

Kluwer Copyright Blog

Netherlands: police copyright vs. police drama series

Piter de Weerd (Institute for Information Law (IViR)) · Friday, April 12th, 2013



“The viewer will not experience it as real and will even consider it to be weird, amateurish or even ridiculous.”

In a case about the use of the ‘house style’ of the Dutch police, the summary proceedings judge District Court Amsterdam [ruled](#) this week that the Dutch State has to give permission to the producer of the television series ‘Doctor Tinus’ for the use of the police-logo, the police car-striping and other elements of the house style of the Dutch police.

In this case, the Dutch State took the position that the State doesn’t have to give permission for the usage of elements of the ‘police house style’ and the other features of the police in fictional movies or series, if these elements or features are protected as intellectual property (trademarks/copyrights). The State’s policy is that if the police is depicted neutrally and realistically and in a way that doesn’t harm the image or reputation of the police, permission will be given without hesitation, but that permission will be denied if (as was said to be the case in ‘Doctor Tinus’) fictional police officers are depicted as being goofy, drunk or stoned, breaking the law or torturing suspects.

The judge concluded, after balancing the interests of both parties, that entertainment programs (including drama series) fall within the scope of Article 10 of ECHR and that the producer of the litigious series ‘Doctor Tinus’ were right to assume that he was allowed to use the required elements of the police house style.

Not only is the television viewer fully aware that series are fictional, but he is also accustomed to the fact that the police in police drama series is usually depicted exactly like the real police. As a result, a producer of a TV series has a valid reason to make use of police uniforms and police cars that are equipped with the ‘real’ logos of the State. The defense of the State that producers can always use alternatives (fake uniforms, fake cars), is invalid. The viewer will not experience it as real and will even consider it to be weird, amateurish or even ridiculous.

The State has a monopoly on police services and the police uniforms and cars can only be rented by producers at rental companies with a permit from the State. That means that there is a closed system. This and the active role of the state, a far-reaching interference with the content of the script before the series are broadcasted, make that the conduct of the State is at odds with article 7 of the Dutch constitution (prohibition of censorship). That producers aren't obliged to ask for permission, can't alter that conclusion. The high(er) costs of making identical costumes instead of being allowed to rent them and the threat of costly legal proceedings afterwards, can force television producers to ask permission beforehand.

Although the State was ordered to give permission to the producer of the television series Doctor Tinus, the complaint of the other plaintiff, the association of television producers, was rejected. The association claimed that permission is never required before broadcasting and that the State must always give permission for the use in a drama series of the police logo and other features of the police in the future. According to the summary proceedings judge, it can be assumed that the State is, in general, not permitted to review a television programme in advance, but it cannot be excluded that an exception to this rule can be made, considering the specific circumstances of a case. If (e.g.) it isn't clear that it is a fictional program, if the only intention of the program is to harm the reputation of the police or if the safety of civilians is at risk, a review in advance may not be prohibited by definition. A general judgment cannot be given in summary proceedings.

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