



Moonbug Entertainment Limited, et al. v. Babybus (Fujian) Network Technology Co., Ltd.

Court Name: US District Court, Northern District of California

Key Nature of Suit: Intellectual Property

Team: Marissa Harrington, Katlyn Sidfrid, M'Lynn Phillips, Andrew Buckley, Brian Patterson

CoComelon is an animated video series for preschoolers that educates through simple storylines and songs. The original home of the series is YouTube, where it has more than 100 million followers. It is also available on streaming services such as Netflix, Roku, and Hulu. CoComelon's content and creative elements are protected by registered copyrights.

Moonbug Entertainment, as the owner of CoComelon, brought copyright infringement allegations against competitor Babybus for willfully infringing dozens of Moonbug's registered copyrights related to the CoComelon series, including its main character JJ, other characters, and content.

The Challenges

IMS client Tyz Law Group represented the plaintiff, Moonbug Entertainment. Moonbug's lead counsel Ryan Tyz and co-counsel Ciara McHale and Deborah Hedley argued that Babybus used CoComelon's obvious success in young children's programming to shortcut production of their own competing program "Super JoJo" by directly copying CoComelon's characters and video content.

While incriminating documents were produced in discovery, Moonbug’s copyrights relate to the creative and visual elements of the production. It was critical for the jury to see that the similarities in the visual content were unmistakable evidence of copying. Moreover, it was important to convince jurors that the defendant’s actions were infringement against Babybus’ ultimately unsuccessful position that the works at issue were not protectable.

Lastly, Moonbug’s demand was sizable. Moonbug is a thriving studio, and it can be difficult to create sympathy for a successful company. But most importantly, the jury needed to understand how the actions of a copycat can—and did—cause real monetary harm.

The Solutions

IMS trial consultants and graphic designers worked with Moonbug’s team to clearly demonstrate the layers of elements that go into the creation of animated characters and give nuance to their identifiable features. The well-researched visual demonstratives supported pre-trial research and our client’s summary judgment hearing, as well as expert witness testimony.

Our graphics team partnered with Moonbug’s animation expert to develop his presentation before trial. His expert report included a list by category, with examples of why CoComelon’s work was considered protectable expression. We adapted this information into a memorable graphic with a rainbow wheel of colors and icons to represent each category, which was more easily understood by the jury. We also used select examples from the list to highlight CoComelon’s distinctive and identifiable features, with JJ at the center to bring all the elements together.

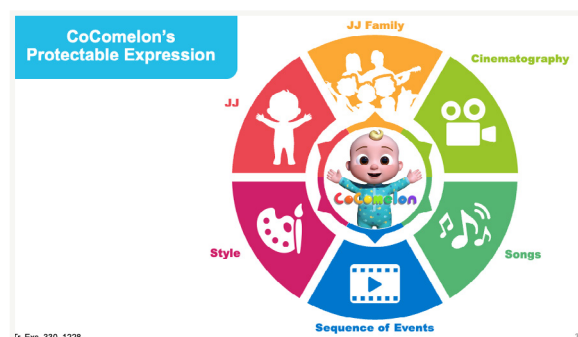


Figure 1

We also supported the Moonbug team onsite for the duration of the trial, refining the direct and cross demonstratives for key fact and expert witnesses. Our designers created a closing graphic highlighting the similarities between CoComelon’s protected character, JJ, and the

infringing character, JoJo. One of the jurors commented post-trial that this graphic is what helped her decide in Moonbug's favor. We also prepared and showed short clips from one of CoComelon's most popular videos alongside one of the infringing videos for clear comparison.

