



I'm not paranoid. They just keep stealing my ideas!

All agents and media lawyers have experience of writers claiming that their ideas have – at one time or another – been used without their permission. Many independent producers, especially in the field of documentaries, claim that the risks of 'losing' ideas when pitching to broadcasters are considerable.

Is there reason to be paranoid? There is a proliferation of organisations that for a few pounds will register your work. You can also register it at the Library of Congress in the USA. As Sean Egan says on page 10, registration does not actually prove copyright because you could have stolen the material from someone else.

So what are the areas of concern and should writers go about their lives always looking over their shoulders? Basic understanding of copyright law and the law on confidentiality should give some comfort, arcane though some of it is. Awareness of practicalities, such as confirming in writing the main points of meetings and of phone calls, seems woefully rare in writers. Perhaps they are rightly anxious not to seem to paranoid, even when they are.

In my experience there are thankfully few provable cases of plagiarism by production companies and broadcasters though probably slightly more by writers. However, there are other areas that border on these issues that are of equal concern.

ScriptWriter will be covering the relationship between storyline, treatment and script in a number of articles (that started in the last issue with Tony Bicat's article). What needs to be explored is the relationship between the individuals involved, namely writer, storyliner, script editor, producer and director. Where does the work of one begin and end, and the work of another start?

The most frequent complaint – often unable to be substantiated although no less true for that – comes from writers who submit storylines to television series and serials, only to have their ideas rejected. Then a few months later, an episode appears that bears a remarkable resemblance to the storyline that was submitted.

Rejection is never fun and it is perhaps too easy to ascribe the subsequent accusations of plagiarism to bitterness. It is often the case that similar ideas are already in the pipeline but the rejected writer is rarely told that. So an atmosphere of mistrust gently permeates the world of the freelance scriptwriter and those to whom they must submit their work. This mistrust is bad for all concerned.

In the documentary field, I am assured by those who have worked for broadcasters, that teams of researchers explore every possible idea for a new series or new single documentary. When an independent producer offers a similar idea, it might be rejected for several reasons. Firstly the broadcaster might not want to work with that producer on that subject (or not at all). The same is true for writers submitting story ideas for drama.

Secondly, the broadcaster might well have liked to work with that person or company but since they had already done much of the research, they might prefer to keep it in-house. Even if they have done none of the research but simply had the idea, they might still prefer to keep it in-house.

Thirdly, the producer or broadcaster might feel that they want a different take on it from the writer and not be convinced of their ability to persuade the writer to see it their way, or not trust the writer to behave like a professional-writer-for-hire, especially if it is an idea that the writer

believes to be their own.

I know of several truly coincidental occurrences where two people came up with the same idea at the same time. Although there must be other similar examples, it is not appropriate to shrug off the problem.

The real problem is that there is not a great deal of respect within the industry and undoubtedly there are too many writers and independent producers chasing too few slots. Suspicion and paranoia are thus easy to come by. The cumulative sense that there is a lack of transparency tends to breed the most unhelpful form of discontent, not one that inspires writers to be more original and write even better, but one that tends to result in negative relationships where there should be positive and supportive ones.

I have been interrupted when pitching a client's project to be told that 'We have something just like that in development'. The immediate knee-jerk disappointment (since I was sure that the producer was the perfect producer for the project) should be followed by a courteous request for information about who is involved in the rival project and how far into development it is. A refusal to give away any information does not bode well but in most cases they are only too happy to tell you, to make sure that you do not suspect funny business.

The cases of producers or broadcasters wanting to dump a writer or independent producer, and ducking and diving to do so, need to be explored at the time of the firing. So do the instances of directors, producers or script editors rewriting scripts instead of allowing the original writer to do so. Not only is this bad practice (unless there are practical reasons, such as the writer won't or can't do it in the time), it leads to a creeping process whereby some proportion of the writer's fees and credits can be usurped. Recognition of everyone's contributions to this most collaborative of crafts is essential.

Reviewers are also to be criticized in that many film reviews fail to mention the writer's name, suggesting that the film really is only the director's. This is not good for the industry.

The Writers' Guild of Great Britain is looking into some of these issues and it is to be hoped that the broadcasters, the Directors' Guild and PACT will respond openly in an attempt to minimise the potential for damaged relationships. It is so important to establish that film and television drama is a collaborative process in which every individual has a positive role. Writers should not feel threatened by script editors (even those who write) and the director's 'possessory credit' ('a film by...') should be seen for what it often is, a slight to the collaborative process.

Directors should do work on the script. It is part of what they are paid as directors to do. It should not attract any of the writer's fees or credits, any more than the writer should receive a share of the director's fees or credits for all the scenes that went straight from page to screen without alteration.

It is for the director to elicit the best from the writer in their common interest but if the writer is given a chance and fails to deliver an acceptable rewrite after at least one set of detailed notes, then the contract should allow the project to move forward with another writer. We would all like to think that an original idea confers a special status but we cannot always know that it might only be original to us.

As Dr Johnson is supposed to have said when commenting on someone's manuscript: 'This is both good and original; but the part that is good is not original and the part that is original is not good.'

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