

CASE BRIEF

Richard Bartes (391896)

Z-Mobile Co. Vs Korea Mobiles Co.

Parties:

Plaintiff: Z-Mobile Co.

VS.

Defendant: Korea Mobiles Co.

Facts:

The plaintiff Z-Mobile Co. produced a new type of mobile. Z-Mobile Co. (hereafter ZM) has a license for this new mobile and for all its components and software. A different company, Korea Mobiles Co. (hereafter KM) developed a new mobile as well. A problem is that KM's mobile is very similar to ZM's mobile. Moreover a few components of KM's mobile look the same as components of ZM's mobile.

KM absolutely ignored the licence of ZM.

Legal issues:

ZM sued KM, asserting breach of ZM's licence for its mobile. The question before court is whether the licence was breached. In any case nobody doubts that the licence is enforceable.

Procedural history:

The first instance decided in favour of the defendant. It ruled that KM didn't make a copy of ZM's mobile, because a few similar components don't mean the same mobile. It must be mentioned that software which KM used is absolutely different to software of ZM.

Then the case went to appeal. The Court of Appeals reversed the first instance decision and it remanded the case back to the first instance. The Appeals Court noted that the licence of ZM's mobile includes every items connected with its mobile. Although the software is different, components of KM's mobile make a design of mobile which is very similar to ZM's mobile. ZM lost profits, because customers bought the cheaper mobile which looked the same.

Reasoning of the court:

The court drew the conclusion that KM has to withdraw its mobile from the market and pay damages to ZM.