

JUDGMENT Express

[2026] 4 MLRA

Veronica Sainik @ Ronald
v. Meluha Life Sciences Sdn Bhd & Ors

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VERONICA SAINIK @ RONALD

v.

MELUHA LIFE SCIENCES SDN BHD & ORS

Court of Appeal, Putrajaya

Azizah Nawawi CJSS, Azizul Azmi Adnan, Mohd Firuz Jaffril JJCA

[Civil Appeal No: W-02(IPCv)(W)-1713-09-2022]

1 April 2026

Copyright: Infringement — *Appeal against dismissal of claim for infringement of plaintiff's moral rights, and for invalidation of defendants' patent — Reproduction of contents and data from plaintiff's Master's dissertation, including modifications to methodology in defendants' patent without plaintiff's knowledge or consent — Whether plaintiff's dissertation protected by copyright — Whether defendants infringed plaintiff's moral rights of integrity and paternity — Whether plaintiff's honour and reputation adversely affected by modifications made to plaintiff's dissertation without her consent — Whether defendants' patent failed to satisfy requirement of novelty and was invalid ab initio — Whether plaintiff entitled to damages*

The appellant ('plaintiff') had pursued her Master's at the Faculty of Dentistry, University of Malaya ('UM') and was involved in a collaboration project entitled "Isolation, Characterization and Multilineage Differentiation of Post-Natal Stem Cells from Dental Pulp" ('project') aimed in part at developing UM's expertise in stem cell research through postgraduate programmes. The plaintiff's involvement in the project was to conduct research and collect data, and upon completion of the project, the data was to be used by her to complete her Master's dissertation entitled "Isolation, Expansion, and In-Vitro Characterization of Mesenchymal Stem Cells of Dental Origin". The respondents ('defendants') subsequently obtained registration of a patent titled "Isolation, Expansion and Characterization of Precursor/Stem Cells from Dental Tissues" in the Malaysian Register of Patents ('patent'). The patent purportedly reproduced more than half of the plaintiff's Master's dissertation, including modifications to the methodology, without the plaintiff's knowledge or consent. The plaintiff, vide the instant suit, sought a declaration under s 25 of the Copyright Act 1987 ('CA 1987') that the defendants had infringed her moral rights in her Master's dissertation, as well as damages for infringement of her moral rights of paternity and integrity. The plaintiff also sought to invalidate the patent for failing to meet the novelty requirement under s 14 of the Patents Act 1983 ('PA 1983') on the basis that her Master's dissertation which was published in 2013, qualified as prior art. The defendants' counterclaimed against the plaintiff for *inter alia* abuse of the court's process and unlawful interference with trade. The plaintiff's expert witness, Dr Nurul Yuziana, confirmed in her report that modifications were made to the plaintiff's dissertation. The defendants' witness, Prof Noor Hayaty, also confirmed



during cross-examination that there were substantial similarities and identical features between the plaintiff's Master's dissertation and the patent.

The High Court Judge ('Judge') in dismissing the plaintiff's claim found that the plaintiff, having signed an 'Original Literary Work Declaration' in 2013 assigning her dissertation to UM, no longer owned the copyright in her dissertation and could not claim for copyright infringement. The Judge also found that although there were modifications of the plaintiff's dissertation, there was insufficient evidence of distortion or mutilation amounting to infringement of the plaintiff's moral rights, or proof that the alleged modifications significantly altered the plaintiff's dissertation or adversely affected her honour or reputation. The Judge accordingly found the patent to be valid and independently developed by the 2nd and 3rd defendants. The counterclaim was also dismissed. Hence, the instant appeal by the plaintiff and cross-appeal by the 1st defendant against the dismissal of the counterclaim.

