

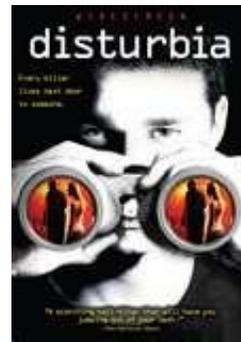
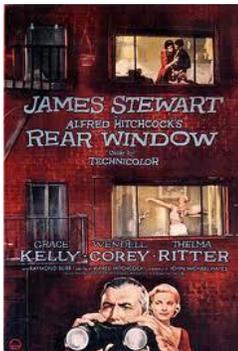
A Winthrop & Weinstine blog dedicated to bridging the gap between legal & marketing types.

[Is Universal Regretting Disturbia?](#)

Posted on November 11, 2010 by [Joy S. Newborg](#)

Is the 2007 film *Disturbia* a modern remake of Alfred Hitchcock's *Rear Window*? Even if it is, how many times have you seen a movie and said afterwards that it reminded you of being exactly like the film...

Disturbia is a film about a teenager who, while under house arrest, spies on his neighbors and comes to believe that one of them is a serial killer. Sound familiar to Jimmy Stewart's character in the classic thriller? But don't take my word, there have been many [commentaries](#) that *Disturbia* is an updated version of *Rear Window*, including *Disturbia*'s lead actor [Shia LaBeouf](#), who said that producer Steven Spielberg wanted to revamp *Rear Window*, and *Disturbia*'s Director [D.J. Caruso](#), who said that the *Rear Window* was "obviously" a big inspiration. Even the movie posters for these two films are strikingly similar.



So is this a case of copyright infringement or simply reusing a successful story line? Or is there something deeper? Sometimes, the devil is in the details....

Back in 1942, [Cornell Woolrich](#), a widely recognized author of suspense fiction, wrote a short story entitled [Murder from a Fixed Viewpoint](#), also known as [It Had To Be Murder](#). In 1953, Alfred Hitchcock and Jimmy Stewart's production company Patron, Inc. acquired to the rights to use the story and, along with Paramount Pictures, produced and distributed the film *Rear Window*. Mr. Woolrich contracted that he would reassign the same motion picture rights to Patron when he renewed the copyright in his story, but died before he could.



WINTHROP WEINSTINE

ATTORNEYS AND COUNSELORS AT LAW

Capella Tower | Suite 3500 | 225 South Sixth Street | Minneapolis, MN 55402
Main: (612) 604-6400 | Fax: (612) 604-6800 | [www.winthrop.com](#) | A Professional Association

In 1969, Mr. Woolrich's estate renewed the copyright in the story but instead of selling the motion picture rights to Patron, the estate sold the copyrights to Sheldon Abend for a mere \$650 plus 10% of all proceeds from any exploitation of the story. Why the estate sold the rights to Abend instead of to the owners of the film *Rear Window* is a good question, but its decision to do so started a lengthy battle between these two parties. When *Rear Window* was broadcasted on ABC television in 1971, Abend [sued](#) for copyright infringement claiming that the owners of the film no longer had the rights to the underlying story and so could not continue to exploit the film without his permission. Abend won. The court concluded that even though Woolrich's story had been incorporated into the film *Rear Window*, the story did not lose its own copyright, and continued exploitation of the film required a valid grant of rights in the underlying story. Soon after, in 1991 and 1992, the owners of the film, now Universal, entered into settlement and license agreements with Abend so that it could continue to exploit the film. We will get back to these agreements later on.

Now flash forward to 2007, when Universal Pictures and Spielberg produced and distributed the film *Disturbia*. Even though Woolrich's story, *Rear Window* and *Disturbia* have similar elements, themes and plots, does this arise to the level of copyright infringement? In my prior post [Life Line to the Bloodline](#), I mentioned that story ideas, themes and plots are not themselves copyrightable. A court agreed when it [dismissed](#) Abend's lawsuit against Spielberg for copyright infringement of Woolrich's story in regards to *Disturbia*. (Remember, Universal owns the copyrights to both *Rear Window* and *Disturbia*, and the court did not compare the two films to each other in making its determination, rather it compared the story to *Disturbia*.)

But just when many people thought that the window was closed on the case, Abend is trying to open one last door. And it may have a chance if the allegations in this new [lawsuit](#), which was filed on October 28, 2010, are accurate.

Remember those settlement and license agreements back in 1991 and 1992? Even when copyright does not protect someone's creative efforts, contract law may. Abend alleges that Universal, under the terms of the settlement and license agreements, agreed that it would not use any of the ideas and elements of the *Rear Window* story or film other than in connection with the exploitation of *Rear Window*, regardless if such ideas and elements are not protected by copyright. If true, Universal might have restricted itself from ever being able to use such un-copyrightable story ideas until Abend's copyright in the story expires, and violated such restrictions when it produced *Disturbia*.

Interestingly, I noticed that the lawsuit seems to be implying that there was also a breach of implied contract. Abend alleges that he approached Spielberg with the idea of producing a remake of *Rear Window*, that Spielberg "accepted the information, compensation was reasonably expected by Abend for any use of the *Rear Window* story and/or *Rear Window* film, and any use by the [defendants] was conditioned upon payment." It will be interesting to find out how the court will view this because in recent cases where this strategy has been used, and we're still waiting for the decisions of the courts as to how successful this strategy even is, the claimants offered more than just the mere idea of a remake of an existing film but original scripts or story outlines.

So far from being over, it is definitely a case to keep an eye on and see if in fact Universal agreed to more than they bargained for.

