



2024 AIPPI World Congress – Hangzhou
Adopted Resolution
22 October 2024

Resolution

2024 – Study Question – Copyright

Defence of parody in copyright

Background:

- 1) This Resolution concerns whether third parties may without permission from the author or rights holder of an underlying work, use such copyrighted work to create a “parody”, without being liable for infringement and under which conditions.
- 2) This Resolution strives to find harmonised principles for the defence of parody, but intentionally does not define parody and may apply to related genres and defences, such as satire, caricature and pastiche.
- 3) This Resolution is limited to civil (private) law issues of copyrights. This Resolution does not address international private law issues.
- 4) 43 Reports were received from AIPPI’s National and Regional Groups and Independent Members providing detailed information and analysis regarding national and regional laws relating to this Resolution. These

Reports were reviewed by the Reporter General Team of AIPPI and distilled into a Summary Report (which can be found at www.aippi.org).

- 5) At the AIPPI World Congress in Hangzhou in 2024, the subject matter of this Resolution was further discussed within a dedicated Study Committee, and again in a full Plenary Session, following which the present Resolution was adopted by the Executive Committee of AIPPI.

AIPPI resolves that:

- 1) Under the conditions set out in this Resolution, in claims for copyright infringement, parody should be recognised as an exception, defence, or limitation.
- 2) Parody is a form of freedom of expression.
- 3) In claims for copyright infringement, parody, as an exception, defence, or limitation should be available in relation to all types of works.
- 4) Parody, as an exception, defence, or limitation to copyright:
 - i. must be recognisably different from the underlying work used in the parody.
 - ii. must include an element of humour or mockery or critique of the underlying work, on its author or on something else.
 - iii. must satisfy the three-step test reflected in Article 9(2) of the Berne Convention which is also embedded in TRIPS Agreement (Article 13) and which has also been incorporated to Article 10 of the WIPO Copyright Treaty (WCT).
 - iv. need not satisfy the minimum level of originality requirements for copyright protection.
 - v. need not acknowledge the copyright holder or author of the work used in the parody (no attribution requirement).
 - vi. does not require either permission from or remuneration to the rightsholder of the underlying work used in the parody.

- vii. must not mislead the public as to its nature or its author

- 5) Commercial exploitation of a parody should not be precluded per se.

- 6) The existence of a moral right of the author of the underlying work used in the parody shall not in itself be sufficient to prevent the application of the parody exception, defence or limitation.

- 7) Notwithstanding point 6, parody cannot justify the distortion, mutilation, or other permanent modification of an original work if it exists only in one physical embodiment.

- 8) A parody must be assessed objectively and the intent of the creator shall not be decisive in determining whether a parody should be recognised as a parody for the purposes of providing an exception, defence or limitation in the context of a claim for copyright infringement.