Held (allowing the appeal and the claim for damages; order accordingly):

- (1) Moral rights, which were inalienable, remained with the author even if the copyright was assigned or transferred. Such rights included the right of paternity, ensuring that the author was recognised as the creator, and the right of integrity, allowing the author to object to any distortion, mutilation or modification of the work that may prejudice the author's honour or reputation. (paras 15-18)
- (2) The raw data, methodology, and research arising from the project were all documented in the plaintiff's Master's dissertation, thereby satisfying the requirement of fixation in a material form under s 7(3)(b) of the CA 1987. Accordingly, the plaintiff's Master's dissertation was protected by copyright and since copyright existed in the plaintiff's Master's dissertation, it also carried moral rights under s 25 of the CA 1987. (paras 21 & 25)
- (3) The evidence, including the defendants' admissions, expert testimony and substantial similarities between the works, clearly showed that the defendants had relied on the methodologies, data and findings documented in the plaintiff's Master's dissertation. Viewed as a whole, the substantial similarities supported the conclusion that the defendants had appropriated substantial materials from the plaintiff's work. (paras 37 & 39)
- (4) The modifications made to the plaintiff's Master's dissertation without her consent had adversely affected the plaintiff's honour and reputation, diminishing her standing as a researcher and academician. (para 41)
- (5) Applying the principle laid down in *Perez & Ors v. Fernandez* that a claim for infringement of moral rights did not require proof of actual damage, that it was enough to show 'derogatory treatment' that materially distorted, mutilated, or altered a work in a way prejudicial to the author's honour or reputation, the defendants' actions constituted derogatory treatment, thereby harming the plaintiff's honour. Accordingly, the plaintiff's moral rights had been infringed by the defendants. (paras 46-48)



(6) The Judge, despite having acknowledged that modifications had been made to the plaintiff's Master's dissertation, had erred in law and in fact by failing to consider the issues of distortion, mutilation and/or modification of the plaintiff's dissertation by the defendants through the patent, and that the same could reasonably be regarded as adversely affecting the plaintiff's honour or reputation. The omission constituted a fundamental error warranting appellate intervention and correction. (paras 49, 50, 51 & 68)

(7) The Judge had erred in law and in fact in failing to consider that the defendants had not identified the plaintiff as the author when presenting her Master's dissertation as prior literature in the patent filing, thereby infringing the plaintiff's moral rights under s 25(2)(a) of the CA 1987. Consequently, the defendants have effectively denied the plaintiff the recognition she was entitled to, thereby infringing her moral right of paternity. (paras 52, 57 & 67)

(8) The evidence established that the plaintiff's Master's dissertation, which was published in 2013, constituted prior art. The methodologies, data and findings disclosed therein were publicly accessible before the patent's priority date and corresponded substantially to the claims of the patent. In the circumstances, the patent failed to satisfy the requirement of novelty under the PA 1983 and was invalid *ab initio* and ought to be revoked. (paras 63-64)

(9) Based on the aforesaid reasons for allowing the plaintiff's appeal, the Judge was correct in dismissing the counterclaim. (para 66)

Case(s) referred to:

Aktif Perunding Sdn Bhd v. ZNVA & Associates Sdn Bhd [2017] 4 MLRH 447 (refd)
Amar Nath Sehgal v. Union of India And Anor (21 February 2005 117) (2005) DLT717, 2005(30) PTC253(DEL) (refd)
Corby v. Allen & Unwin Pty Ltd [2013] 297 ALR 761 (refd)
Perez & Ors v. Fernandez [2012] FMCA 2 (folld)
Syed Ahmad Jamal v. Dato Bandar Kuala Lumpur [2010] 2 MLRH 302 (refd)

Legislation referred to:

Copyright Act 1987, ss 7(3)(b), 13, 25(2)(a), (b)(i), (ii)
Patents Act 1983, ss 14, 56

Counsel:

For the appellant: Ahmad Hafiz Zubir (Iman Danial Hakim with him); M/s Hafiz Zubir & Co
For the respondents: Steven Cheok Hou Cher (Soo An Qi with him); M/s Adnan Sundra & Low

[For the High Court judgment, please refer to *Veronica Sainik @ Ronald v. Meluha Life Sciences Sdn Bhd & Ors* [2024] 2 MLRH 891]



JUDGMENT

Azizah Nawawi CJSS:

Introduction

[1] This appeal is filed by the Appellant/Plaintiff to challenge the decision of the learned High Court in dismissing the Appellant's claims for infringement of moral rights and invalidation of patents against the Respondents/Defendants.

