

Judge throws out Pooh merchandising lawsuit against Disney

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LOS ANGELES (AP) -- A judge on Monday threw out a lawsuit against the Walt Disney Co. over Winnie the Pooh merchandise royalties, ruling the owner of those rights unlawfully obtained confidential documents from Disney offices and trash.

Superior Court Judge Charles W. McCoy Jr. dismissed the suit with prejudice, meaning Pooh rights owner Stephen Slesinger Inc. cannot sue again on the claim.

"SSI's misconduct is so egregious that no remedy short of terminating sanctions can effectively remove the threat and adequately protect both the institution of justice and (Disney) ... from further SSI abuse," McCoy wrote in the 28-page ruling.

The decision, if it survives appeal, brings to a close a 13-year legal bid by SSI, which sought to recover millions of dollars it claims Disney owes it for Pooh-related merchandise and royalties on the sale of video tapes, DVDs and computer software. Disney has claimed those items were not covered in its 1983 licensing agreement with SSI.

"After 13 years in the courts, the Winnie the Pooh case is finally over," said Disney attorney Daniel Petrocelli. "Disney's position has been vindicated in its entirety. We're obviously extremely pleased with the outcome and we think it was the only appropriate one."

In a statement, SSI vowed to appeal.

"What is in the garbage documents is that Disney committed fraud and the judge has thrown out the baby with the bath water," SSI said. "This has not removed Disney's ongoing obligation to pay royalties to Slesinger family or remedy its unauthorized uses of Pooh."

McCoy's ruling came in response to a motion to dismiss by Disney, which

investigator came upon them.

"This absence of records is not, in the court's view, accidental," McCoy wrote. "SSI had no right to break laws to obtain evidence. ... And, SSI had no right to covertly or overtly use unlawfully obtained evidence for its own tactical purposes."

SSI attorneys had argued that there was nothing improper about retrieving documents from a trash bin because Disney had thrown them away. The added that the documents ultimately didn't reveal anything significant.

McCoy said he saw no way to handle the situation other than to throw the case out because there would be no way to keep SSI's attorneys and executives from using the privileged Disney information if the case went ahead.

"SSI's willingness to tamper with, and even corrupt, the litigation process constitutes a substantial threat to the integrity of the judicial process," McCoy wrote.

Earlier in the case, McCoy ruled that Disney destroyed documents, including some marked "Winnie the Pooh-legal problems."

At the time, the judge ordered Disney to pay \$90,000 in legal fees and said jurors could be told about the destruction when the case went to trial. Disney said the destroyed documents were irrelevant to the case.

SSI made a reference to that in its statement Monday.

"This decision unfortunately sends a strong message to corporate America that it is OK for companies like Disney to steal and renege on its contractual promises, and just fine to destroy a million pages of evidence along the way," SSI said.

Shares of Disney were up 6 cents, or 0.24 percent, at \$25.16 in Monday afternoon trading on the New York Stock Exchange.