
Kluwer Copyright Blog

Copyright case: Vallejo v. Narcos Production LLC, USA

Robert B. Barnett (Wolters Kluwer Legal & Regulatory US) · Thursday, November 19th, 2020

Substantial similarity was lacking because the TV show used reported facts in combination with tone, dialogue, and themes that were different from the book.

Scenes in the Netflix drama Narcos did not infringe the copyright of Virginia Vallejo, who wrote a memoir about her relationship with Pablo Escobar, because historical facts are not copyrightable, and the plot, setting, theme, mood, dialogue, and tone of the TV series were not substantially similar to those elements in the book, the Eleventh Circuit has ruled in an unpublished opinion. The appellate court affirmed a Florida federal district court's grant of summary judgment in favor of the Narcos producers. The Eleventh Circuit also rejected any purported distinction between historical facts and non-historical facts, noting that the Supreme Court has not made any such distinction for purposes of copyright protection. The appellate court affirmed that the proper standard for determining infringement is substantial similarity, rejecting an argument that a modified standard of "whether an ordinary observer is led to believe that a film is a picturization of the story" be used when evaluating works from different media (Vallejo v. Narcos Production LLC, October 27, 2020).

Case date: 27 October 2020

Case number: No. 19-14894

Court: United States Court of Appeals, Eleventh Circuit

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

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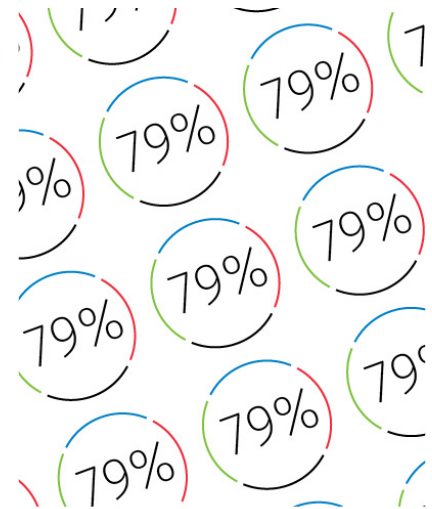
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