Background Facts

[2] The plaintiff pursued her Master's at the Faculty of Dentistry, University of Malaya ('UM').

[3] The 1st defendant ('D1') is a biotechnology company and industry collaborator with UM. The second and 3rd defendants, (D2 and D3), acted as research consultant and research associate, respectively.

[4] D2 and the Head of Conservative Dentistry (D4) at UM, had secured a research grant for a project entitled "Isolation, Characterization and Multilineage Differentiation of Post-Natal Stem Cells from Dental Pulp" ('Collaboration Project'), aimed in part at developing UM's expertise in stem cell research through postgraduate programmes. The Collaboration Project, spanning 36 months from May 2009 to April 2012, involved a joint effort between the Faculty of Dentistry, University of Malaya, and Stempeutics Research Malaysia.

[5] The purpose of the plaintiff's involvement in the Collaboration Project was to conduct research and to collect data. Upon the completion of the research, the plaintiff was to use the data to complete her dissertation, which, once finalized, would enable her to obtain her Master's certificate.

[6] Subsequently, the defendants obtained registration of a patent titled "Isolation, Expansion and Characterization of Precursor/Stem Cells from Dental Tissues" in the Malaysian Register of Patents ('patent').

[7] The plaintiff alleged that the patent reproduced more than half of the contents and data from her Master's dissertation, including modifications to the methodology, without her knowledge or consent.

[8] The plaintiff then filed this suit seeking a declaration under s 25 of the Copyright Act 1987 ('CA 1987') that the defendants had infringed her moral rights in her Master's dissertation, "Isolation, Expansion, and In-Vitro Characterization of Mesenchymal Stem Cells of Dental Origin".

Decision of the High Court

[9] The learned Judge has made a finding that the plaintiff had signed an "Original Literary Work Declaration" in 2013, assigning all copyright in her



dissertation to the University of Malaya. As a result, she no longer owned the copyright and could not claim for copyright infringement.

[10] After making a finding that copyright subsists in the Master's Dissertation and applying the principles in *Syed Ahmad Jamal v. Dato Bandar Kuala Lumpur* [2010] 2 MLRH 302, the learned Judge made a finding that s 25 of the CA 1987 protects the plaintiff's moral rights, in that no person may, without the plaintiff's consent, present, or authorise the presentation of the Dissertation, whether under her name or any other name. Therefore, by virtue of s 25, the moral rights in the Master's Dissertation are vested in the plaintiff as its author.

[11] However, the learned Judge had dismissed the plaintiff's claims, after making a finding that there is no evidence of infringement of the plaintiff's moral rights. The learned Judge held that the plaintiff had failed to provide sufficient evidence of any distortion, modification, or mutilation of her dissertation. The court found no proof that the alleged modifications significantly altered the plaintiff's dissertation or adversely affected her honour or reputation.

[12] The learned Judge also declared the patent registration to be valid and had accepted the defendants' contention that the patent in question was independently developed by D2 and D3, without any reference to the plaintiff's dissertation. The patent was granted by the relevant authorities in both Malaysia and the United States, having satisfied the requirements of worldwide novelty. These factors indicate that the patent was independently created and was not derived or copied from the plaintiff's dissertation.

[13] The plaintiff then appealed against the dismissal of her claims, while D1 had cross-appealed against the dismissal of its counterclaims, which included allegations of abuse of court process and unlawful interference with trade.

Our Decision

[14] Copyright law protects authors by granting them exclusive rights over their original works and safeguarding both their moral and economic interests. Authors have the right to reproduce, distribute, perform, display, and adapt their works, and may license or assign these rights to others, thereby enabling commercial exploitation while retaining recognition and entitlement to any benefits derived.

[15] Moral rights, which are inalienable, remain with the author even if the copyright is assigned or transferred. These include the right of paternity, ensuring that the author is recognized as the creator, and the right of integrity, allowing the author to object to any distortion, mutilation, or modification of the work that may prejudice their honour or reputation.

