[FR] Can a Film-Set Photographer Claim Copyright?

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In a decision on 9 March 1999 the Paris Court of Appeal held that a film-set photographer had the benefit of copyright protection for a photograph taken during the making of a film. The dispute involved the magazine Télérama , which had published a special issue entitled «The best films of the century - 100 years of cinema», including a photograph of the actor Jean-Paul Belmondo in Jean-Luc Godard's film « Pierrot le Fou ». When the publication refused to pay the photographer the royalties he claimed, the case was brought before the Court of First Instance in Paris, which dismissed the photographer's claim. The Court of Appeal has now quashed that decision. Article L 112-9 of the Code of Intellectual Property allows copyright protection for photographic works, on condition that they are original and are recognisably by the particular photographer. The Court held that a film-set photographer was free to choose the techniques (lens, film, lighting, exposure time) and artistic options (framing, colours, choice of an expression or of a movement) he used. In the present case it had been demonstrated that the photographer had taken the disputed photograph by standing in front of the cinema camera after shooting and not during filming. Moreover, the photographic scene did not form part of the film and the actor was looking straight at the camera. The judges felt this was enough to define the personality of the photographer who had been able, by his own means, to take his own photograph of the actor. He could therefore claim copyright in respect of the photograph. The magazine, which had not requested the photographer's authorisation to publish the shot and had not given the photographer's name, was therefore found guilty of infringement of copyright. In addition to the payment to the photographer of FRF 3 000 in damages to compensate for the monetary and moral prejudice suffered, the Curt ordered that his name be shown underneath the disputed photograph in a rectification. Lastly, the Court allowed the third-party appeal lodged by the magazine against the specialist bookshop which had sold it the disputed photograph, as it was the professional duty of this company - which specialised in supplying film photographs - to seek the photograph's originator and obtain his/her authorisation before offering the photograph for sale.

Cour d'appel de Paris (8ème ch. A), 9 mars 1999, P. Georges c/SA Magazine Télérama.

Paris Court of Appeal (8th chamber, A), 9 March 1999; P. Georges v. SA Magazine Télérama.

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