[NL] Programme formats eligible for copyright protection

IRIS 1997-3:1/13

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In December 1996 the Amsterdam Court of Appeal ruled again in favour of copyright protection for programme formats (a plan or concept on which a television series is based). In 1994 the Court had already decided that in order to be protected by copyright, a format must be original, and elaborated in such a way that it can be regarded as a recognisable element of the work based on it. In the case of a television series this could result from the similar presentation of the different episodes.

The recent case concerned a conflict between a group of programme producers, called Jiskefet (plaintiffs), and artist/producer Bunny Music (defendant). The plaintiffs produce a programme which is broadcasted weekly on Dutch television. In their programme some caricatures of a brotherhood (so called `frat rats') appear in short scenes about brotherhood life. Bunny Music produced a CD on which the slang language used by plaintiffs' characters is used and of which the subject matter is the same. Plaintiffs stated that the CD infringes the copyright on the scenes which they developed. In the summary proceedings the President of the Amsterdam District Court (Rechtbank) ruled that the CD only infringes copyright if it uses the elements which characterize the scenes as original works. According to the President this is the case. Taking into account the identical use of expressions, subjects, names and language, the CD was considered to be an infringing derivative of the scenes produced by the plaintiffs. The defendant appealed and claimed that he had only copied unprotectable elements. The Amsterdam Court of Appeal disagreed with the defendant. According to the Appeal Court, the elements taken together were decisive for the classification of the scenes as original works. The scenes are eligible to copyright protection because of the combination of (in itself unprotectable) elements. The Appeal Court affirmed the Distrcit Court's decision.

Gerechtshof te Amsterdam, 12. Dezember 1996, Bunny Music ./. Jiskefet Produkties b.v. et al.

Court of Appeal Amsterdam, 12 December 1996, Bunny Music v. Jiskefet Produkties b.v. and oth.

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