[FR] Canal Plus Fined for Using a Programme Concept without the Originators' Authorisation

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In a judgment on 7 September 2005, the regional court in Paris ordered the encrypted channel Canal Plus, the production company 2P2L and the journalist Ruth Elkrief to pay EUR 150 000 in damages as compensation for the financial losses suffered by two journalists who had created a new concept for a political programme used, virtually unaltered, by the channel without their authorisation. The concept involves presenting a plausible major crisis in the form of fictional coverage and asking specialists and politicians to comment on how the situation should be dealt with; it was lodged with the French society of dramatic authors and composers (Société des auteurs et compositeurs dramatiques - SACD) before being presented by its originators to a number of producers and broadcasting companies, including Canal Plus. The channel eventually decided to break off negotiations, but a few months later, during early evening viewing, it broadcast a new political programme produced by the company 2P2L and presented by Ruth Elkrief, who was mentioned as being one of the co-originators. After searching unsuccessfully in the documents submitted for elements that would establish the nature and state of progress of work on the latters' project for a broadcast, the judge held that by knowingly appropriating this television concept and using it in the broadcast entitled “ C'est déjà demain ” the broadcasting company, the production company and the journalist, all three involved in the case, had committed a wrong incurring their civil liability. The judge found that, despite a number of differences, it appeared that the project that had resulted in the programme “ C'est déjà demain ” was the same as the project lodged with the SACD by the two originators “on condition that it is the concepts that are compared and not the concepts for a programme as broadcast”. No-one could reasonably claim that a programme concept does not have an economic value. In the same way, once the debate is not based on the matter of copyright, there is no need to consider the original nature of the programme in question in relation to either French- or English-language anticipatory political programmes. To put a stop to the prejudice being suffered by the originators, who were being deprived of the possibility of proposing this programme concept to another broadcaster, the defendants were prohibited from exploiting and broadcasting any further broadcasts in the series.

The broadcasting company, the production company and the journalist involved in the case claim that the programme was created in response to a call for tenders on the part of the channel and affirm that they had no knowledge at any time of

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the other projects submitted to the channel; they are therefore appealing against the decision.

Tribunal de grande instance de Paris, 3e chambre, 7 septembre 2005, K. Saranga-Drai, G. Malaurie et SARL Saranga Production c/ SA Canal Plus, SARL Pourquoi pas la lune, R. Elkrief et J. Cazaumayou

Regional court of Paris, 3rd chamber, 7 September 2005; K. Saranga-Drai, G. Malaurie and SARL Saranga Production v. SA Canal Plus, SARL Pourquoi pas la lune, R. Elkrief and J. Cazaumayou

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