[FR] Conditions for copyright protection of a television programme

IRIS 2015-1:1/19

Amélie Blocman
Légipresse

On 10 October the regional court in Paris delivered an interesting judgment which recalled how problematic it can be to have tv formats protected by copyright. In the case at issue, a man said he had sent an audiovisual production company two plans for broadcasts, the name and summary of which had been deposited with a copyright society online. When he discovered that a television channel had broadcast a programme entitled “On ne demande qu'à en rire” produced by the same production company, which he considered infringed his copyright in respect of the programme projects, he instigated court proceedings against the company for infringement of his copyright and, in the alternative, for unfair competition. The defendant company contested the copyright protection of the applicant's plans, on the grounds that the characteristics being claimed were common. The court began by recalling the principle that a programme project can constitute an intellectual work, subject to two conditions. Firstly, the person claiming protection under copyright must describe the creation in sufficient detail to allow its identification (in respect not only of its procedure and mechanisms, but also of everything concerning its form, such as sets, framing, soundtrack, colour codes, etc). Secondly, the person must demonstrate that the programme is the result of creative activity expressing the creator's personality, conferring originality.

The court then pronounced itself firstly on the existence of earlier programmes, which the defendant claimed were based on the same concept as the first programme project developed by the applicant, entitled “Comédiens Interprètes”, which was presented as a talent show for would-be actors and comedians. The court noted that these earlier programmes cited by the production company were significantly different from the programme project at issue and could not be claimed to be an earlier version rendering the project non-creative. The court then went on to note that, for television programmes, particularly games, originality could be the result of an original combination of known elements and that in the present case the elements constituting the programme project for “Comédiens Interprètes” formed a particular combination that was the result of a creative effort with no demonstrated precedent, such that it was covered by copyright protection. This was not the case for the second programme project, entitled “Jeu de Scènes”, for which the applicant failed to demonstrate any originality. The court then considered whether the programme produced by the defendant company constituted an infringement of the copyright covering the “Comédiens Interprètes” project. It recalled that infringement of copyright was determined on

© European Audiovisual Observatory (Council of Europe) 2026

the basis of similarities, not differences, but that with the exception of cases where the originality of the work rested, as in the present case, on the combination of elements that were not in themselves original, there was no infringement of copyright unless the programme at issue faithfully reproduced the combination in all its essential elements. In the present case it appeared however that, while a number of aspects (the method of selecting and assessing contestants, filming at the Moulin Rouge cabaret in Paris, the length of the programme) were common to both the disputed programme and the programme project, their aim, form and purpose with regard to the contestants' performances were very different, which meant that the existing programme was significantly different from the project. The purpose of the contestants' performances was clearly different, as was the arrangement and decoration of the studio used for filming. The applicant's claims were therefore rejected, as were the alternative claims based on unfair competition and free-riding.

TGI de Paris (3e ch. 2e sect.), 10 octobre 2014 - Eric A. c/ Sté Tout sur l'écran Productions

Regional court of Paris (3rd chamber, 2nd section), 10 October 2014 - Eric A. v. the company 'Tout sur l'écran Productions'

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026