



Williams v. Crichton 84 F.3d 581 (2d Cir. 1996)

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CASE SUMMARIES

Williams v. Crichton

84 F.3d 581 (2d Cir. 1996)

INTRODUCTION

The plaintiff, Geoffrey T. Williams, brought a copyright infringement claim against the defendants, Michael Crichton, et al¹ (“Crichton”), for their use of Williams’ children’s books in both the novel and movie *Jurassic Park* (together, “*Jurassic Park* works”). The United States District Court for the Southern District of New York granted summary judgment in favor of Crichton, and Williams appealed.² The Court of Appeals affirmed, holding that the children’s books were not substantially similar to the novel and motion picture, as required to establish copyright infringement.³

FACTS

This is an action for copyright infringement under the Copyright Act of 1976.⁴ Between 1985 and 1988, Williams created and published four original copyrighted works of fiction for children: (1) *Dinosaur World*, published in 1985 (“Book I”); (2) *Lost in Dinosaur World*, published in 1987 (“Book II”); (3) *Explorers in Dinosaur World*, published in 1988 (“Book III”); and (4) *Saber Tooth: A Dinosaur World Adventure*, published in 1988 (“Book IV”) (together, “*Dinosaur World* books”).

I. WILLIAMS’ CHILDREN’S BOOKS

By November of 1988, Williams applied for and received a Certificate of Registration by the Register of Copyrights for each of the four books.⁵ Each of the books is an adventure story for children that takes place in “Dinosaur World,” described by Williams as “an imaginary present day man-made animal park for dinosaurs and other prehistoric animals where ordinary people . . . can, in presumed safety, visit, tour and observe the creatures in a natural but high-tech controlled habitat.”⁶ Books I and IV are simple stories of children visiting and touring Dinosaur

1. Also named as defendants in this case were Alfred A. Knopf, Inc., Random House, Inc., Universal City Studios, Inc., Amblin Entertainment, Inc., Steven Spielberg, and David Koepp.

2. Williams v. Crichton, 84 F.3d 581 (2d Cir. 1996).

3. *Id.*

4. 17 U.S.C. § 101 et seq. (1994). The case dealt solely with the copyright infringement claim. The court did not reach the issue of accounting for lost profits. See *Williams*, 84 F.3d at 582.

5. *Williams*, 84 F.3d at 582.

6. *Id.* at 582.

World and were not at issue in this case.

Book II, *Lost in Dinosaur World*, is thirty pages long, depicting a family trip to Dinosaur World, an adventure theme park and zoo.⁷ While the family goes on a guided tour of Dinosaur World on a train, they encounter a friendly brachiosaur eating leaves from the tops of trees.⁸ They are also nearly attacked by a flying nothosaur during their tour.⁹ Tim, the child character of the book, leaves the guided train and loses his way.¹⁰ He encounters many different dinosaurs, including the dangerous allosaur standing “over twenty feet tall” that chases him.¹¹ Tim eventually finds his way back to the train and returns safely from his adventure.¹²

Book III, *Explorers in Dinosaur World*, also thirty pages long, is intended for an audience of children approximately eleven years old.¹³ The story centers around two siblings, Peter and Wendy. Peter, a dinosaur enthusiast, is dismayed when his sister wins a radio station contest to spend a weekend exploring Dinosaur World’s newest attraction, Pangaea, the island of mystery in the middle of Dinosaur Sea.¹⁴ Peter convinces his sister to let him join her on her trip.¹⁵ When they arrive at Dinosaur World, they are met by a tour guide who shows them around.¹⁶ While crossing the Dinosaur Sea, the group is pursued by an elasmosaur, a large, serpent-like creature.¹⁷ Fortunately, they escape harm, but later another “terrible” and “massive” creature attacks them when their boat fails.¹⁸ They again are able to narrowly escape harm. When they arrive on Pangaea, the group encounters an apatosaur “bigger than a moving van.”¹⁹ The group continues to tour the beautiful island, where there are dangerous dinosaurs with sharp claws that hunt in packs, but are kept under control with special fences.²⁰ Later, the fences fail and the dinosaurs run loose on the island.²¹ After being chased by a pack of deinonychus, the group escapes via helicopter and departs from Pangaea.²²

II. JURASSIC PARK, THE NOVEL

Jurassic Park,²³ authored by Michael Crichton, is a 400-page novel written for an

7. *Id.*

8. *Id.* at 583.

