

[FR] Court Judgment against Television Channel for Infringement of a Competitor Channel's Brand Name

IRIS 2009-7:1/19

*Amélie Blocman
Légipresse*

The M6 television channel, which for the past 22 years has been showing a daily news report entitled "6 minutes", available in various local versions and downloadable on-line on the channel's Internet site, owns various "6 minutes" brand names to designate the broadcast. M6 noted that the channel France 3 had lodged a "7 Minutes" brand name in 2006, used for a news programme of that name, and had its competitor summoned to appear in court on a charge of infringement of a brand name.

In a judgment delivered on 29 April 2009, the regional court of Paris held that the disputed signs were different (6 minutes/7 minutes), and that it was in the light of Article L. 713-3 of the Intellectual Property Code that the claim of infringement needed to be considered. This text provides that "without the owner's authorisation, if there is a risk of confusion in the minds of members of the general public, it is not allowed ...b) to imitate a brand name or use an imitation of a brand name for products or services identical or similar to those designated in the registration". In terms of product, the court held that they were identical - both were television programmes. In terms of signs, the second sign used the first sign, merely replacing the figure 6 with a figure 7 and deleting the definite article. The two signs thus used the same construction - the association of a number with the word "minutes". The judge added that while it was frequent for a television programme to take as its title its duration expressed in minutes, the fact remained that the substitution of the figure 6 by the figure 7 did not make any substantial difference to the viewer, since the period of time was perceived as being short in both cases.

The television company had used the brand name "6 minutes" for more than twenty years as the title of a short news programme. As a result, the choice of the "7 minutes" sign to designate a news programme in an almost identical format was such as to create the risk of confusion for the viewer, who would be inclined to think that it was a variation of the "6 minutes" brand name. The court therefore held that there was infringement of the "6 minutes" brand names.

In view of public awareness of the infringed brand names and the duration of the infringement (the "7 minutes" broadcast had been operating for eighteen months), the court held that the prejudice would be fairly compensated by payment of EUR 10,000. It also banned France 3 from continuing these unlawful

acts, on pain of a penalty of EUR 2,000 for each infringement.

TGI de Paris (3e ch. 3e sect.), 29 avril 2009, Métropole Télévision M6 c. France 3

Regional court of Paris (3rd chamber, 3rd section), 29 April 2009, Métropole Télévision M6 v. France 3

