
DC Comics v. Towle

802 F.3d 1012 (9th Cir. 2015), cert. denied, 136 S.Ct. 1390 (2016)

On behalf of client DC Comics, the Firm prevailed in a decision by the U.S. Court of Appeals for the Ninth Circuit holding that the Batmobile, Batman's famous car, was subject to copyright protection as a character. [More](#)

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On behalf of client DC Comics, the Firm prevailed in a decision by the U.S. Court of Appeals for the Ninth Circuit holding that the Batmobile, Batman's famous car, was subject to copyright protection as a character. In reaching its decision, the Court set forth a new, three-part test for determining protection of a character appearing in comic books, television programs or films under the 1976 Copyright Act, independent of any specific work in which it has appeared and irrespective of whether it "lacks sentient attributes and does not speak." Upon finding that the Batmobile met all of the necessary criteria, the Court then held that DC had the right to bring suit because it had reserved all merchandising rights when it granted licenses for the creation of the 1966 Batman television series starring Adam West and the 1989 Batman film starring Michael Keaton. In the alternative, because the 1966 program and 1989 film were derivative works of the original Batman comics, any infringement of those derivative works also gave rise to a claim for DC, the copyright owner of the underlying works. Finally, the Court found that the replica Batmobiles created by mechanic Mark Towle infringed DC's in the Batmobile as it appeared in the 1966 program and 1989 film. The Court also upheld the District Court's refusal to allow Towle to assert a laches defense on DC's trademark claims because the infringement was found to be willful. The U.S. Supreme Court denied Towle's petition for certiorari on March 7, 2016.