

Professional Studies for Screen-Based Media

Media Law – Exercise 2

The Situation

A brewery have seen a great piece of film which they would like to turn into an advert for their beer. The brewery approach the author of the film and ask if they can use the same techniques and idea in their advert, with the author on board as director. The originator of the idea refuses and says that the brewery cannot use his idea or copy his work.

The film shows a man dancing on a flat roof top, looking at a structure. The most striking feature of the film is the jump cutting technique that is used. The filming was carried out using a locked-off tripod so the camera did not move, making sudden changes in the dancing noticeable when cut together. The brewery would like to use these exact techniques but replace the structure with a pint of their beer.

As the copyright holder of the original film would not agree to their terms, the brewery decide to go ahead and use exactly the same actions as in his film, and this is eventually broadcast on television as an advertisement for their product. The original film was called 'Joy'; the beer advert is called 'Anticipation'. In effect the brewery produce an exact copy of the original work, except that they use a different actor as the dancer and a pint of beer instead of the structure.

The originator of this idea sees the advertisement and puts forward a case for breach of copyright and it goes to court.

The Exercise

Split the group into two halves – one each side of the room behind desks forming the Defence and the Prosecution. The Prosecution represents the originator of the film, and the Defence represents the brewery.

Using the guidelines below, set up a discussion between each side to find answers to the following questions:

- Is this a straightforward case of breach of copyright?
- If not, why not... what makes it difficult?
- How do you define an adaptation?
- How do the differences between the content of the two films affect whether the advert is a copy of a dramatic work?
- Is the adaptation far enough from the underlying dramatic work to make it acceptable?
- What is the outcome?
- Who is prosecuted if anyone and what would the penalty be?

Areas for consideration for the prosecution (originator of the idea)

- This is a blatant breach of copyright – the brewery copied the original film
- 'Anticipation', the beer advert, also has a one word title like the original film 'Joy'
- The film looks virtually identical apart from the covered structure on the rooftop being replaced by a pint of beer
- This film used a technique of jump-editing which had been copied
- The striking feature of the visual impact of the film resulted from the jump cutting or editing technique
- The brewery used the film without permission of the originator of the idea and film
- The originator claimed he produced an 'original dramatic work' which was protected by copyright law and that the brewery created an adaptation of his work.
- This work was like a piece of mime or dance, choreographed where the movements of the participants was planned and written out and therefore subject to copyright.

Areas for consideration for the defence (the brewery)

- This film used a technique of jump-cut editing, and techniques are not subject to copyright
- The originator of the idea and film 'Joy' was asked to direct the beer advert but he refused
- The beer advert is called 'Anticipation', not 'Joy'
- The original film could not be a work of choreography because it could not be performed – the person in the film could not have performed those movements continuously because the movements were as they were due to the use of jump cutting or editing techniques.
- The film itself could be classed as a dramatic work, copyrighted as it is on video tape. However, there are differences between the two underlying dramatic works; one is about feelings of joy raising to exuberance, and the other is about a feeling of anticipation. The content is obviously something very different, so this argument will not work.