9. *Id.*

10. *Id.*

11. *Id.* at 584.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* at 585.

20. *Id.*

21. *Id.*

22. *Id.*

23. MICHAEL CRICHTON, *JURASSIC PARK* (1990).

adult audience.²⁴ It is a complicated story full of many plot twists. In the book, unregulated genetic engineering firms are developing and implementing new technology in the field hoping for financial gains.²⁵ One firm, InGen, attempted to make a dinosaur zoo on the volcanic Isla Nublar by cloning dinosaurs using DNA extracted from the remains of blood-gorged mosquitos preserved in amber.²⁶ The park, which is set to open in a year, has fifteen different species of dinosaurs in a computer-controlled environment.²⁷ Several of the species are carnivorous, including the vicious tyrannosaurus rex and the velociraptors, medium-sized carnivores that hunt in packs.²⁸ Several problems, including the escape of some dinosaurs and the death of some workmen, have made investors nervous about the venture's success.²⁹ Hammond, InGen's founder, is forced to bring a team of specialists to the island to inspect the safety of the zoo.³⁰

The inspection team consists of a paleontologist, a paleobotanist, a mathematician, and a computer scientist.³¹ On the island, the group first encounters brachiosaurs eating from the tops of trees.³² After this innocuous incident, the group finds that the dinosaurs have overcome their genetically-induced infertility.³³ Hammond's grandchildren, Tim and Alexis, then arrive at the island.³⁴ The group then goes on a guided tour of the island. When a storm develops, the communications and electronics systems fail, and various dinosaurs, including the tyrannosaurus rex, attack the group.³⁵ The children and others eventually escape.

III. JURASSIC PARK, THE MOTION PICTURE

Jurassic Park,³⁶ the movie, is similar to the Crichton book, with the exception of a more ambiguous ending, different characters surviving, a love interest between two of the characters, and generally less developed characters, to name a few.³⁷

Williams claims that the *Jurassic Park* works infringe upon the children's stories that he authored and copyrighted.³⁸ Crichton moved for summary judgment, which the district court granted. Williams appealed, asserting that the district court erred in concluding that Williams' works were not substantially similar to the novel and movie

24. *Williams*, 84 F.3d at 585.

25. *Id.* at 585.

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. JURASSIC PARK (Universal 1993).

37. *Williams*, 84 F.3d at 586.

38. *Id.* at 581.

Jurassic Park.³⁹

LEGAL ANALYSIS

The primary issue before the court was whether the *Jurassic Park* works were substantially similar to the *Dinosaur World* books so that they constituted an infringement upon Williams' copyrighted material.⁴⁰ Williams conceded that Book I and IV were not infringed upon by the *Jurassic Park* works.⁴¹ The court, thus, focused on the similarities between Books II and III and the *Jurassic Park* works.⁴² The court found that: (1) the proper inquiry focused on whether the *Jurassic Park* works copied constituent elements of the *Dinosaur World* books that were original; and (2) the *Jurassic Park* works were not substantially similar to the *Dinosaur World* books, and did not constitute an infringement upon Williams' copyrighted works.⁴³

The Second Circuit found that to establish a copyright infringement claim, the plaintiff must first satisfy the two-prong test outlined by the Supreme Court in *Feist Publications, Inc. v. Rural Telephone Service Co.*⁴⁴ The *Feist* test requires a plaintiff to prove: (1) ownership of a valid copyright, and (2) copying of elements of the work that are original.⁴⁵ In the case at hand, the parties did not dispute that Williams obtained valid copyrights for his *Dinosaur World* books.⁴⁶ Therefore, in order to prevail, the court determined that Williams must show that Crichton copied the *Dinosaur World* books.⁴⁷

The court found that in the absence of direct evidence, copying is proven by showing that: (1) the defendant had access to the copyrighted work and (2) the substantial similarity of protectible material in the two works.⁴⁸ Since Crichton conceded that he had access to Williams' books, the court found that this case turned upon the second part of the test which is whether, in the eyes of the average lay observer, the *Jurassic Park* works were substantially similar to the protectible expression in the *Dinosaur World* books.⁴⁹

In addition, the court noted that if the similarity concerned only noncopyrightable elements of a plaintiff's work, or if no reasonable trier of fact could find the works

39. *Id.* at 586.

