[FR] Novel’s Copyright Allegedly Infringed by a Television Series

IRIS 2013-10:1/21

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In a decision of 2 October 2013, the Court of Cassation delivered a noteworthy decision recalling the party on which the burden of proof falls in cases of infringement of copyright. In the case at issue, the author of a novel claimed that several episodes of the television series Plus Belle la Vie broadcast in the summer of 2009 and the spring of 2010 on the channel France 3 used the theme, plot and main characters of his work. He therefore instigated proceedings for infringement of copyright against the company France Télévisions, in its capacity as the broadcaster, and the production companies of the series at issue. In a decision delivered on 6 July 2013, the Court of Appeal of Paris rejected the claims brought by the applicant that copyright had been infringed. It found that it was for the applicant to establish that the author of the second work had been in a position to have had knowledge of the first work. In the case at issue, the Court of Appeal therefore found that the author of the work had not produced proof that the producers and the broadcaster of the series could have had knowledge of his novel before writing their screenplay and filming the episodes that it was claimed infringed copyright. The applicant contested this outcome, and appealed to the Court of Cassation. In a much-awaited decision on the principle of the case, the Court stated on 2 October that, in the light of Articles L. 111-1, L. 111-2 and L. 122-4 of the Intellectual Property Code, taken in conjunction with Article 1315 of the Civil Code, “the author of an intellectual work enjoyed in respect of that work, by the mere fact of having created it and irrespective of any public divulgation, an exclusive, intangible right of ownership that was universally applicable. The copyright in such a work was infringed if it was reproduced, and the infringement stood unless the party contesting it demonstrated that the similarities noted in the two works were the result of a fortuitous encounter or reminiscences originating from a common source of inspiration”. In doing so, the Court recalled that it was for the person alleged to have infringed the copyright to prove that he/she could not have had any access to the other work. This overturns the decision of the court of appeal, which had inversed the rules on the burden of proof. The case has been referred to the Court of Appeal of Lyon.

Cour de cassation (1re civ.), 2 octobre 2013 - Norbert X. c. France Télévisions et a.

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Court of Cassation (1st civil chamber), 2 October 2013 - Norbert X. v. France Télévisions and others

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