[FR] Director’s rightsholders legitimately refuse to renew video publication contract

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On 17 December the Court of Cassation delivered an interesting decision on the operating rights of the rightsholders of a deceased film director. In the case at issue, the director of the film ‘Le Sang à la Tête’ had, under a contract signed in 1989, ceded his cinematographic representation rights for TV broadcasting and video publication to a publishing house. The director has since died, and his rightsholders have refused to renew the contract on expiry. The company had them summoned to appear in court to answer charges of abusive refusal on the basis of Article L. 122-9 of the Intellectual Property Code. This Article provides that, ‘in the case of manifest abuse in the exercise or non-exercise of the operating rights on the part of the representatives of the deceased copyright holder, the regional court may order any appropriate measure. The same shall apply if there is disagreement among the said representatives, if there is no known rightsholder, or in the case of the absence of heirs or escheat’. The company also held that the refusal on the part of the director’s rightsholders constituted manifest abuse of their exercise of the operating rights they held from the director in respect of the collaborative work the film constituted. The initial court and subsequently the Court of Appeal rejected the company’s application to obtain authorisation to resume its use of the film; the company then appealed to the Court of Cassation. The Court of Appeal had found that the applicant company had infringed copyright by continuing to use the film without having requested the agreement of the rightsholders who consequently had no desire to continue contractual relations with the company. The Court of Cassation found that the Court of Appeal had been right to decide that the company could not be authorised to resume its use of the film. It also found that the Court of Appeal had rightly noted that the company was invoking the benefit of the provisions of Article L. 122-9 of the Intellectual Property Code on disagreements among representatives of a deceased copyright holder, and not the provisions on manifest abuse in the non-exercise of operating rights. The argument was therefore not founded, and the appeal rejected.

Cour de cassation (1re ch. civ.), 17 décembre 2015 – Editions René Chateau

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