[FR] Copyright breached by audiovisual adaptation of autobiography

IRIS 2018-6:1/16

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The Tribunal de Grande Instance (regional court) in Paris was asked to decide whether a film portraying the director's family history could constitute an infringement of the copyright relating to an autobiography written by his father a few years earlier.

In 2007, the plaintiff published an autobiography Téhéran-Paris, which tells the story of an Iranian man, describing his childhood, his activities as a political opponent of the Shah and Mullah regimes, his escape from Iran with his wife and son, and his arrival in France. After the author's son, a comedian and actor, wrote and directed the film Nous trois ou rien ("All Three of Us"), which tells his family's story, the plaintiff in 2015 brought a lawsuit against him and the film's producers and distributor for infringement of copyright and, in the alternative, parasitism. The publisher, claiming that the film breached its copyright because it was an unauthorised adaptation of the Téhéran-Paris book, demanded compensation of EUR 100,000 for the damage suffered, a ban on the continued exploitation of the film and the amendment of the work's title, author and publisher on the "declaration sheet" of the SACD (Société des Auteurs et Compositeurs Dramatiques - the French collective rights organisation).

The publisher argued that the different characteristics (narrative structure, locations, characters, stories and descriptions of the fate of certain characters) of the book were identical in the audiovisual work. Comparing the works in detail, it pointed out that 68 passages of the book had been meticulously reproduced in the film. In response, the defendants argued that the autobiographical material on which the book was based was free for anyone to use and that the book had been written in a historical register, while the film was written in a different, humorous style. Similarly, the narrative structure was different and the characters in the film were enriched compared to the book.

In its ruling of 22 March 2018, the court observed, firstly, that the common theme and biographical nature of the two works meant that there were bound to be similarities between the events described, the locations in which they took place and their main protagonists. Nevertheless, it held that copyright could have been infringed if the elements that had been copied made the original work unique and, by their nature, extent and systematic character, went beyond simple

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reminiscences resulting from a common source of inspiration.

In both the book and the film, the storyline followed the chronological order of the protagonists' lives. Since this was not an original structure, its use in the film did not infringe copyright. Similarly, the presence of the same characters and locations in both works was a necessary consequence of their biographical nature rather than of copyright breaches. Therefore, the originality of the Téhéran-Paris book did not lie in each event that it described, but in the choice of events from the author's life and the way in which they were illustrated through specific anecdotes. The court noted that no fewer than 35 scenes in the film reflected passages in the book. It considered that these similarities, through their nature and number, were the result not of simple reminiscences drawn from the common theme of the two works but of family stories heard by the defendant, the son of the biography's author, as he claimed. It noted that this filial relationship between the film and the book had been mentioned by the defendant himself in an interview with a national newspaper.

The film Nous trois ou rien therefore infringed copyright because it was an unauthorised adaptation of the literary work Téhéran-Paris. The alternative claims of unfair and parasitic competition were therefore dismissed as devoid of purpose. Fixed compensation of EUR 15,000 was awarded to the plaintiff, while the defendant was ordered to amend the film's SACD declaration sheet so that it mentioned the book on which it was based, as well as its authors and publisher. The court also ordered that its decision should be published.

TGI de Paris (3e ch., 1re sect.), 22 mars 2018, Les Editions de l'Atelier c/ M. H. Tabib, N. Dolle, SA Gaumont et a.

Tribunal de Grande Instance de Paris (3rd chamber, 1st section), 22 March 2018, Les Editions de l'Atelier vs M. H. Tabib, N. Dolle, SA Gaumont and others

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