[NL] Rejection of copyright infringement claims relating to formats

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In 1996 the President of the Amsterdam District Court had to decide a number of conflicts concerning formats. In the summary proceedings in the case of Beydals (plaintiff) vs TROS (defendant), between 1984 and 1989, the plaintiff had developed a programme format for a television series about computers and automation. She offered a pilot of this format to the broadcasting association TROS, which neglected the offer.

In 1995 an employee of TROS developed a format for a series of TV shows about computers, multimedia applications and the like. At the time of the trial, five of the seven episodes had already been broadcasted. The plaintiff claimed that in her format some elements - a newsreport, a quiz, an explanation of computer jargon, a family sketch, a game with experts - were developed and combined in an original manner. She stated that her copyright on this format was infringed because the format as a whole and some characteristic elements thereof were used in defendant's programme.

In August 1996, the President of the Amsterdam District Court denied the infringement claim. He stated that, although both programmes were about computers and had a `magazine-like' appearance with some elements in common, the way in which these elements were developed differed considerably. Copyright protection for plaintiffs' programme format could only be accepted if the combination of the different elements would in itself be an original work of authorship. Plaintiff had not been able to proof this. In this respect, the fact that a family programme with a low threshold about computers had never been shown before, did not make a difference, for the combination of the elements (apart from the way in which they were developed) might have well been used for other subjects. Another case concerned the alleged resemblance between the format of a boardgame and a TV gameshow. During 1991, the plaintiff developed a boardgame called `Relativity', and offered it to a manufacturer who did not want to produce it. In September 1996, a broadcasting company (TV 10 Gold) started broadcasting daily a programme called Vijf op een rij (`Five in a Row'). The plaintiff claimed that this programme infringed the copyright on the format of his boardgame. He also pointed out that some of the questions in the boardgame and the TV show were exactly the same. The President of the Amsterdam District Court found that the idea to let participants put five items in a row cannot be protected by copyright. The `selection idea', according to the President, was the

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only resemblance between the boardgame and the TV game. The way the idea had been developed, was completely different. These differences did not only originate from the fact that a boardgame has to be transformed to turn it into a TV game. The resemblance of the used questions did not mean that defendants had had knowledge of (the format of) plaintiffs boardgame. It might well be the result of independent creation.

President van de Arrondissementsrechtbank Amsterdam, 27. December 1996, Bijvoet ./. John de Mol Produkties bv and TV 10 Gold bv.

President of the District Court of Amsterdam, 27 December 1996, Bijvoet vs. John de Mol Produkties bv and TV 10 Gold bv.

President van de Arrondissementsrechtbank Amsterdam, 15. Augustus 1996, Beydal vs. TROS.

President of the District Court of Amsterdam), 15 August 1996, Beydal vs. TROS.

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