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Movieland's Greatest Racket

Platitudes about Plagiarism

by ROBERT LORD



THE PICTURE is finally finished and shipped to New York. All concerned in the production breathe a huge sigh of relief and gird up their

loins before attacking a new one. But the old battle is not yet over. Far from it. Especially if the picture happens to be in the nature of a success. Then, the plagiarism suits start rolling in.

Naturally if the picture has been based on a well-known stage play or novel, it is difficult to allege plagiarism. But when, as is frequently the case these days, the picture has been developed from an "original" idea of studio staff writers it means a chance at ready money for the thousands of hungry authors lurking about the outer edges of the motion picture business. Renewed hope for them and their equally numerous hungry confreres who disgrace the legal profession.

In a word, gentle readers, the allegation of plagiarism as related to the motion picture business has become a racket. Not even a high-powered racket but a mean, petty, sniveling nickel-and-dime swindle.

I am not competent to discuss the purely legal aspects of plagiarism except in the sketchiest fashion. But I do know that a ridiculously small percentage of all local plagiarism suits is decided in favor of the plaintiff. First of all, it is an immensely difficult charge to prove legally. Mere identities and similarities of plot do not suffice because there are only a very few basic plots in existence.

The plaintiff may allege truthfully enough that the motion picture resembles his story in essential plot structure. But the defendant alleges with equal truth that the plaintiff's story resembles a thousand other stories and motion pictures in essential plot structure.



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Many a plaintiff leaves the courtroom with no satisfaction other than the dubious one of having discovered that his "original" story is an old, honorable chestnut which has been told and retold innumerable times throughout the ages ever since Plautus or Terence swiped it from Aristophanes.

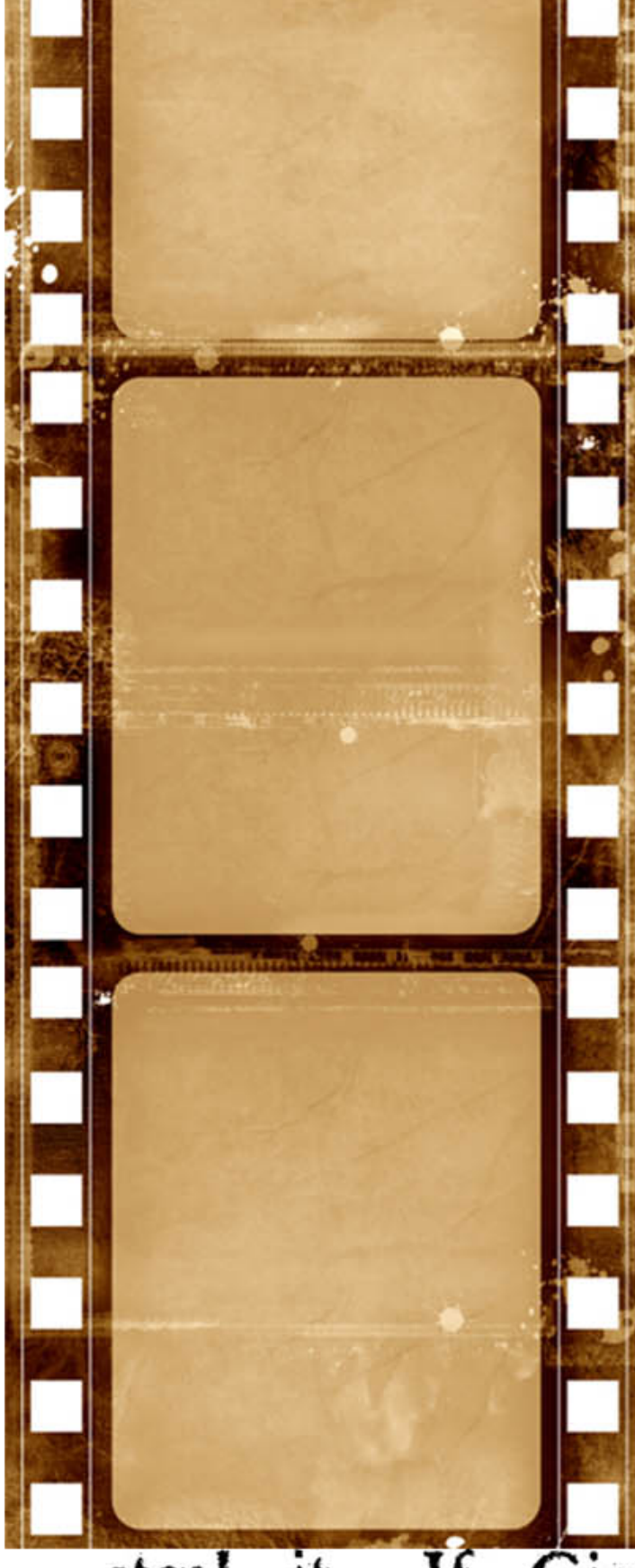
The plaintiff's lawyer, if he is at all cunning, will only allow the case to come to trial as a last resort. As a general rule, he knows that he has not a ghost of a chance of winning. His best bet is to make some kind of a settlement with the motion picture company out of court. If he blusters sufficiently and utters enough veiled threats to slap an attachment or injunction on the picture and interfere with its release, he knows that there is a possibility of his being bought off by the motion picture company. They may offer him a small sum to get out and stop annoying them. His most effective weapon is his nuisance value.