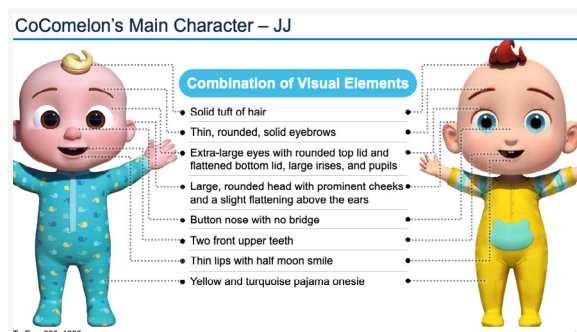


Figure 2

The strategic trial presentation included a strong case for Moonbug's damages request. Their team emphasized a clear explanation regarding how videos are monetized on YouTube, and how the algorithm would boost similar—in this instance, infringing—videos, thereby taking clicks away from CoComelon and translating directly into lost profits.

The Outcome

After more than two years, this copyright animation dispute resulted in a total win for Moonbug Entertainment.

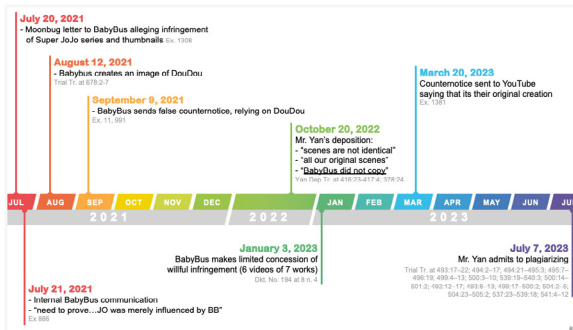
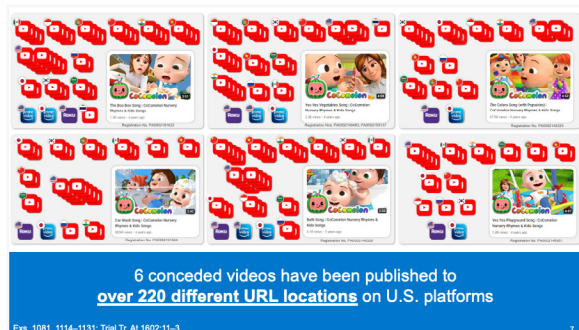
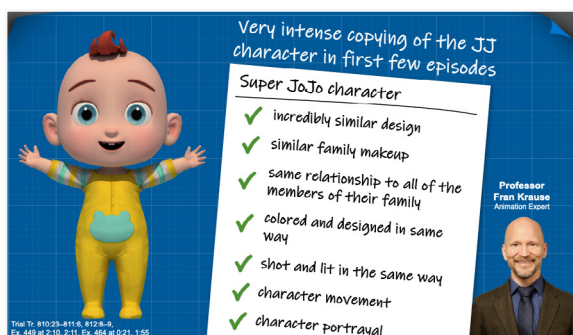
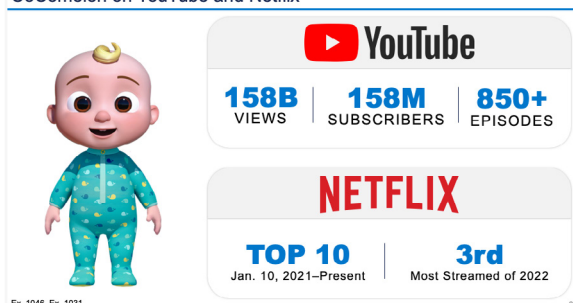
The jury found that Babybus willfully infringed CoComelon's main character JJ, and that the infringing character was not just substantially similar but was virtually identical. It also found willful infringement of the CoComelon family and animal characters, as well as 36 of CoComelon's animated videos. Finally, the jury determined that Babybus knowingly and materially misrepresented to YouTube that YouTube had removed or disabled its content by mistake or misidentification. This finding was particularly significant as the first time in the history of the Digital Millennium Copyright Act of 1998 (DMCA) that a jury found this violation related to fraudulent counter-notifications.

The jury awarded plaintiff Moonbug \$23.5 million in damages in total, with \$17.6 million in actual damages and disgorged profits, and \$5.8 million in statutory damages electable in the alternative.

Media Examples



CoComelon on YouTube and Netflix



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