40. *Id.*

41. *Id.* at 583.

42. *Id.*

43. *Id.* at 588-9.

44. *Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991).

45. *Id.* at 361.

46. *Williams*, 84 F.3d at 587.

47. *Id.*

48. *Id.* (citing *Kregos v. Associated Press*, 3 F.3d 656, 662 (2d Cir. 1993), *cert. denied*, 114 S. Ct. 1056 (1994); *Laureyssens v. Idea Group, Inc.*, 964 F.2d 131, 139-40 (2d Cir. 1992)).

49. *Williams*, 84 F.3d at 587 (citing *Fisher-Price, Inc. v. Well-Made Toy Mfg. Corp.*, 25 F.3d 119, 123 (2d Cir. 1994)).

substantially similar, then summary judgment is appropriate.⁵⁰ The court acknowledged that it is a fundamental principle of copyright law that a copyright does not protect an idea, but only the expression of an idea.⁵¹ Similarly, “scenes a faire,” which are sequences of events that necessarily result from the choice of a setting or situation, also do not enjoy copyright protection.⁵² The court noted that when a work contains both protectible and unprotectible elements, the court must inquire whether the protectible elements, standing alone, are substantially similar.⁵³ It is only when the similarities between the protected elements of the original work and the allegedly infringing work are of small import quantitatively or qualitatively that the defendant will be found innocent of infringement.⁵⁴

Furthermore, the court noted that a determination of substantial similarity requires a detailed examination of the works themselves.⁵⁵ The court first summarized each work at issue, and then discussed the similarities between the two authors’ works. The court looked to such aspects as the concept and feel, theme and setting, time sequence, pace and plot, and the characters of both the *Dinosaur World* books and the *Jurassic Park* works.⁵⁶ Having reviewed both parties’ works in detail, the court found that nearly all of the similarities between the works arose from noncopyrightable elements.⁵⁷

The court reasoned that because children’s works often are less complex than those aimed at an adult audience, the total concept and feel of the two works differed substantially.⁵⁸ The court also reasoned that the *Jurassic Park* works were high-tech horror stories with villainous and gruesome bloodshed.⁵⁹ Books II and III of the *Dinosaur World* series, by contrast, were adventure stories and, although suspenseful in places, have happy endings. In addition, the threats and potential danger in Books II and III did not arise because of the evil of humans; rather, the threats exist because of the wild nature of dinosaurs and are intended to educate children about the behavior of these now-extinct creatures.⁶⁰ The court found that the total concept and feel of the *Jurassic Park* works were of a world out of control, while Williams’ *Dinosaur World*

50. *Id.* (citing *Walker v. Time Life Films, Inc.*, 784 F.2d 44, 48 (2d Cir. 1986), *cert. denied* 476 U.S. 1159 (1986)).

51. *Id.* (citing *Warner Bros. Inc. v. American Broadcasting Cos.*, 720 F.2d at 231, 239-40 (2d Cir. 1983)).

52. *Id.* (citing *Walker*, 784 F.2d at 50).

53. *Id.* (citing *Knitwaves, Inc. v. Lollytogs Ltd.*, 71 F.3d 996, 1002 (2d Cir. 1995)). *See also Fisher-Price*, 25 F.3d at 123.

54. *Id.* (citing *Rogers v. Koons*, 960 F.2d 301, 308 (2d Cir. 1992), *cert. denied* 506 U.S. 934 (1992)).

55. *Id.* (citing *Walker*, 784 F.2d at 49).

56. *Id.* *See also Walker*, 784 F.2d at 48; *Berkic v. Crichton*, 761 F.2d at 1292 (finding no Lanham Act violation of plaintiff’s screen treatment).

57. *Id.* at 588.

58. *Id.* (citing *Reyher v. Children’s Television Workshop*, 533 F.2d 87, 91 (2d Cir. 1976), *cert. denied*, 429 U.S. 980, (1976)).

59. *Williams*, 84 F.3d at 588.

