

[GB] Copyright Infringement Case against BBC Clarifies Law on "Sufficient Acknowledgement"

IRIS 2005-5:1/13

*David Goldberg
deeGee Research/Consultancy*

The BBC broadcast a television programme produced by Brighter Pictures. It contained 14 photographs of Mrs David (i.e. Victoria) Beckham and her family.

Fraser-Woodward brought an action claiming infringement of their copyright in the images.

The defendants argued that they could rely on certain defences contained in the Copyright, Designs and Patents Act 1988, namely, (i) fair dealing for the purposes of criticism and review and (ii) incidental inclusion with respect to a small number of the images. In addition, there was an issue concerning whether there had been "sufficient acknowledgement" of the author of the images.

The High Court (Chancery Division) found for the BBC and Brighter Pictures. It said that the use was for criticism and review of other works and was fair even if there was no specific reference to the other work; the use of the small number of photos was incidental; and "sufficient acknowledgement" did not need to be either contemporaneous or express.

As to the last point, the judge said, "All that is required is that it is an identification, though I think I can accept that it probably has to be one that can be readily seen and not require some form of hunting around or detective work in order to ascertain it. It is probably not enough to say that the author can be identified if you look hard enough; the authorship must be more apparent than that. However at the end of the day it is a question of fact whether there has been an identification".

Fraser-Woodward Ltd v BBC & Brighter Pictures Ltd

<http://portal.nasstar.com/75/files/Fraser%20v%20BBC%20final.pdf>

