[DE] No Copyright Protection for TV Show Formats

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In a ruling of 26 June 2003, the Bundesgerichtshof (Federal Supreme Court - BGH) established that TV show formats are not protected by copyright. In the corresponding dispute, a French TV company had filed for an injunction against the broadcaster Südwestrundfunk (SWR) concerning the transmission of the SWR series " Kinderquatsch mit Michael ". The plaintiff owns the rights to the series "L'école des fans", which has been broadcast in France since 1977, and claimed that the SWR series was based without permission on the format of its own series. In both series, children aged between 4 and 6 are introduced by a presenter, asked a few questions and finally sing songs they have learned by heart.

The BGH understands a TV show format to be a concept comprising all the characteristic features of a show which, although the content is different, are sufficient to characterise subsequent shows in such a way that the public can recognise immediately that they form part of a particular series. These include, for example, the title, logo, basic idea, length and structure of the programme, the way it is presented and recorded, signature tunes, etc.

However, despite its individuality, such a concept is not protected by copyright, since it does not constitute a work in the sense of Art. 2 of the Gesetz über den Urheberschutz und verwandte Schutzrechte (Act on Copyright and Related Rights - UrhG). In order to be protected by copyright, a work must be the result of the original creation of specific content or physical material, rather than just a pattern for the similar creation of further material. In regard to television programmes, a work under the terms of the Copyright Act is therefore the programme itself, but not the concept or format of the programme. The BGH also points out that copyright only protects works from unauthorised exploitation in their original or unlawfully altered form, but not from being used as a model that is imitated.

Urteil des Bundesgerichtshofes vom 26. Juni 2003, Aktenzeichen I ZR 176/01

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Sort=3&sid=656f85bd943baddffd74e798e251f7a3&Art=en&client=8&anz=1&pos=0&nr=26713&id=1062058059.98

Ruling of the Federal Supreme Court, 26 June 2003, case no. I ZR 176/01

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