60. *Id.*

is well under control.⁶¹

Further, the court found that any similarity in the theme and setting of the parties' works related to the unprotectable idea of a dinosaur zoo.⁶² The court held that once one goes beyond this level of abstraction, the similarity in themes disappears.⁶³ In addition, the court found that the settings of the parties' works were not substantially similar. Although both shared the setting of a dinosaur zoo or adventure park, with electrified fences and automated tours, these settings are classic scene a faire that flow from the uncopyrightable concept of a dinosaur zoo.⁶⁴

Examining the time sequence, pace, and plot of the parties' works, the court again found that there was no infringement.⁶⁵ The court reasoned that Book II took place during the day, Book III in a twenty-four hour period. By contrast, the *Jurassic Park* works involve a much large time line. Although the quick pace from scene to scene is similar in the works, the court agreed with the district court's conclusion that the pace, without more, did not create an issue of overall substantial similarity between the works.⁶⁶ The plots, or sequence of events, of the works likewise were not substantially similar because of the plot's "inherently subjective and unreliable" nature.⁶⁷

Finally, the court rejected Williams' notion that the characters of the two works were substantially similar. The court followed Judge Learned Hand's view that the less developed the characters, the less they can be copyrighted.⁶⁸ The court reasoned that since the characters in the *Dinosaur World* books were not substantially developed, especially compared to those in the *Jurassic Park* works, they were not protected.⁶⁹ The court held that the district court correctly concluded that the works were not substantially similar.⁷⁰

The court then answered Williams' concern that his books, written for children, deserve copyright protection as much as works created for adults.⁷¹ Williams feared that the authors of children's books everywhere will be stripped of the protection of copyright because adult book authors will be able to point to the greater complexity of their works as evidence that no infringement has occurred.⁷² The court replied by noting that the copyright law is to be applied uniformly across a variety of media and

61. *Id.*

62. *Id.* at 589.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.* (citing *Nichols v. Universal Picture Corp.*, 45 F.2d 119, 121 (2d Cir. 1930), *cert. denied*, 282 U.S. 902 (1931)).

69. *Williams*, 84 F.3d at 590.

70. *Id.*

71. *Id.*

72. *Id.*

audiences.⁷³ The court reasoned that the law takes Williams' concern into account by requiring the lay observer to focus on the similarities rather than differences when evaluating the work.⁷⁴ Only when the similarities are insubstantial or unprotectable will a claim fail.⁷⁵ The court concluded that Crichton did not copy the constituent elements of the *Dinosaur World* books that were original, and the two works were not substantially similar as to constitute copyright infringement.⁷⁶

CONCLUSION

The Second Circuit held that the proper inquiry focused on whether the *Jurassic Park* works copied elements of the *Dinosaur World* books that were original, and the *Jurassic Park* works were not substantially similar to the *Dinosaur World* books.⁷⁷ The court looked to different elements of the two works to determine whether there was a substantial similarity between them.⁷⁸ The court found that there was no infringement upon Williams' copyrighted works.⁷⁹ Indeed, the books and film were similar in many ways, but not to the extent required by law to support a claim for copyright infringement.

The decision leaves a high standard for plaintiffs to achieve in order to successfully win copyright infringement suits. Artists expanding on old ideas are protected by this decision in that it will be less likely for them to be found liable for infringement. Although it may become increasingly difficult for original artists to protect similar expressions of their ideas, the decision will grant artists like Crichton more freedom to explore and expand upon old ideas.

Kegan Ellery Greene

73. *Id.* See, e.g., *Smith v. Little Brown, & Co.*, 245 F. Supp. 451 (S.D.N.Y. 1965), *aff'd*, 360 F.2d 928 (2d Cir. 1966) (allegedly that adult audience work was infringed by children's work); *Rogers*, 960 F.2d 308, 312 (allegedly that photograph was infringed by sculpture); *Horgan v. MacMillan, Inc.*, 789 F.2d 157, 162 (2d Cir. 1986) (allegedly that ballet choreography was infringed by photographs of the ballet).

74. *Williams*, 84 F.3d at 590.

75. *Id.*

76. *Id.*

77. *Id.* at 589.

78. *Id.* at 590.

79. *Id.*

