

HELLO



Bharucha & Co.
Intellectual Property Attorneys

Series of brief newsletters released by Bharucha & Co. on latest development of IP predominantly in Pakistan.

COPYRIGHT – IMAGES UPLOADED AT THE WEBSITE OF FOTOLIA LLC - DMCA NOTICE SENT – IMAGES REMOVED

Copyright Notice sent to Copyright Agent of www.fotolia.com

Applicant: Dollar Industries Pakistan

Infringer: Fotolia LLC, USA

Result: Images removed

On behalf of Dollar Industries Pakistan ("Dollar"), a Pakistani partnership firm, a Notice of Copyright Infringement for uploading certain images was sent under Digital Millennium Copyright Act (DMCA) to the Copyright Agent of the website www.fotolia.com as authorized in § 512(c) of the U.S. Copyright Law.

Dollar claimed to be the sole owner and exclusive right holder of the cartoon character i.e. its mascot (Mascot) and its variations/modes, which have been extensively published by it since 2006 in various newspapers, magazines, digests, etc. Dollar accordingly asserted in its notice that the copyright in the Mascot and all its variations under the Copyright Law, the Common Law and the Berne Convention – to which Pakistan is a signatory – exclusively vest in Dollar. It came to Dollar's notice through the Internet that images including Mascot, its variations and different images of its pencils, ink pots, glue sticks, markers, etc. belonging to it, which it has been using for a number of years on its packaging and publicity material were being displayed and offered for sale and/or share on the website www.fotolia.com. Dollar alleged that the images were uploaded without any authorization from it, by one Mr. Kamran Akhlaq, an ex-employee of Dollar's associated company, Dollar Industries (Pvt) Ltd, who was working in the said associated company as a Graphic Designer.

In its notice Dollar stated that Mr. Kamran Akhlaq is not the rightful owner of all such images. Additionally, the name Kamran Akhlaq was also displayed with the images as if he was the owner of the images and Dollar took strong objection to such act. Dollar contended that the act of Kamran Akhlaq amounts to illegal reproduction, piracy and infringement because, the viewers and buyers are likely to be confused and deceived into belief that the images offered for sale or share on the website have emanated from or are connected in some manner, to Dollar.

Dollar also stated in the notice that as per the requirements for uploading any material at the website www.fotolia.com strict adherence to among others that the person must own all rights or have authorizations concerning the elements represented on the website need to be fulfilled. Additionally, Dollar contended that since the Mascot and other intellectual property rights exclusively belong to it, uploading and offering the said images for sale or share on the said website, without any authorization from Dollar, amounts to violation of the primary condition of displaying of images at the said website. Dollar also mentioned that action of displaying for sale or share of the aforesaid images of Mascot, its variations and other intellectual property rights of Dollar on the said website without its consent amounts to infringement and piracy of its intellectual property rights and an attempt to take unfair advantage from its popularity and goodwill, with the motive to derive undeserved profits and that such actions would be likely to damage its hard



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earned reputation and goodwill. In view of the contentions put forward by Dollar and law referred to by it the images were removed from the said website.

DMCA notice was sent by Bharucha & Co.

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