[16] Authors are further protected against infringement and may take legal action against any unauthorized use, reproduction, or distribution of their works. Courts may award statutory damages for infringement, including compensation for both economic loss and harm to the author's reputation.



Moral Rights under the CA 1987

[17] The CA 1987 protects two (2) types of moral rights. Subsection 25(2) provides that where copyright subsists in a work, no person may, without the consent of the author, do or authorise the doing of any of the following two (2) acts:

- (i) right of paternity — right of paternity is the author’s legal right to be identified and acknowledged as the creator of a work whenever it is used, published, or reproduced. It protects the author’s name, attribution, and reputation, regardless of who owns the economic rights.
- (ii) right of integrity — right of integrity is the author’s moral right to prevent distortion, mutilation, modification, or any treatment of their work that would prejudice their honour or reputation.

[18] Therefore this section protects an author’s moral rights over their work, even after copyright is licensed or assigned to another party. Without the author’s consent, no one is allowed to:

- (i) Present or display the work in any way without naming the author, or by using a false name.
- (ii) Distort, mutilate, or modify the work in a way that:
 - (a) Significantly changes the work; and
 - (b) Could harm the author’s honour or reputation.

[19] In essence, the law protects the author’s right to be identified and to prevent harmful changes to their work.

[20] In *Syed Ahmad Jamal v. Dato Bandar Kuala Lumpur* [2010] 2 MLRH 302, Azahar Mohamed J (as His Lordship then was) stated that an author’s work is perceived as an extension of his intellect and personality. Consequently, apart from the economic rights that are granted to the author as the first copyright owner, the law also confers moral rights on the authors which protect the non-economic facet of the work, namely the integrity of the author’s reputation. His Lordship held as follows:

“[6]... An author’s created work is perceived as an extension of his intellectual and personality, and as such moral rights are the soul of his work (see: *Sehgal v. Union of India* [2005] FSR 39). Broadly stated, moral rights consist of the following:

- (i) the right to be identified as author; and
- (ii) the right of integrity.



[7] I shall now deal with each of these rights in turn. First the right to be identified as author: the right of paternity. In essence, this right provides the creator of works with the right to be identified as the author of the work. Section 25(2) of the Act prevents any person from presenting a work without identifying the author or under a name other than that of the author...

...

[9] From this point, I shall deal with the plaintiff's right of integrity. The right of integrity is the right to object to derogatory treatment of the work, or any part of it. The basis of this authorial prerogative is that the artist, through the act of creation, has embodied some element of his creation in the work, which ought to be protected from distortion or mutilation (see: *Intellectual Property Law* by Lionel Bently and Brad Sherman, 3rd edn, p 252)"

[21] In the present appeal, the raw data, methodology, and research arising from the Collaboration Project were all documented in the plaintiff's Master's dissertation, thereby satisfying the requirement of fixation in a material form under s 7(3)(b) of the CA 1987. Accordingly, the plaintiff's Master's dissertation is protected by copyright.

[22] Consequently, the learned Judge has correctly made a finding that copyright subsists in the plaintiff's Dissertation but the plaintiff had assigned all copyright in her Dissertation to the University of Malaya through a Work Declaration. As such, the University became the copyright owner, holding exclusive rights to control, reproduce, and exploit the Dissertation under s 13 of the CA 1987.

[23] This can be seen from the following passage in the Judgment:

"[20] The statutory and moral duty to determine the originality or otherwise of the Master's Dissertation and whether any portion of that Master's Dissertation comprises similarities with Aimi's Dissertation and Azalina's Dissertation, or with any other sources or publications for that matter, is solely a subject matter between the Plaintiff and the University, not with this Court. This Court accepts the evidence provided by the Plaintiff that the University had accepted the Master's Dissertation as an original thesis written by the Plaintiff and having fulfilled all the requisite conditions, the University's Senate had agreed to award her the Master's degree. This fact was also not disputed by the Defendants. This Court takes cognizance of the fact that, having properly conferred the Master's degree, the University had accepted that the Plaintiff had fulfilled her oath against plagiarism, and that the University had conducted the necessary checks, examined, and was satisfied with that oath.

