, the Nanjing Intermediate People's Court of Jiangsu Province rendered the civil judgment (2014) Ning Zhi Min Chu Zi No. 126, dismissing Zuoshang Mingshe Company's claims. Zuoshang Mingshe Company appealed the first-instance judgment. On August 30, 2016, the Jiangsu Provincial Higher People's Court rendered the civil judgment (2015) Su Zhi Min Zhong Zi No. 00085: 1. revoking the civil judgment (2014) Ning Zhi Min Chu Zi No. 126 of the Nanjing Intermediate People's Court of Jiangsu Province; 2. ordering Zhongrong Company to immediately cease the acts of producing and selling products that infringed the copyright in Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" work; 3. ordering Mengyang Sales Center to immediately cease selling products that infringed the copyright in Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" work; 4. ordering Zhongrong Company to compensate Zuoshang Mingshe Company for economic losses (including reasonable expenses) of RMB 300,000 within ten days from the effective date of the judgment; and 5. dismissing Zuoshang Mingshe Company's remaining claims. Zhongrong Company applied to the Supreme People's Court for retrial. On December 29, 2018, the Supreme People's Court rendered the ruling (2018) Zui Gao Fa Min Shen No. 6061, rejecting Zhongrong Company's retrial application.

Reasoning

The Supreme People's Court held that the main issues of focus in this case were:

I. Whether Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" constituted a work protected by China's Copyright Law.

Article 2 of the Implementing Regulations of the Copyright Law of the People's Republic of China (the "Implementing Regulations") provides: "The term 'work' as used in the Copyright Law refers to an intellectual achievement in the literary, artistic, and scientific fields that is original and can be reproduced in some tangible form." Article 4(8) of the Implementing Regulations provides: "Works of fine art refer to plane or three-dimensional plastic art works of aesthetic significance constituted by lines, colors, or other means, such as paintings, calligraphy, and sculptures." What China's Copyright Law protects is the author's original expression in a work, not the ideas themselves reflected in the work. A work of applied art itself possesses both utility and artistry. Utility falls within the category of ideas and should not be protected by the Copyright Law; what is protected as a work of applied art is only its artistry, that is, the original artistic modeling or artistic pattern on the work of applied art, namely the structure or form of the artwork. As a work of applied art protected by the Copyright Law among works of fine art, in addition to satisfying the general constituent elements of a work and the special constituent conditions of a work of fine art, it must also satisfy the condition that its utility and artistry can be separated from each other. Where the utility and artistry of a work of applied art cannot be separated, it cannot become a work of fine art protected by the Copyright Law.

Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" possessed the characteristic of reproducibility, and the parties had no dispute on this point. The core issue in this case was whether the "Tang Yun Cloakroom Furniture" possessed an artistic modeling or artistic pattern of sufficient originality, and whether the utility and artistic beauty of the furniture could be separated.

First, regarding whether Zuoshang Mingshe Company independently completed the "Tang Yun Cloakroom Furniture." The design drawings, copyright registration certificate, product photographs, sales contracts, and publicity reports submitted by Zuoshang Mingshe Company to the court of first instance had already formed a complete chain of evidence, sufficient to prove that the company had independently completed the "Tang Yun Cloakroom Furniture" in 2009. Zhongrong Company claimed that Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" was plagiarized from others' accessory designs and used common colors and common designs; because it did not submit evidence sufficient to prove its claim, the court did not support that claim.

