[FR] Private Images Incorporated in a Film without Authorisation

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The dividing line between fiction and reality is sometimes very narrow, giving rise to many disputes. Following on from the problems raised by the production and broadcasting of “docu-fiction” works (see IRIS 2006-3: 13 and IRIS 2006-10: 12), this time it was the matter of the inclusion of “private images” in a full-length film that was submitted to the regional court of Paris. The dispute was between the producers and distributors of the successful film “Comme t’y es belle” (first screened in May 2006 and seen by more than a million cinema-goers) and a member of the audience who was surprised, when she went to see the film, to find that images of her own wedding had been included in the film without her authorisation, during a scene in which a filmmaker specialising in weddings touts his services!

The woman took the matter to the regional court, which recalled that the right to use an image of a person was attached to that person. It was therefore irrelevant that the applicant’s husband had, for his part, given his agreement in principle to the use of part of the film of his wedding. His wife had never given her agreement to such a use, even tacitly, and such agreement could not be deduced from the agreement given by her husband. The court found that her privacy had indeed been invaded, concerning such a personal event as a wedding, and there was no doubt that the woman had suffered moral prejudice. In view of the duration of the disputed sequence (20 seconds), she was awarded EUR 10,000 in damages (compared with the EUR 200,000 claimed!). The court also ordered the film to be withdrawn from the distribution circuit so that the disputed images could be removed, subject to a fine of EUR 20,000 for each infringement noted. The company that had made the wedding film, and had selected and negotiated the disputed images for a lump-sum fee of EUR 3,500, was moreover ordered to guarantee full payment of the fines for the film’s producers. This was because the court held that this company had necessarily been under an obligation to obtain the consent of both husband and wife but had not done so; this negligence rendered it fully liable. The decision comes less than a week before the film is due to come out on DVD, and does not seem to have bothered the distributor, who has disregarded the court’s ruling. The defendants have appealed, so the case is not closed yet.

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TGI de Paris (1re ch. 1re sect.), 29 novembre 2006, Stéphanie Hattab épouse Levy et a. c/ SARL Liaison cinématographique et autres

Regional court of Paris (1st chamber, 1st section), 29 November 2006; Stéphanie Levy née Hattab et al. v. SARL Liaison Cinématographique et al.

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