[21] This Court rules that there exists copyright in the Master's Dissertation. But that copyright has been transferred to the University of Malaya, a fact which is not disputed by all parties. Having ruled as such, this Court further decides that the Defendants had wrongly concluded that as the copyright of the Master's Dissertation vests with the University of Malaya, any consent affecting the Master's Dissertation shall be obtained from the University



and not the Plaintiff. As the claims before this Court are not pertaining to copyright infringement, I would not venture to go further on this issue.”

[24] The learned Judge also held that, despite the transfer of copyright to the University, the plaintiff retains her moral rights to attribution and integrity as the original author of the work.

“[25] Having decided that copyright subsists in the Master’s Dissertation and applying the principles laid down in *Syed Ahmad Jamal* and *Aktif Perunding*, this court rules that s 25 of the CA applies in that no person may, without the consent of the Plaintiff being the author of the Master’s Dissertation, do or authorise the presentation of the Master’s Dissertation, by any means whatsoever, without identifying the Plaintiff as the author or under a name other than that of the Plaintiff as the author.

[26] By virtue of s 25 of the Copyright Act, moral rights in the Master’s Dissertation are vested with the Plaintiff being the author of the said work.

[27] The issue is whether the Plaintiff had successfully proven that the Defendants had infringed the Plaintiff’s moral rights.”

[25] Since copyright exists in the plaintiff’s Master’s Dissertation, it also carries moral rights under s 25 of the CA 1987. Since the learned Judge has made a finding that moral rights in the Master’s Dissertation are vested in the Plaintiff, the next issue then is whether the defendants have infringed the plaintiff’s moral rights under s 25 of the Copyright Act.

Whether The Defendants Had Infringed The Plaintiff’s Moral Right Of Integrity

[26] Under s 25(2)(b) of the Copyright Act 1987, an author’s moral rights are violated if their work is distorted, mutilated, or modified in a way that significantly changes it and could reasonably harm the author’s honour or reputation.

[27] The learned Judge has made a finding of fact that the defendants’ Patent No MY-166810-A contains parts taken from the plaintiff’s Master’s dissertation:-

“[28] Having perused the Patent and comparing it with the Master’s Dissertation, I found that there are some portions or parts of the Patent that contain identical or similar parts of the Master’s dissertation”

[28] The learned Judge had also made a finding of fact that certain sections of the patent are identical or similar to the dissertation. He also found that, although there was no distortion or mutilation, the plaintiff’s dissertation had indeed been modified in the patent. His findings are as follows:

“[29] I found that the portion in the Patent which are similar or identical with the Master’s Dissertation contain neither distortion nor mutilation of the Master’s Dissertation. But I agree with the Plaintiff that there was modification of the Master’s dissertation”.



[29] The plaintiff's expert witness, Dr Nurul Yuziana, has confirmed in her report that modifications had been made. The defendants' witness, Prof. Noor Hayaty, further admitted during cross-examination that the Patent contains sections that are similar or identical to portions of the plaintiff's Dissertation. DW2 had also acknowledged that the patent incorporates figures resembling or replicating those in the plaintiff's Dissertation and adopts a writing style similar to that of the plaintiff.

[30] Therefore, we are of the considered opinion that the defendants had utilised portions of the plaintiff's Dissertation in the Patent without identifying her as the author or inventor, and had further modified certain content without her knowledge or consent. This finding is consistent with the High Court's conclusion, as reflected in para [28] that: "... there are some portions or parts of the Patent that contain identical or similar parts of the Master's Dissertation."

[31] The next issue is whether the modifications made to the Master's Dissertation were substantial and whether those alterations adversely impacted the plaintiff's honour and reputation.

[32] The learned Judge made a finding that sections of the Patent that correspond to the Master's Dissertation, whether similar or identical, do not constitute any distortion or mutilation of the Dissertation.

