

A Lawsuit Against Microsoft For Copyrights Violation

By Itzhak Dannon/Jewish Business News (Israël)

A lawsuit, seeking NIS5 million (\$1.4 million), was filed recently at the District Court in Lod, Israel, against Microsoft Corporation (the American multinational headquartered in Redmond, Washington St., as opposed to its local subsidiary in Israel), which alleges an intellectual property infringement of copyrights and a violation of moral rights (personal, non-transferable intellectual property rights the law in Israel accords the actual creator: that his creation will bear his name and that its integrity will be preserved; it's inapplicable to software).

The plaintiff, Hanna Tal of Israel, is the daughter and sole successor of Henry Friedlander, the creator and designer of a font known as "Hadassah". She alleges that the font at issue is special, classy, with a festive presence, a unique and original artwork considered by experts a groundbreaking font in terms of its style and design, which is based on an in-depth study of the history and graphic forms whence Modern Hebrew letters have evolved, before and after the invention of printing. The suit claims that it is a ubiquitous, well-known font that has acquired a great reputation.

According to plaintiff, Microsoft copied the font when it created two other fonts: Hadassah Monotype, and Hadassah Guttman, which it included in its Office and Windows software packages, marketed and distributed to millions of users around the world for years. These violative fonts, plaintiff claims, were copied from the Hadassah font. This, Ms. Tal alleges, was done by Microsoft without permission to do so and even though the plaintiff had warned the corporate giant of the consequences and explicitly demanded that it cease and desist from its unlawful conduct.

The claim further avers that over the years Microsoft released millions of infringing copies of the violative fonts, which contain a distortion of original art created by Henry Friedlander and while attributing the work to others (who themselves have violated Friedlander's rights in the original work), thus depriving Friedlander of the public recognition he deserved.

The complaint further alleges that, "Microsoft, the software giant, who is known for jealously protecting its own copyrights, callously trampled on plaintiff's rights, ignored her demands and consciously decided to continue to violate her rights, all these in egregious bad faith and for making a profit."

The claim states that Friedlander commenced the development and processing the Hadassah font during World War II, while hidden in an attic by his wife, one of the Righteous Gentiles (a group of non-Jews who hid and saved Jews during the war from capture by the Nazis) and completed it by the time of the 10th anniversary celebration of the State of Israel; a creation he toiled over for nearly three decades.

The plaintiff asserts that various Microsoft products which are traded, among other places on the Internet, contain the afore-mentioned fonts that were copied from the Hadassah font and which deceptively hint, through their names, that they are related to the original Hadassah font, its design and its creator. She further maintains that by selling products that contain these fonts, Microsoft has been causing each one of their users to violate her intellectual property rights.

Plaintiff estimates the total amount of compensation to which she is entitled, in correlation to the number of violations entailed, in the amount of NIS21 million (\$4,410,000), however, in order to limit the extent of the filing fees (which, in Israel, are tied to the amount of damages the suit seeks) they were limited to NIS 5 million. (This form of allegation allows the plaintiff to amend the complaint and increase the amount of damages sought at a later date.) In addition, the court was asked to issue a prohibitory injunction preventing Microsoft from any further violation of her intellectual property rights and a mandatory injunction compelling the defendant to remove the fonts at issue from its products.