[NL] Dutch Court Rules on Copyright on Format for Documentary Series

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On 31 July 2013, the District Court of Amsterdam decided on the question of whether or not the format of a documentary series called “Hollandse Meesters in de 21e eeuw” ("Dutch Masters in the 21st century", hereafter: 'Dutch Masters') was protected by copyright law.

The plaintiff collaborated with X on a series of filmed portraits, which consisted of 15-minute episodes displaying the methods used by an artist, the use of his materials and the artist's ideas on art. The artist was filmed in his workshop and each episode had a different director. The plaintiff had an agreement with Interakt, a series producer, in which Interakt made a commitment to produce the series and to contribute to the development costs. The series was shown in several Dutch museums, was broadcast by regional broadcaster RTV-Noord Holland and twenty episodes have been released on DVD.

The plaintiff sought a declaratory judgment that the plaintiff - along with X - is the copyright owner of the format of Dutch Masters and that Interakt infringed the rights of the plaintiff by continuing the exploitation of the Dutch Masters series without the consent of the plaintiff. It was argued by the plaintiff that the format was her own original creation. The plaintiff argued that the originality did not only lie in some individual elements of the format, but also in the global impression of those elements combined. In support thereof, the plaintiff claimed that she came up with the title and that it was her idea to use different famous directors to film in the artists' workshops, to present a portrait and to show how artists perform their work.

Interakt, on the other hand, argued that the format did not meet the requirement of originality and therefore could not be protected by copyright. It argued that since each episode was guided by the different views of the various directors, the episodes differed in, inter alia, style, structure, tempo, atmosphere, scenery and context. Interakt further argued that with the exception of the title, there was no coherence between the episodes and there were no recurring elements. It argued therefore that the format of Dutch Masters does not show any original element that distinguishes it from other similar programme formats.

The court considered that an idea has to be concretised and shaped to a sufficient extent in order to avail itself of copyright protection. It found that the plaintiff did

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not sufficiently substantiate the original and concrete elements that would make the format of Dutch Masters subject to copyright protection. Therefore, it concluded that the format of Dutch Masters is not protected by copyright law and rejected the plaintiff's claim.

Rechtbank Amsterdam, 31 juli 2013, ECLI:NL:RBAMS:2013:6970 (Hollandse Meesters)

http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2013:6970

District Court of Amsterdam, 31 July 2013, ECLI:NL:RBAMS:2013:6970 (Hollandse Meesters)

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