



Polygraphs! I like our new looks, but you said it's a parody. How can you be so sure we're not any old copy?

Well, captain, it's in black and white, doesn't use any of the background settings or story devices of the original comic. And frankly we look almost nothing like the parodied!

But those landlubbing family lawyers, they might argue that the characters are still clearly recognisable!

How would it work otherwise? How could we be parodied if you can't use our image at all. What good would a copyright exception be if you can't copy?

Well, to be sure maybe we could dress up some models in our outfits and make pictures instead of drawings...

Impossible, I've only got one pair of trousers. Let's go and find the professor, I heard the law is changing anyway. By the way, I'm more worried about whether we clearly express an intent of humour.

A legal parody, Harrison and Eric Schrijver, 2016. Based on Tintin by Hergé.

Copyright doesn't just concern copying: any kind of adaptation of an existing image requires permission, even if that re-use modifies and transforms the original. Yet in contemporary visual art, appropriating existing images is very common. Many artists working today therefore expose themselves to legal action. One of the few exceptions to copyright, parody, can seem to offer a way out. Yet only a small number of cases will constitute a legally acceptable parody, as Luc Tuymans found out when he tried to defend painting after a news photo as a parody. For one, the image that is parodied has to be well known. The European Court of Justice has recently tried to simplify the legal definition of a parody. A parody does two things: 'first, to evoke an existing work while being noticeably different from it, and secondly, to constitute an expression of humour or mockery'. What does that mean, to be 'noticeably different'? Traditionally, many local courts have held that a parody can not involve any literal copying of the existing work. That means that any strategies like mash-up, sampling, 'détournement' and appropriation would not be allowed, not even in a parody. Whether these restrictions hold up, depends on how judges will interpret the European decision.

A legal parody, in Legal Advice for Artists, Eric Schrijver, 2016.

Legal
Advice
for
Artists