[FR] Copyright Protection for the Title of a Television Programme

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Can a television programme be protected by copyright? This was the relatively conventional question raised at the regional court in Paris. In the case at issue, the applicant had submitted to a production company a project for broadcast in short format for a series using characters aged between 25 and 30 talking on the telephone, called “Allo? T’es où?” (‘Hello? Where are you?’). On discovering that the company, without following up the submitted project, was scheduling a series of 50 episodes entitled “Allo T où”, to be broadcast on TF1, the party concerned accused the company of infringement of copyright, claiming that there were flagrant similarities and resemblances between the original text that he had submitted and the series that was broadcast. The party concerned based their claim more particularly on the title, the concept of the characters talking exclusively on the telephone, and the format of the broadcast. The court found that the discussions and the documents showed that the format of the broadcast was the result of the order placed by the manager of the defendant company, so the applicant party could not claim protection. Nor could the concept of the characters talking exclusively on the telephone be protected, by virtue of the principle of the freedom of movement of ideas. The court nevertheless noted that the titles (“Allo T où” and “Allo? T’es où?”) were virtually identical – they were pronounced in the same way and they had the same meaning; only the spelling was slightly different. Furthermore, it transpired from the documents produced that the idea for using recurring characters that only spoke by telephone was the idea of the applicant party and in consequence the title of the programme was probably also his creation. No document mentioned that the manager of the defendant company had in any way taken part in putting together the concept, and hence the title. Moreover, the title appears in the first and second versions of the original text drawn up by the applicant party and hence divulged under his name, thereby creating a presumption of ownership that was not cancelled out by any of the documents. The court held that there could be no doubt as to the originality of the title; it was new, and although the expression was used frequently, particularly since the appearance of mobile phones, it was still original as a title for a television programme. Recalling that Article L 112-4 of the Intellectual Property Code provides that “the title of a work, if it is of an original nature, is protected in the same way as the work itself”, the court ordered the production company to pay the applicant party the sum of EUR 30,000 in damages as compensation for the prejudice suffered. It also ordered the company

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to add the name of the applicant party to the credits of the disputed programme or, failing that, to change the title of the programme.

TGI de Paris (3e ch. 3e sect.), 16 janvier 2008, M. Delasnerie c/ Sarl Télé Images

Regional Court of Paris (3rd chamber, 3rd section), 16 January 2008, Mr Delasnerie v. Sàrl Télé Images

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