Second, regarding whether the "Tang Yun Cloakroom Furniture" completed by Zuoshang Mingshe Company possessed originality. From the perspective of the board color design, the board colors of Zuoshang Mingshe

Company's "Tang Yun Cloakroom Furniture" were designed by the company itself, and did not use the natural grain of the wood itself but instead extracted the colors and elements of traditional Chinese-style furniture and redesigned them through abstract techniques, integrating traditional Chinese style with modern style, and the selection, matching, texture direction, and depth variation of the colors all reflected its unique artistic modeling or artistic pattern. From the perspective of the accessory design, the "Tang Yun Cloakroom Furniture" used handmade brass accessories, including brass corner flowers inlaid on the front cabinet doors and drawer handles and around the drawers, with wavy beveled edges and hollow designs. Whether corner flower edging was used on the furniture, the patterns selected for the corner flowers, and the specific positions of the edging all reflected the creative labor of Zuoshang Mingshe Company in selection, design, and layout. From the perspective of the Chinese-style furniture style, the right side of the "Tang Yun Cloakroom Furniture" adopted a Chinese-style symmetrical design, giving a harmonious sense of beauty. Therefore, the "Tang Yun Cloakroom Furniture" possessed aesthetic significance and reached the artistic creation height of a work of fine art.

Finally, regarding whether the utility and artistic beauty of Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" could be separated. The utility of the "Tang Yun Cloakroom Furniture" lay mainly in the design of the internal storage space of the cabinet body, enabling it to hold and display clothing and other items, as well as the L-shaped corner design of the cabinet body, enabling it to be used in matching specific home environments. The artistic beauty of the furniture was mainly reflected in the design of the board color patterns and textures, the matching of metal accessories, and the Chinese-style symmetry, producing a dual aesthetic effect of classical and modern through the addition of modern elements on the basis of Chinese style. Changing the modeling design of the "Tang Yun Cloakroom Furniture," such as the board color patterns and textures, the matching of metal accessories, and the Chinese-style symmetry, would not affect its utility of holding and displaying clothing as cloakroom furniture. Therefore, the utility and artistic beauty of the "Tang Yun Cloakroom Furniture" could be separated and existed independently.

Therefore, Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture," as a three-dimensional plastic artwork possessing both utility and aesthetic significance, was a work of fine art protected by the Copyright Law.

II. Whether Zhongrong Company infringed the copyright in the work that Zuoshang Mingshe Company claimed to protect.

To determine whether an alleged infringing product infringes another's work protected by the Copyright Law, the determination should be made from two aspects: whether the alleged infringer had "access" to the work the right holder claims to protect, and whether the alleged infringing product and the work the right holder claims to protect constitute "substantial similarity." In this case, first, according to the facts found by the court of second instance, the relevant design drawings provided by Zhongrong Company could not fully reflect the design elements of the alleged infringing product "Tang Yun Rosewood Cloakroom," and also lacked information such as the time of formation and the composition of the design personnel, so they could not sufficiently prove that the alleged infringing product was independently designed and independently completed by Zhongrong Company. The formation and publication time of Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" work was earlier than Zhongrong Company's alleged infringing product. As an operator in the furniture industry, Zhongrong Company had the conditions to access Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" work. Second, as stated above, for works of fine art possessing both utility and aesthetic significance, the Copyright Law protects only their artistic aspects, not their utility. When determining whether Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" work and Zhongrong Company's alleged infringing product "Tang Yun Rosewood Cloakroom" constitute substantial similarity, the comparison should be made from the artistic aspects. Comparing the "Tang Yun Cloakroom Furniture" with the alleged infringing product "Tang Yun Rosewood Cloakroom," the similarities between the two lay in that: both were L-shaped as a whole, the layout of the wardrobe door panels was similar, the

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accessory decorations were the same, and the patterns and textures of the board colors and the overall shape were similar; these similar parts were mainly reflected in the artistic aspects. The differences mainly lay in the angle of the L-shaped corner and the internal space division of the cabinet body, which were reflected in the utility aspects, had no impact on the overall visual effect, and would not create an obvious difference between the two. Therefore, Zhongrong Company's alleged infringing product and Zuoshang Mingshe Company's "Tang Yun Cloakroom Furniture" work constituted substantial similarity, and Zhongrong Company infringed the copyright in the work in issue of Zuoshang Mingshe Company.

Relevant Legal Provisions

Articles 2 and 4 of the Implementing Regulations of the Copyright Law of the People's Republic of China.

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