

## Media & Entertainment - France

### Cannes Film Festival image rights

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#### Introduction

#### Facts

#### Decision

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Protecting the Cannes Film Festival is an ongoing concern for its organisers. While the organisers naturally wish to see maximum press coverage of the event, they also wish to select partners that are authorised to associate themselves with their image, usually against payment of a fee.

In the absence of copyright protection of the event, and in view of the conditions established by case law regarding the use of a name and legal classification under trademark infringement, the organisers may find protection through an unfair competition claim.

A case brought before the Paris High Court illustrates the benefits of claiming unfair competition.

#### Facts

An online poker website offered participants in one of its tournaments the chance to win a trip to Cannes during the festival, and the possibility of walking up the steps of the Palais des Festivals to take part in an official event. To participate in the tournament, players had to pay an entry fee. The tournament was publicised by a banner on the site announcing "Red Carpet at the Cannes Film Festival", accompanied by presentations promoting "mounting the steps among the stars".

The poker website had entered into an agreement with a local agency for hotel rooms, transport and the provision of invitations, doubtless ignorant of the fact that the agency had not been approved by the association organising the Cannes Film Festival – the sole party authorised to give invitations to the festival, which are issued free of charge.

#### Decision

Petitioned by the organising association, the court dismissed the unfair competition claim due to the lack of any competitive relationship between the parties, but ruled against the website in respect of predatory commercial practices, noting that it had taken advantage of the reputation of the Cannes Film Festival to promote its tournament. The court also recognised that damage could be caused to the image of the festival because users of the website were led to believe in the existence of an official partnership. It also dismissed the argument based on competitions organised by Canal Plus, noting that it was an official partner of the festival and that the opportunity to win invitations was subject to no purchase requirement or payment and was approved by the festival.

The court also recognised the joint responsibility of the local agency, which it ordered – subject to financial penalty – to cease all trade in invitations for events organised within the context of the Cannes Film Festival. It also accepted (with a certain benevolence) application by the poker website for a guarantee against the agency in respect of all the judgments handed down, as the agency had been involved only in the sale of trips and invitations and did not take part in the commercialisation itself.

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