Monkeys Lack Standing to Sue for Copyright Infringement

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Well, it’s official: Naruto, the crested macaque monkey who took photographs of himself while on a reserve on the island of Sulawesi, Indonesia in 2011, lacks statutory standing under the US Copyright Act to sue for copyright infringement.

As we had previously reported to you in earlier blogs, a controversy erupted several years ago over who, if anyone, owns the copyright in “selfie” photographs that were taken by a monkey on an unattended camera. It was determined that David Slater, the photographer who left his camera unattended in the Indonesian reserve, did not own the copyright since he did not take the photographs.

Subsequent to that determination, the People for the Ethical Treatment of Animals (“PETA”) filed suit for copyright infringement against Slater and two other entities involved with the publication of a book containing the monkey selfie photographs. The suit was filed by PETA and another individual as “Next Friends on behalf of Naruto.” The District Court granted the Defendants’ motions to dismiss on grounds that Naruto failed to establish statutory standing to file suit under the Copyright Act. The decision was appealed to the US Court of Appeals for the Ninth Circuit.

On April 23, 2018, the Ninth Circuit affirmed the district court’s dismissal of the claims brought by the monkey. The court held that the PETA complaint did include facts sufficient to demonstrate that Naruto had Article III standing to sue since it alleged that the monkey was the author and owner of the photographs and had suffered economic harm from its use. It also determined that although PETA failed to establish the necessary elements to claim “Next Friend” status to bring suit on behalf of Naruto, this status was not necessary in order for the court to find that Naruto possessed Article III standing. However, the court ultimately held that the monkey lacked statutory standing to bring suit since the Copyright Act did not expressly authorize animals to file copyright infringement suits.

Presumably, it is here that this story ends, and we hope that Naruto is still living and will continue to live happily ever after.

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