



IP ITeaser 075:

Mormon mirrors Mirror

What does the musical *The Book of Mormon* have in common with the play *A Mirror*? Obviously, both are copyright works, each having various forms of copyright protection for different parts, e.g. literary, artistic, musical and dramatic. However, more importantly for present purposes, both works make use of the copyright works of third parties: in the case of *The Book of Mormon* there are some rather clumsy references to *Star Trek* and *Star Wars*, while in *A Mirror* some lines from Shakespeare are seamlessly interwoven into the fabric of the dialogue. The use of such third-party material gives rise to legally complicated and factually nuanced issues of fair use, caricature, parody and pastiche, which potentially provide islands of sanctuary in the turbulent seas of infringement. In a slightly different context, these defences arose when fictional characters were deployed to enliven the dining experience of punters (*Shazam Productions Ltd v Only Fools The Dining Experience Ltd* [2022] EWHC 1379 (IPEC)). Another potential defence arises if the original work is no longer protected by copyright due to it having expired (e.g. Shakespeare's corpus, but note the extended protection for *Peter Pan* conferred by the CDPA 1988 s 301 and Sch 6). Which brings us back to *A Mirror*, where the lead role in the current Almeida production, was played by Jonny Lee Miller, who also played Sherlock Holmes in the best adaptation of the consulting detective set in a modern milieu, *Elementary*, where Lucy Liu took the role of Dr Watson. Clearance for such use is more commonly needed than often thought – for example, even the use of *Happy Birthday* needs to be considered if one wishes to have another one.