

Copyright: Catch-all protection?

«The plaintiff is given leave to speak to explain the circumstances of the case.»

It's a disgrace! My name is Alan Venter, I had a great idea and it's been stolen.

For years I have been working in the watchmaking field and I have designed several watches that are well known to the general public. The design that brings me to this court today works as follows.

To make the dial of my watch, I chose an architectural masterpiece that I broke down into several elements. These elements are carried by wheels that all have different movements so that the chosen building seems disjointed and forms an abstract picture. Except on the hour, every hour, when the building is put back together again.

I made ten or so pieces with a watch company, on the basis of London's Big Ben. They were released two years ago. As they were not a big hit, the watch company decided not to continue production.



So you can imagine my surprise when, two months ago, I saw that watches using exactly the same principle as mine are being sold under a competitor's trademark. They have copied my idea and made a dial with the Sydney opera house on it. It is put back together again on the hour, every hour, just like my Big Ben.

This is outright theft. My idea has been stolen and it was protected by copyright. I can even show you the certificate that I received from the company that filed my copyright for me. I am therefore claiming substantial damages and interest and judgment against this shocking illegal action!

«The defence attorney, you may now speak »

Mr President, ladies and gentlemen of the jury, I would like straight away to clear up a few misunderstandings about intellectual property in general and copyright in particular.



The copyright claimed by the plaintiff refers to a very precise law that clearly defines the subject matter of the protection that it confers. The subject matter concerns the form of a literary or artistic work. By way of example, it may protect the choice of texts and images that form the instructions for the plaintiff's watch.

However, copyright cannot protect the technical elements that form the watch. If these technical elements were novel and inventive prior to the sale of the first watch, they could have been protected by a patent. Now, it is clear that no patent was filed at that time. As you are well aware, the release of a single watch for sale means that no patent can subsequently be filed.



Neither copyright, nor any other law, protects abstract ideas or concepts. The non-materialized idea of the plaintiff of arranging moving architectural elements on a watch dial can thus be used quite freely by anyone else. There is no punishment for the theft of ideas.

By pushing copyright law to the very limit, copyright protection could be claimed for some artistic elements applied to industry. Thus, an original and artistic watch dial could be protected. In the case that concerns us, this point cannot apply. First of all, the elements of Big Ben used by the plaintiff are banal in the extreme; and secondly, my client did not produce any watches with Big Ben on the dial.

I therefore declare that there is no case for my client to answer.

« The jury may now speak. »

The members of the jury can only confirm the arguments of the defence, namely that:

- abstract or non-materialized ideas and concepts cannot be protected;
- the plaintiff did not file a patent or a design;
- no other protective titles come into play.

Consequently, the defendant is acquitted of all charges.

The members of the jury would like to point out to the plaintiff that the copyright certificate that he presented has no legal value. In fact, at most it could be used as proof of the date of creation of the artistic work concerned. However, as this case does not involve an artistic work, the document is not relevant and it in no way proves the existence of copyright.



Conclusion

Any similarity with real facts or persons who exist or have existed is unfortunately plausible and even probable, despite the fictional nature of this story. Copyright is often misunderstood to be a universal right, which automatically applies to any work, without any restrictions. This false idea is propagated by some Internet companies, which sell useless and expensive copyright certificates. Ignorance or fraud? Let's give them the benefit of the doubt. But if you do want to protect your works, be they technical, artistic or otherwise, be sure that you do so properly, in accordance with the relevant law. We can help you!