[33] An author's right to claim authorship also includes the right to object to any changes, either distortion, mutilation, or modification, that could harm their honour or reputation. Hence the dangers from altering a work can misrepresent the author and damage their reputation. (*Amar Nath Sehgal v. Union of India And Anor* — 21 February 2005 117 (2005) DLT717, 2005(30) PTC253(DEL))

[34] The plaintiff had testified that the defendants' Patent contained identical results, images, and figures from her Master's Dissertation despite claiming a different methodology. She stated that her limited, small-scale in-vitro research could not support the large-scale outcomes asserted in the Patent. Expert evidence from Dr Yuziana confirmed that identical results cannot be produced from different methods, supporting the plaintiff's position and indicating that the Patent likely relied on her original data despite altering the stated methodology.

[35] The defendants' witness, Prof. Noor Hayaty (DW2), further confirmed during cross-examination that there are substantial similarities, and in some instances identical features, between the plaintiff's Master's Dissertation and the defendants' Patent.

[36] Based on the evidence, DW2 had also confirmed that the figures contained in the Defendants' Patent are identical or substantially similar to those in the plaintiff's Master's dissertation. DW2 further acknowledged that the writing



style employed in the defendants' Patent closely resembles that found in the plaintiff's Master's Dissertation.

[37] We are therefore of the considered opinion that the evidence, including the defendants' admissions, expert testimony, and the substantial similarities between the works, clearly shows that the defendants have relied on the methodologies, data, and findings documented in the plaintiff's Master's Dissertation.

[38] The defendants' own expert, Dr Thamil Selvee (SD5), had confirmed that the data in the Patent and the dissertation originated from a single experiment.

[39] Therefore, when viewed as a whole, the evidence shows that the defendants' Patent reproduces, and in some instances modifies, both the figures and written content of the plaintiff's dissertation. These substantial similarities support the conclusion that the defendants had appropriated substantial materials from the plaintiff's work.

[40] These findings find support in the trial Judge's judgment, where the learned trial Judge had acknowledged that the defendants' Patent contained modifications of the Plaintiff's dissertation:

“[29] I found that the portions in the Patent which are similar or identical with the Master's Dissertation contain neither distortion nor mutilation of the Master's Dissertation. But I agree with the Plaintiff that there was modification of the Master's Dissertation.”

[41] We therefore find that the modifications made to the plaintiff's Master's Dissertation without her consent were substantial and that these alterations adversely affected the plaintiff's honour and reputation, diminishing her standing as a researcher and academician.

[42] The Master's Dissertation, containing her original methodology and data, embodies significant intellectual effort and professional dedication. The defendants have altered portions of this work and incorporated them into their Patent without her consent or proper attribution. Such unauthorised modification and use undermines the plaintiff's reputation and credibility within the academic and scientific community.

[43] In this case, the defendants had removed the plaintiff's name from the Patent and modified her Master's Dissertation, denying her proper recognition. The plaintiff had testified that she was not acknowledged by the Patent, her supervisors, or the research team. Such exclusion harms her honour and professional reputation, as proper acknowledgment is essential in academia to preserve an academician's integrity and credibility.

[44] Dr Yuziana, the plaintiff's expert witness had testified that the defendants' Patent involved research misconduct and plagiarism of the plaintiff's Master's Dissertation. She noted that the defendants had failed to provide credible



evidence of independent laboratory work, and their logbooks appeared suspicious. Dr Yuziana concluded that using the plaintiff's data without citation or permission was unethical, particularly as her work was published in 2013, a year before the patents were filed.

[45] Added to that, the plaintiff's logbook, containing key research methods and data, clearly belongs to her. During cross-examination, the 2nd Defendant admitted that the handwriting in the logbook belonged to the plaintiff. The logbook shows that the Patent drew heavily from the plaintiff's Master's Dissertation, with marked similarities in methodology, data, and notes. The defendants' failure to provide independent research records and their suspicious possession of the plaintiff's logbook further corroborate the plaintiff's claim of unauthorised use.

[46] In *Perez & Ors v. Fernandez* [2012] FMCA 2, the Australian court dealt with moral rights infringement when a DJ distorted a song, harming the author's reputation. The court held that a claim for infringement of moral rights does not require proof of actual damage, it is enough to show "derogatory treatment" that materially distorts, mutilates, or alters a work in a way prejudicial to the author's honour or reputation. This principle, aligned with the Berne Convention, establishes that actions prejudicial to an author's integrity alone can constitute a breach of moral rights.

