
Kluwer Copyright Blog

Copyright case: Astor-White v. Strong, USA

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Tuesday, August 21st, 2018

Although the author of a four-page treatment describing a concept for a television show failed to assert plausible copyright infringement claims against the producers and the creators of the popular musical drama television series “Empire,” the author should have been given permission to amend his complaint, the U.S. Court of Appeals in San Francisco has held, in a split decision. All three members of the appellate panel agreed that the author did not allege facts showing that the defendants could have had access to his work or that protectable elements of the respective works were substantially similar. However, the judges disagreed as to whether amending the complaint would be futile. In the majority’s view, additional allegations regarding the similarities between the parties’ works could cure the deficiencies in the pleadings. A dissenting judge argued that the works were dissimilar as a matter of law, and that the district court acted properly in dismissing the case with prejudice (*Astor-White v. Strong*, August 1, 2018, per curiam).

Case date: 01 August 2018

Case number: No. 16-55565

Court: United States Court of Appeals, Ninth Circuit

A full summary of this case has been published on [Kluwer IP Law](#).

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