

BEST CASE SCENARIOS FOR COPYRIGHT



PARODY

IN FRANCE

The parody exception cultivates the French tradition of satire. When the goal is to make people laugh, anybody can freely create a distinctively different mockery of a protected work. This encourages creativity and freedom of expression.

WHAT IS A PARODY EXCEPTION?

- 1 Rooted in ancient Greek, the term “parody” includes works of mockery, as well as quoting or referencing an older work in a modern interpretation of it. In France, parody implies adapting or borrowing from a work with the intention of having fun.
- 2 The exception is justified by freedom of expression.

HOW DOES IT WORK?

- 1 All acts that are necessary to create a parody of a work are exempted. Users can copy, perform, adapt, and transform the protected work.
- 2 The resulting parody can be published, performed, made available online, or otherwise used without infringing the rights in the original work.
- 3 All types of copyrighted works that are publicly available can be used for parody. Parody has also been recognized for trademarks.
- 4 Authors of works of parody are free to benefit from it commercially, as long as their goal is to provoke laughter and/or criticize (see “limits” point 2, on the other page).
- 5 A parody can result in a work that is not original itself and not protected by copyright. It can also result in a protected work of a different genre (for example, a song can be a parody of a play, or an image can be a parody of song lyrics).
- 6 The creator of the parody is not obliged to credit the parodied work.

WHO CAN USE IT?

Anyone can benefit from the parody exception including citizens, individual artists, organizations, and companies.

IS IT FREE?

Yes, it is free. No remuneration is due to the authors or rights holders of the parodied work.

WHAT ARE THE LIMITS TO THE PARODY EXCEPTION?

- 1 **Confusion between the original and its parody** — it is possible to make a parody of an entire work as long as there is no risk the parody work would be confused with the original.
- 2 **Goals different than the humorous intent** — for example, advertising parodies are not exempted, and require authorization from the rights holder of the underlying work because the main goal is to sell products and not to make people laugh.
- 3 **Moral rights and personality rights of the author** — the parody work must not demean or degrade the original work, and must respect its author. It must balance the right to laugh and the rights of the author chosen as the target.

ECONOMIC AND SOCIETAL IMPACT

The Treatment of Parodies under Copyright Law in Seven Jurisdictions study commissioned by the UK Intellectual Property Office in 2013 has shown a positive social and economic impact of the parody exception. Studies show no evidence that parody causes economic harm to the parodied work. It has also shown that works of parody can promote creativity, especially online.

EXAMPLES OF USE

- 1 The French magazine “Charlie Hebdo” often bases its mockery on pop culture figures and topics, as well as widely-known characters such as Batman, or Asterix and Obelix.
- 2 The famous character Tintin has been given a parallel life full of adventures and ironic jokes on current geopolitical events.

LAW

Article L.122-5 of the French Code of Intellectual Property (*Code de propriété intellectuelle*) created by the law of 1 July 1992 (as last amended on 25 April 2016).

The wording is similar to the 2001

InfoSoc Directive: when the work has been disclosed, the author may not prohibit “parody, pastiche and caricature, taking into account the rules of the genre.”

First introduced in 1957.

FURTHER REFERENCE

For details on how the parody exception functions in France please see the Best Case Scenario for Copyright — Parody in France analysis prepared by Alexandra Giannopoulou on behalf of the Communia Association.

Read more at <http://www.communia-association.org/bcs-copyright>.

BEST CASE SCENARIOS FOR COPYRIGHT

Best Case Scenarios for Copyright is an initiative by COMMUNIA, presenting best examples of copyright exceptions and limitations found in national laws of member states of the European Union. We believe that, by harmonizing copyright exceptions and limitations across Europe, using as a model these best examples that are permitted within the EU law, the EU would reinforce users’ rights in access to culture and education.



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