

COURT OF APPEAL FOR ONTARIO

CITATION: Lakehead District School Board v. Mauro, 2026 ONCA 230

DATE: 20260327

DOCKET: COA-24-CV-1308

Zarnett, Monahan and Rahman JJ.A.

BETWEEN

Lakehead District School Board

Plaintiff (Respondent)

and

Anna Mauro o/a 807 ISC Thunder Bay

Defendant (Appellant)

Anna Mauro, acting in person

Jordan Lester and Sabrina Gunter, for the respondent

Heard and rendered orally: March 26, 2026

On appeal from the order of Justice Helen M. Pierce of the Superior Court of Justice, dated September 18, 2024 with reasons reported at 2024 ONSC 5174.

REASONS FOR DECISION

[1] Ms. Mauro was found liable on summary judgment for copyright infringement. The motion judge granted a declaration of copyright ownership, an injunction restraining infringements, and an order requiring delivery up of the

infringing materials. She also awarded the respondent \$23,891.52 payable by Ms. Mauro, representing her profits on the sale of the infringing items.

[2] Ms. Mauro appeals only the monetary award.

[3] The calculation of the monetary award came from sales charts Ms. Mauro produced on examination for discovery. Before the motion judge, she argued that this amount did not take into account all of the expenses related to the sales, including labour, taxes, rent, and other things. However, no quantification of these expenses was provided. The motion judge made no deduction for them, given the absence of evidence to support them. The motion judge noted Ms. Mauro's obligation to put her best foot forward, and that it was her onus to prove all the deductions she said should be made from the proceeds of sale.

[4] We see no error in the motion judge's conclusion that would warrant appellate interference.

[5] The defendant in a copyright infringement case bears the onus of proving any costs claimed as deductions from the revenues earned from selling goods that infringed copyright: *Copyright Act*, R.S.C. 1985, c. C-42, s. 35(2). Ms. Mauro did not meet that onus by simply referring to categories of expenses without proving them by evidence. Although Ms. Mauro was self-represented at the summary judgment hearing, we are satisfied she was appropriately on notice that the calculation of damages was an issue, and of her onus to prove her expenses. She

specifically gave an undertaking on discovery to provide a breakdown of her actual profits but did not fulfill it before the motion was heard. Her factum responding to the summary judgment motion listed damages as one of the issues to be decided and advanced her position that no profits were earned.

[6] Nor can we give effect to Ms. Mauro's calculations of these expenses, presented without evidentiary support for the first time on appeal.

[7] Accordingly, the appeal is dismissed.

[8] Ms. Mauro shall pay costs of the appeal to the respondent fixed in the sum of \$5,000, inclusive of disbursements and applicable taxes.

"B. Zarnett J.A."

"P.J. Monahan J.A."

"M. Rahman J.A."