[FR] Sanction for infringing copyright of a sci-fi film released thirty years ago

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The regional court (tribunal de grande instance - TGI) of Paris has delivered an interesting judgment in a case of infringement of film copyright. The case at issue was brought by an American director and producer of a number of horror and science-fiction films. He made the film 'New York 1997', which was released in 1981. In it, the hero - in exchange for his freedom - has 24 hours to save the president of the United States, who is being held on Manhattan island, transformed into a prison. In April 2012 he learned of the release of a film entitled 'Lock-Out', produced by the company Europacorp and scripted in collaboration with Luc Besson; he felt that this film was very similar to his own, and therefore instigated copyright infringement proceedings against the French production company of 'Lock-Out', and its writers. In reaching its decision, the court recalled that although ideas are free to be used and there could be no protection merely for the theme of a film, it was nevertheless possible to consider whether the form of the film was not a characteristic feature, and whether its reproduction was such as to constitute infringement of copyright; this was determined by considering similarities rather than differences. The court therefore embarked on a detailed comparison of the plot and development of the films, their characters, and the sequences filmed, in order to determine the similarities between the works and deteremine whether these were sufficiently significant to be characteristic of infringement of copyright. A number of elements present in both 'New York 1997' and 'Lock-Out' could in fact be considered as stock elements in the cinema. Other elements differed, such as the pace of the film and the special effects, but this could be because of the amount of time that had passed between the releases of the two films - 1981 and 2012 - and by the evolution in both techniques and mentalities in the intervening period. The court nevertheless noted many similarities between the two science-fiction films: both presented an athletic, rebellious and cynical hero, sentenced to a period of isolated incarceration - despite his heroic past - who is given the offer of setting out to free the President of the United States or his daughter held hostage in exchange for his freedom; he manages, undetected, to get inside the place where the hostage is being held, after a flight in a glider/space shuttle, and finds there a former associate who dies; he pulls off the mission in extremis, and at the end of the film keeps the secret documents recovered in the course of the mission. The court held that the combination of these elements, which gave the film 'New York 1997' its particular appearance and originality, had been reproduced in 'Lock-Out', apart from certain

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scenes and specific details that were only present in the first film. The difference in the location of the action and the more modern character featured in 'Lock-Out' was not enough to differentiate the two films. The disputed film seemed to be in the same vein as 'New York 1997', and this had indeed been picked up in a number of press articles. The court therefore found that copyright had indeed been infringed. The defendants were ordered jointly and severally to pay EUR 20,000 to the director of the original film, EUR 10,000 to the scriptwriter, and EUR 50,000 to the company holding the concession rights.

Tribunal de grande instance, Paris, (3e ch., 4e sect.), 7 mai 2015, J. Carpenter et a. c/ SA Europacorp et a.

Regional court of Paris (3rd chamber, 4th section), 7 May 2015, J. Carpenter and others v. Europacorp SA and others

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