[FR] Dispute between production company that owns “Le bureau des légendes” marks and publisher of a book on the series

IRIS 2018-8:1/21

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The audiovisual production company that produced the television series “Le bureau des légendes”, which has been broadcast on Canal Plus since 2015 (with season four set to be shown later this year) initiated urgent proceedings against the publisher of a collection of books entitled “La série des series” after discovering that a book entitled “Le bureau des légendes - Politique du secret” was about to go on sale. The book’s cover included not only the title of the work but also its word mark and figurative mark “Le bureau des légendes”, which had been registered by the production company in relation to the publication of books and the poster of season one in particular. Explaining its decision to take legal action on the basis of Article L. 716-6 of the Intellectual Property Code, the company said that it did not wish to stop the publication of the book - only the reproduction of its marks on the cover. It requested that the publisher be prohibited (on pain of a penalty) from continuing the allegedly infringing acts and from promoting the launch of, launching and selling the book.

The interlocutory Court stated that the owner of a registered mark could prevent a third party from using a sign identical or similar to its own mark without its consent if it was used for products or services identical or similar to those for which the mark was registered and if it affected or was liable to affect the functions of the mark (in particular its essential function - namely, to guarantee the identity of the origin of the marked goods or services to the consumer or end user by enabling him, without any possibility of confusion, to distinguish the goods or services from others which had another origin).

The court observed that - as in the case of the other books previously published in the same collection in relation to other television series (such as “House of Cards”, “Les experts”, “Friends”, and “Plus belle la vie”) with an identical editorial structure in which the title of the series analysed appeared along with an image representing the series - the disputed book was a unique literary work that, although a product, was designed to analyse the series in question, viewed as a cultural object, in order to help readers understand it better. Therefore, the use of the sign in the book’s title was not a unique use constituting a mark because it did not identify the product (that is to say the physical medium in which it was contained) but the work itself, which was given physical form by that medium. It

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therefore only served to identify the book as an independent literary work, which was itself independent of the television series that it analysed.

Similarly, the court considered that the function of the sign of the semi-figurative mark reproduced on the cover page (which was identical to the season one poster, in which the said semi-figurative mark “Le bureau des légendes” appeared) was not to identify goods and services designated by the mark in question; rather (as had been the case with the poster when season one was first released) to designate, identify and make reference to the audiovisual work in question, which it described and analysed. Lastly, the origin of the disputed book was identified not through the use of the disputed signs, but through the mention of its author’s name and the publisher’s sign (“PUF”), which showed the consumer where the product had come from. In view of all these elements, the court held that no mark had been used and that there had been no likely infringement of the aforementioned marks in the sense of Article L. 716-6 of the Intellectual Property Code. The production company’s requests were therefore dismissed.

TGI de Paris (ord. réf.), 6 avril 2018 - The oligarchs production c/ Humensis

Regional court of Paris (urgent procedure), 16 April 2018 - The Oligarchs Productions v. Humensis

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