[47] Applying the *Perez* principle, we are of the considered opinion that the defendants' actions constitute derogatory treatment, thereby harming the plaintiff's honour in the following manner:

- (i) Logbook: The defendants had claimed the plaintiff's research logbook as their own, but admitting under cross-examination that it belonged to the plaintiff.
- (ii) Dissertation modifications: The defendants had altered key portions of the plaintiff's Master's Dissertation, particularly the methodology, and incorporated it into their Patent without her consent.
- (iii) Patent without acknowledgment: The defendants had filed a Patent using the plaintiff's work without providing proper credit.
- (iv) Plagiarism was confirmed: Expert evidence established that the Patent copied the plaintiff's writings and methodology, demonstrating unauthorized use and a breach of academic and intellectual integrity.

[48] We are therefore of the considered opinion that the defendants had modified large parts of the plaintiff's Master's dissertation without her consent and omitted her name from the patent, thereby harming her honour and reputation as a researcher. Accordingly, we find that the plaintiff's moral rights have been infringed by the defendants.



[49] Consequently, we find that the trial Judge has erred in law and on the facts of this case. Although the learned Judge acknowledged that modifications had been made to the plaintiff's Master's Dissertation under s 25(2)(b) of the CA 1987, he failed to consider the issues of distortion, mutilation, and/or modification of the Dissertation by the defendants.

[50] Further, while recognizing that the Patent registered in the defendants' name contained the same or substantially similar content and method of presentation as the plaintiff's Master's Dissertation, the trial Judge did not address the issues that under s 25(2)(b)(i) of the CA 1987, these alterations materially changed the plaintiff's work. This omission constitutes a fundamental error warranting appellate intervention and correction.

[51] We also find that the trial Judge has erred in law and in fact by failing to consider that, pursuant to s 25(2)(b)(ii) of the CA 1987, the distortions, mutilations, and/or modifications of the plaintiff's Master's Dissertation through the Patent could reasonably be regarded as adversely affecting the plaintiff's honour or reputation.

[52] In conclusion on this issue, we find that although the trial Judge made a finding that the plaintiff is the author and/or creator of the Dissertation and that the Patent contains the same or substantially similar content and/or method of presentation, the learned Judge has erred in law and in fact by failing to consider that the defendants did not identify the plaintiff as the author when presenting her Master's Dissertation as prior literature in the Patent filing, thereby infringing the plaintiff's moral rights under s 25(2)(a) of the CA 1987.

Whether The Respondents Had Infringed The Appellant's Moral Right Of Paternity

[53] Section 25(2)(a) of the Copyright Act 1987 protects an author's moral right of paternity, meaning no one can present a copyrighted work without the author's consent or credit the work to someone else.

[54] In *Syed Ahmad Jamal v. Dato Bandar Kuala Lumpur (supra)*, Azahar Mohamed J held that removing elements that identify the author infringes the author's moral right of paternity, as it denies proper credit for the work.

[55] In *Corby v. Allen & Unwin Pty Ltd* [2013] 297 ALR 761, the court addressed the moral right of attribution (paternity) for photographs. The court found that the defendants have failed to identify the known authors of several photographs, despite being aware of their identities. This omission was not justified by industry practice and the court held that it infringed the authors' moral right to be properly credited.

[56] In *Corby (supra)*, the court held that acknowledging authorship is essential when a work is based on someone's original creation. The defendants' failure to credit the photographers has breached their moral right of attribution.



[57] These principles support the plaintiff's claim to be recognized as the author of her Master's Dissertation. Her work contained original research and methodology, yet the defendants had incorporated substantial portions of her works into their Patent without acknowledging her authorship. Consequently, the defendants have effectively denied the plaintiff the recognition that she is entitled to, thereby infringing her moral right of paternity.

Whether The Plaintiff Is Entitled To Damages

[58] The infringement of an author's moral rights under s 25 CA 1987 attracts a wide range of civil remedies. Upon proof of such breach, the court may grant injunctive relief to restrain further infringement, award damages for injury to the author's honour or reputation, and may also impose additional damages for flagrant or deliberate misconduct.

