



Can Plagiarism Invalidate A Patent? Lessons On Moral Rights And Prior Art From The Court Of Appeal

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Introduction

The Court of Appeal's decision in *Veronica Sainik @ Ronald v Meluha Life Sciences Sdn Bhd & Ors* (Civil Appeal No. W-02(IPCv)(W)-1713-09/2022) marks an important development in Malaysian intellectual property law, particularly in relation to the scope and enforcement of an author's moral rights. The case addresses a question of increasing commercial significance: what happens when research output is commercially exploited, or even incorporated into a patent, without proper attribution to its author?

In allowing the appeal, The Court of Appeal affirmed that an author's moral rights under Section 25 of the Copyright Act 1987 (CA 1987) remain enforceable notwithstanding the assignment of copyright. More significantly, The Court held that the unauthorised use and modification of a researcher's dissertation in a patent filing constituted an infringement of moral rights and, arising from the same underlying facts, also led to the invalidation of the patent for lack of novelty.

Brief Facts

The plaintiff was a postgraduate student at the University of Malaya and participated in a Collaboration Project entitled "Isolation, Characterization and Multilineage Differentiation of Post-Natal Stems Cells from Dental Pulp", involving the university and industry collaborators. As part of the project, the plaintiff conducted research, collected data and produced a Master's dissertation containing original methodology, data and findings.

Subsequently, the defendants obtained registration of a patent titled “Isolation, Expansion and Characterization of Precursor/Stem Cells from Dental Tissues” under Malaysia Patent No. MY-166810-A (Patent) from the Intellectual Property Corporation of Malaysia. The plaintiff alleged that substantial portions of her dissertation were reproduced and modified in the Patent without her knowledge or consent, and without any attribution to her.

At The High Court, it was found that copyright subsisted in the plaintiff’s dissertation, but that she had assigned all copyright to the University of Malaya through an “Original Literary Work Declaration”. The High Court nevertheless accepted that Section 25 of CA 1987 protected the plaintiff’s moral rights as author. However, The High Court dismissed the claim on the basis that there was insufficient evidence of distortion, modification or mutilation that significantly altered the work or adversely affected the plaintiff’s honour or reputation. The High Court also upheld the validity of the patent.

Dissatisfied with the decision, the plaintiff appealed.

The Court Of Appeal’s Decision

The Court of Appeal allowed the appeal. First, The Court affirmed that although the copyright in the dissertation had been assigned to the university, the plaintiff retained her moral rights as the original author. The Court emphasised that moral rights are inalienable and continue to protect the author’s right of paternity and right of integrity even after assignment of copyright. In other words, ownership of copyright and ownership of moral rights are distinct.

Since moral rights in the Master’s dissertation remained vested in the plaintiff, the key issue then was whether the defendants had infringed those rights under Section 25 of CA 1987.

On the facts, The Court found that the defendants had utilised portions of the plaintiff’s dissertation in the Patent without identifying her as the author or inventor, and had modified certain content without her knowledge or consent. In reaching this conclusion, The Court relied on the trial judge’s own findings, expert evidence, and admissions by the defendants’ witnesses.

The Court further held that the modifications were substantial and adversely affected the plaintiff’s honour and reputation. In the academic and scientific context, attribution was considered especially important. The removal of the plaintiff’s name, the alteration of her methodology, and the presentation of her work under the Patent were held to undermine her standing, integrity and credibility as a researcher. That was sufficient to establish infringement of both the moral right of integrity and the moral right of paternity under Section 25(2) of CA 1987.

As a result, The Court awarded the plaintiff RM100,000 in damages and RM100,000 in aggravated damages, together with interest.

Separately, The Court also invalidated the Patent. It held that the plaintiff's dissertation, having been published in 2013, constituted prior art that anticipated the subject matter claimed in the Patent filed on 20 August 2014. Accordingly, the Patent failed the novelty requirement and was declared invalid *ab initio* under the Patents Act 1983.

Takeaways

This decision is significant for several reasons.

(1) From the author's perspective

The decision reinforces that moral rights are a substantive and enforceable component of Malaysian intellectual property law, with real commercial consequences. Even where copyright has been validly assigned, authors retain the right to be credited and to object to unauthorised modification of their work.

Importantly, breach of these rights is not merely technical. It may give rise to reputational harm and entitle the author to damages, as demonstrated by The Court's award of both general and aggravated damages. The decision therefore affirms that authors are not left without recourse simply because they no longer own the copyright in their work.

(2) From the university or copyright owner's perspective

The case dispels any assumption that copyright ownership alone confers complete control over the use of a work. While it is common for universities and institutions to require assignment of copyright in theses and research outputs, this decision makes clear that such assignment does not extinguish the author's moral rights.

Further, The Court of Appeal adopted a broader and more context-sensitive approach to reputational harm. The Court recognised that in an academic and scientific setting, attribution is fundamental to professional credibility. The unauthorised modification of methodology, coupled with the omission of the author's name, was sufficient to constitute reputational harm. This signals that the threshold for establishing prejudice under Section 25 of CA 1987 may be satisfied by conduct that undermines authorship and academic integrity, even if the work is not overtly mutilated.

Accordingly, even where a university or institution owns the copyright, the use, modification, or commercialisation of the work must still take into account the author's right to attribution and integrity. Failure to do so may expose the copyright owner, or parties relying on such work, to liability.

(3) From a commercial perspective

From a commercial standpoint, this decision underscores the importance of proper governance in collaborative research and commercialisation arrangements.

Entities involved in university-industry collaborations should no longer focus solely on ownership of intellectual property. They must also consider: whose work is being used, whether proper attribution has been given, whether any modifications have been made, and whether there is sufficient evidence of independent development.

In this case, The Court of Appeal was influenced by the absence of credible independent records and by admissions linking the Patent materials to the plaintiff's work. This evidential dimension is likely to be critical in future disputes.

More broadly, the decision illustrates that the same underlying misuse of research materials may simultaneously give rise to infringement of moral rights and expose a patent to invalidity challenges, particularly where the work constitutes prior art.

All in all, the message for stakeholders involved in research, innovation and commercialisation is clear: intellectual property strategy must extend beyond ownership to encompass attribution, consent, and the integrity of the underlying work. Failure to do so may expose parties to both liability and the loss of proprietary rights.

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