

Stag logos go head to head



On 14 May 2019 HHJ Melissa Clarke handed down judgment in ***ATB Sales Limited v Rich Energy Limited & ors*** [2019] EWHC 1207 (IPEC), a claim for copyright infringement.

The claimant alleged that its copyright work, a stylised stag's-head logo used to brand its specialist bike business, had been copied either wholly or in substantial part by the defendants. The first defendant, Rich Energy, has been using the alleged infringing copies to brand its energy drink business, including use on drinks cans and as part of its sponsorship the Haas F1 motor-racing team. The second defendant, William Storey, is the director and shareholder of Rich Energy, and the third defendant, Staxoweb, is a company said to have been paid by Rich Energy to design the allegedly infringing logo. Staxoweb's CEO Sean Kelly gave evidence, along with Mr Storey, that he and Mr Storey had designed the allegedly infringing logo independently. Copying was "vehemently denied". The two works in issue are shown below, with the claimant's logo on the left:



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The Judge found that neither Mr Storey nor Mr Kelly were credible or reliable witnesses, and that they had deliberately sought to mislead the Court. Their conduct included creating documents for the purpose of the litigation, lying about the creation of those documents, and lying about not being familiar with the claimant's logo. The Judge concluded that the defendants had deliberately copied the claimant's logo, and that the resulting logo was a copy of the whole of the logo, or if not then a substantial part within the meaning of the Copyright, Designs and Patents Act 1988. The Judge further held that the claimant should be entitled to injunctive relief, and an inquiry as to damages or an account of profits. A further hearing to determine the appropriate form of order in light of the judgment will take place on 27 June.

The claimant is represented by [Roger Wyand QC](#) and [Ben Longstaff](#) of Hogarth Chambers; the defendants are represented by [Tom St Quintin](#), also of Hogarth.

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