[59] In *Aktif Perunding Sdn Bhd v. ZNVA & Associates Sdn Bhd* [2017] 4 MLRH 447, Justice KK Wong held that if a party has moral rights in a work under s 25(2)(a), (b)(i) and (ii) of the CA, then a breach of an author's moral rights under s 25(2) of the CA constitutes a breach of statutory duty under s 25(5) of the CA (breach of statutory duty) for which the author may claim damages.

[60] In the case of *Syed Ahmad Jamal v. Dato Bandar Kuala Lumpur (supra)*, Justice Azahar Mohamed has held that in assessing damages, it is important to consider the conduct of the defendant.

[61] In the present appeal, the plaintiff is seeking damages for the defendants' infringement of her moral rights of paternity and integrity, as her Master's Dissertation was used and modified without credit. This unauthorized use has harmed her honour and reputation. Therefore, we are of the considered opinion that she is entitled to damages.

Invalidation Of Patent

[62] The plaintiff is also seeking to invalidate the Malaysia Patent No MY-166810-A on the basis that it fails to meet the novelty requirement under s 14 of the Patents Act 1983, as the plaintiff's Master's dissertation, published in 2013, qualifies as prior art. We take note that the said Patent has lapsed due to non-payment of renewal or annuity fee. Nevertheless, since the issue is before this Court, we will deal with the same.

[63] Based on our findings above, we are of the considered opinion that Malaysia Patent No MY-166810-A is invalid. The evidence establishes the fact that the plaintiff's Master's dissertation, published in 2013, constitutes prior art that fully anticipates the subject matter claimed in the defendants' Patent, which was filed on 20 August 2014. The methodologies, data, and findings disclosed in the Master's Dissertation were publicly accessible before the Patent's priority date and correspond substantially to the claims of the Patent.



[64] Accordingly, we find that the Patent had failed to satisfy the requirement of novelty under the Patents Act 1983. The defendants have not demonstrated any inventive step that distinguishes the Patent from the prior art. In light of this, we find that the Patent is invalid *ab initio* and is hereby revoked pursuant to s 56 of the Patents Act 1983.

Defendants' Appeal

[65] In their counterclaim, the defendants asserted that the plaintiff's action constitutes an abuse of the court's process, asserting that she failed to disclose a reasonable cause of action for infringement of moral rights.

[66] Based on the reasons stated above (in allowing the plaintiff's appeal), we agree with the learned Judge decision in dismissing the defendants' counterclaim. The learned Judge had correctly made the following findings:

“[35] I do not find that the Plaintiff's claims against the Defendants are an abuse of the Court's process. Instead the Plaintiff was rightly exercising her statutory rights by filing this claim as she owns the moral rights to the Master's Dissertation. Therefore, the Defendants' paragraph A of their counterclaim seeking a declaration that the Plaintiff's action is an abuse of the court process is therefore dismissed.”

Conclusion

[67] We are of the considered opinion that the trial Judge was plainly wrong in his decision as he had failed to consider the fact that the defendants did not identify the plaintiff as the author when presenting her Master's Dissertation in the Patent, thereby infringing her moral rights under s 25(2)(a) of the CA 1987.

[68] Added to that, the modifications, distortions, and/or mutilations effected through the Patent had materially altered her work and could reasonably be regarded as adversely affecting her honour or reputation under s 25(2)(b)(i) and s 25(2)(b)(ii) of the same Act.

[69] In conclusion, we find merit in the plaintiff's appeal and the decision of the learned Judge that the defendants did not breach the plaintiff's moral rights is set aside. Consequently, we allow the plaintiff's claim in terms of prayers (a) and (b), damages for Moral Rights under s 25 of the CA 1987 in the sum of RM100,000.00 and aggravated damages in the sum of RM100,000.00, and both sums are subject to interest of 5% from the date of filing the suit until full payment.

[70] In respect of costs, we allow cost of RM50,000.00 here and below subject to allocator.

