

Chief Magistrate Court

7240/2013

Nairobi Pacific Hotel v Kenya Association of Music Producers and Performers Rights Society of Kenya

Court	:	Chief Magistrate Court
Case	:	Criminal
Date of Judgement	:	February 14,2014
Plaintiff	:	Nairobi Pacific Hotel
Defendant	:	Kenya Association of Music Producers and Performers Rights Society of Kenya
Concept	:	Copyright Unlawful Conduct
Statue	:	Section 46(2), Copyright Act, Cap 130, Laws of Kenya

Panel of Justices

MS I Gichobi

Case Background

In this matter Nairobi Pacific Hotel applied for notice of motion on 19 November 2013 against the defendants seeking for orders that an interim order restraining the Defendants from entering the premises and demanding royalties for performance fees, harassing the plaintiff and workers and from continuance or repetition of such. The plaintiff also seeks orders for the court to issue further orders necessary to protect the plaintiff from harassment and for the cost of the application to be provided for. The 2nd Respondents insisted that the applicant is required to obtain a Communication to the Public Licence from the 1st and 2nd Respondents in addition to Public Performance Licence it had obtained from the Music Copyright Society of Kenya.

Procedural History

The Kenya Chief Magistrate Court passed a judgement ruling on the case.

Issue

Whether the defendants have the right to demand for performance fees from the Plaintiff with a licence to Public Performance obtained from The Music Copyright Society of Kenya?

Rational

A preliminary injunction was sought against a Collective Management Society. The injunction was denied on the basis that the application lacked good faith.

Keywords Preliminary injunction, Collective Management Society