

Burger King hit with Whopper (\$44.6 million) of a judgement

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Burger King's largest franchisee in Australia won \$44.6 million (U.S.) in damages against Burger King Corp. Friday, when a New South Wales court found the Miami fast-food chain guilty of breaching its contract, the Australian press reported.

The franchisee, Hungry Jack's Ltd., alleged that Burger King was seeking to end the agreement in order to capitalize on the market itself, through a separate joint venture with Shell Company of Australia Ltd..

"Burger King is reviewing the ruling and evaluating its options, including grounds for an appeal," said Burger King spokeswoman Kim Miller.

The judgement stems from a dispute that began in late 1996, when Burger King sought to terminate a development agreement it had entered into in 1990 with the franchisee, Hungry Jack's Ltd.

The 1990 agreement established new development plans for Hungry Jack's, which had been opening and operating Burger King franchises since 1971 under the name Hungry Jack's. The new agreement allowed Hungry Jack's to sign up third party franchisees itself.

Burger King then sought to terminate the agreement in 1996, alleging Hungry Jack's wasn't opening new units as fast as the agreement established.

Hungry Jack's responded by suing Burger King for breach of contract, alleging the burger company had no grounds to terminate its agreement.

Robert Zarco, a Miami attorney who spent a week in Australia serving as counsel to Hungry Jack's lawyers, said that while Hungry Jack wasn't opening new units as fast as the agreement established, the agreement also set remedies for that other than termination of the contract.

Hungry Jack's also alleged that Shell Company of Australia Ltd., which operates service stations in Australia, induced Burger King to end its contract with Hungry Jack's in order to corner the market with - a joint venture to open Burger King restaurants in Shell service stations.

"Burger King's attempt to fabricate a termination of the development agreement in order to take over an extremely valuable market was frowned upon by the court," Zarco said. "It sends a message to Burger King and other franchisers worldwide that they cannot step on franchisees toes and must honor their contractual obligations to them." ■