European Commission

Case Study: Copyright infringement of pop-up books in Hong Kong and Europe

CHINA IP SME HELPDESK

SME details

Name: Massimo Missiroli

Location of headquarters: Italy

Industry: Author (pop-up designer) and copyright holder of the three-dimensional part of the book

Status in China: Books printed in Hong Kong without the author's authorization

✓ Background

Massimo Missiroli is an Italian pop-up designer and author of pop-up books. Pop-up books contain three-dimensional (3D) paper structures that 'pop up' or move when a page is opened, representing a unique blend of art, paper engineering, and literature. In the production of a pop-up book, unlike other types of books where text or illustrations are the main element, it is the paper-engineering structures that form the most important and significant part of the product.

In 2009, while Massimo was finalising the original files for one of the pop-up books, an Italian publisher had the project printed in Hong Kong without a contract, authorisation, or compensation for the author. The book was produced by a well-known Hong Kong-based printing company, which printed and exported it without verifying copyright ownership.

In 2010, Massimo signed a contract with the Italian publisher, which clearly stated that he was the author and the copyright holder of the three-dimensional elements of the pop-up projects. For marketing reasons, however, in all official communications Massimo was never credited as the author, as the publisher preferred to mention more famous names involved in the project instead of his. The credited authors were not the designers of the pop-up elements of the project.

The printing company did not verify copyright ownership before printing, relying solely on the statements of the ordering publisher and only reserving the right to take action against that publisher in the event of disputes.

In 2020, the original contract between Massimo and the publisher expired. The Italian publisher did not comply with the legal requirements for renewal, which obliged them to send formal notice by certified email or registered mail at least six months before expiration, informing the author of the termination and the possibility of renewal. From that point, Massimo became the sole rights holder of the project, and his name appeared on the cover without any authorization granted to the publisher.

In 2022, two years after the contract had ended, the Italian publisher commissioned a new print run from the same Hong Kong printing company, without informing the rights holder, who had not signed any renewal of the transfer of rights.

The book sold throughout Italy from 2022 onwards both in bookstores and on online sales platforms, despite a formal cease-and-desist letter from Massimo's lawyers requesting its withdrawal and removal from the catalogue. It continued to be marketed for three years, generating revenue for the publisher, who no longer holds the rights to the pop-up, but only to the illustrations. No royalties have been paid to Massimo during this time.

When Massimo discovered the reprint in May 2024, the publisher sent him a certified email attempting to obtain his retroactive signature for the renewal agreement backdated to 2020 when the original contract expired. Massimo refused to sign, since his intention as author-publisher was to put the project back on the market with different illustrations. The illustrations of the original project were not his property, although negotiations were underway with the national broadcaster RAI (through RAI Trade) to acquire the rights to the animation frames from which the illustrations had been taken.

He then contacted the China IP SME Helpdesk to check whether it was possible to block further reprints by the Hong Kong printing company and to seek clarification on the previous unauthorized print runs. The experts consulted by the China IP SME Helpdesk confirmed the ownership of the intellectual property, establishing that the printing company had acted unlawfully by printing and exporting the book without verifying copyright. Massimo could therefore take action against the company in Hong Kong.

Although litigation is an option, there are practical non-litigious measures to put pressure on the Hong Kong printer: sending a cease-and-desist letter, notifying the Hong Kong Intellectual Property Department, and informing Hong Kong Customs if further shipments to Europe are expected. If the infringements continue, Massimo could initiate civil proceedings before the Hong Kong courts to obtain an injunction and compensation.

To initiate civil proceedings or a Customs notice, however, Massimo would need to gather precise information as evidence. Hiring a local intellectual-property expert in Hong Kong is therefore strongly recommended.

Actions taken

Massimo decided to protect his rights and denounce the publisher for fraud, misappropriation, and copyright infringement. He engaged a law firm in Italy, which assisted him in sending a formal cease-and-desist letter and filing a criminal complaint against the publisher with the Italian authorities in June 2024.

Massimo also informed the Hong Kong printing company of the violation committed by the Italian publisher, supporting his claim with two certified documents:

- the expired contract;
- the letter, drafted in 2024, in which the publisher asked him to backdate the renewal of the contract to 2020.

In response, the printing company, through several emails, dismissed his claims and, via its Italian lawyer, warned him not to contact them further. The printing company even declared that it believed the publisher, who had presented no documentary evidence to the contrary, and reserved the right to carry out any future reprints. According to the printing company, implicitly, a publisher's request to print a book is sufficient proof that the publisher holds the necessary rights.

Massimo then contacted AGCOM (the Italian Communications Authority), which recognized the validity of his report against the Italian publisher. The same conclusion was reached by the EU Intellectual Property Network (EUIPN), which, after gathering all the evidence, forwarded the case to the Italian Customs Directorate.

For the Customs Directorate, the printing of a book bearing the name of an author (a name that is also a registered trademark, since Massimo's company bears his name) amounted to counterfeit merchandise.

However, for now, Massimo has decided not to involve authorities or experts in Hong Kong.

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Outcome

The outcome of this case is still pending, and the case study may be updated accordingly.

Lessons Learned

- When working with an international printing company through a publisher, ensure your copyright ownership is formally acknowledged by the printing company in writing.
- Seek to stay informed about where the copyright work will be printed and sold and where possible (for example in China where you can voluntarily register your copyright) record your copyright as a cost-effective way to safeguard your interests.
- When your books are published in overseas markets, monitoring them can be difficult due to language barriers, market differences, and distribution channels. It is advisable to involve local intellectual-property experts to monitor the market on your behalf.
- The IP system in Hong Kong is different from that in Mainland China.
- Customs authorities can be effective in stopping counterfeit goods. In some jurisdictions, such as Hong Kong, the Customs may require evidence before deciding to intervene.
- For EU SMEs facing IP infringements in Hong Kong, it is strongly recommended to engage intellectual-property experts to collect evidence and design a comprehensive enforcement strategy. The China IP SME Helpdesk, while not providing legal services, can offer first-line strategic advice on IP enforcement in China.

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