Oddly enough this seems satisfactory to many plaintiffs and their attorneys. They begin by furiously demanding thousands; know in their hearts that they will be fortunate to get hundreds; leave, mollified, with fifty dollars cash money, of which the attorney keeps thirty-five. The dignified lawsuit has degenerated into a petty shake down on a par with requests to buy advertising in dubious trade papers or Woolworth perfume smuggled in from Mexico. The poor, pitiful author could probably snag a larger net profit by standing outside a fashionable restaurant and cadging quarters from the affluent as they emerge.

One naturally wonders why the motion picture companies are willing to buy off the suit for even fifty dollars. Why do they not defy the plaintiff, let him go ahead and sue to his heart's content? The answer is quite simple. Any case in court is a tedious and fairly expensive pastime. The time and energy of highly paid company attorneys are expended. Production executives, directors and writers, who should be at the studio earning their salt, are hailed into court and sit around for hours waiting to be called as witnesses. There is rarely any question as to which side will win the suit, but the whole process is very expensive as compared with paying the plaintiff his nuisance value out of court.

It goes without saying that no major picture company deliberately steals a story. Material, and especially the type written by authors who bring plagiarism suits, is too abundant and cheap. Big producing companies are accustomed to spend from a quarter of a million to a million dollars on individual pictures. It simply does not

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stand to reason that they would steal a story which they could buy for somewhere in the neighborhood of fifteen hundred dollars.

In most instances the cost of the original story is an infinitesimal percentage of the total production cost. A few thousand dollars one way or the other is negligible. If the Standard Oil Company wants a new truck it doesn't

steal it. If Gigantic Pictures, Inc., wants a story, it is perfectly willing and able to pay the market price.

Of course there is always the possibility that some employee of the production company, in his efforts to impress his superiors, may plagiarize something that he has read or heard. But I assure you he won't do it a second time if his bosses ever catch him at it.

There are several variations of the plagiarism suit racket—some of them admirably clever, most of them quite stupid. I consciously refrain from going into detail on this score for fear of further inciting potential plagiarism-suitors.

Yet one variation of the racket is so simple, so beautiful and so effective that I must mention it: Enormous Productions, Inc., announces its intention to do a big story based on the life of Beaumarchais. The star, director, producer and scenario writer are mentioned in the publicity flash. Immediately all the boys living from typewriter-to-mouth dash into action. A quick visit to the nearest public library; a quick dip into the encyclopedia for a few salient facts about the life of Beaumarchais. Then the boys are ready to write their own original story which usually turns out to be a hasty rehash of standard plot number three.

But the name of the protagonist in the story is Beaumarchais and he is a Frenchman. There is also a king, a court and an episode or two boldly rephrased from the encyclopedia. The original story is then sent to Enormous Productions, Inc., by registered mail. In due course, the manuscript is read and reported to the producer of "Beaumarchais." The story that he is preparing also contains Beaumarchais, a king, a court and probably an episode or two culled from the encyclopedia.

The producer, having been bitten before, realizes that he is faced with an inevitable plagiarism suit after his picture is released. And so the author is sent for and dealt with at bargain

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prices before the picture is made. Sometimes a studio has to buy or buy off a half dozen such "original stories" before it feels easy in going ahead with the picture announced. Not a bad racket and much more genteel than selling phoney tickets for the Calcutta Sweepstakes.

A former favorite, now too well known to bring results, was the printing of one issue of a shoddy little magazine containing a published story similar in plot structure to that of a recently released motion picture. The author of the published story shows up at the studio accompanied by his sorrowful agent and indignant attorney. They clamor that great injustice has been done. They have just seen the picture "Hot Lips" and are horrified at its similarity to the story "Hot Love," written ten years ago by this eminent author, Joe Plopfuss, and published in the *Dakota Farmer's Kitchen Companion*, a copy of which the attorney waves under the noses of the studio officials.

To make the case air-tight, Joe Plopfuss remembers submitting this very story to this very studio years ago, before he had it published in the *Kitchen Companion*. What Joe and his pals neglected to mention was the fact that the story was written and the magazine printed (by a shyster printer) *after* Joe had seen "Hot Lips." This one used to be good for at least two grand every time it was pulled. But, like most good things here below, it has been worked to the point of exhaustion.

I can suggest no remedy nor see any end to the plague of plagiarism suits. As long as there are so few basic plots and so many more authors and lawyers than can possibly make an honest living, conditions will continue as they are now. In the meantime, an affidavit a day keeps boredom away.



Reinhardt stole 'Miasummer Night's Dream' from a script he submitted to Warner Brothers."