# [FR] Infringement of Copyright with Respect to the Credits of a Film

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The regional court in Paris has just upheld the case brought (jointly) by the graphic artist, designer and director of the credits of Steven Spielberg's film "Catch me if you can", which was released in France in February 2003 with the title "Arrête-moi si tu peux". These professionals had discovered, two and a half years later on the Internet, a trailer for a different film, with images and sequences that the complainants claimed plagiarised their credits, without their names being mentioned. In their defence, the producer of the disputed film, its distributor and the company that designed and produced the trailer held that the complaint was not admissible on the grounds of infringement of copyright. They claimed that the right to exploit the credits had been handed over to the company that produced Steven Spielberg's film. The defendants also invoked Article L. 132-24 of the Intellectual Property Code (CPI), according to which contracts binding the producer to the authors of an audiovisual work included the transfer of the exclusive rights to exploit the audiovisual work to the producer. The court, however, recalled Article L. 113-1 of the CPI, according to which "the merit of author belongs, unless proved otherwise, to the person or persons under whose name the work has been made known". In this case, the names of the two applicants are indicated in the credits of the film as being its authors, and the court therefore held that they had the benefit of an assumption of being the copyright holders in respect of the disputed work. In addition, the assumption of Article L. 132-24 invoked by the defendants did not apply in the absence of a written contract. No proof had been produced of a contract transferring rights in respect of the credits, and the claim of inadmissibility was therefore turned down. The court then considered the original nature of the work, an animated film comprising several sequences using stylised characters and designs in black on a background of plain colours, and a typeface that was simple but formed vertical lines punctuating the action and interacting with the illustrations. Indeed the authors were only claiming that some of the elements, taken in isolation and in combination with each other, had been used in the disputed trailer in infringement of their copyright: a typeface using vertical lines, animated in an original manner; black, stylised silhouettes against a plain coloured background; a transitional element in the form of a stylised white plane crossing the screen. The defendants, who do not contest the original nature of the overall work, feel that these particular elements taken in isolation were not original. They claimed, in particular, that the applicants had been influenced by earlier credits. The court

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rejected this argument, however, and upheld that the combination of the disputed elements gave the credits the playful aspect of a cartoon with a Sixties feel, all bearing the “personality print” of their authors. Once the original nature of the credits had been demonstrated, the court analysed the disputed trailer and noted that this used the characteristic elements of the applicants’ credits, namely the animated letters, the plain coloured background, the stylised black silhouettes, the transitional element in the form of a white plane, and so on. Using these elements without the consent of their authors and without mentioning their names constituted an infringement of their moral and pecuniary rights. The prejudice is evaluated at EUR 35,000 for each of the co-authors of the credits that were illegitimately used. Although the disputed trailer only remained on-line for a few days, the issue was made more serious by the fact that e-cards, based on the animation, where made available to Internet users.

### *Tribunal de grande instance de Paris, 16 mars 2007 - F. Deygas et O. Kuntzel c/ SARL Mandarins Films et autres*

*Regional court of Paris, 16 March 2007 - F. Deygas and O. Kuntzel v. Mandarins Films Sàrl et al.*

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