Jason Bloom in Bloomberg Law: 'Sheeran Song-Theft Case Could Let Jury Hear for Itself, at Last'

By Jason P. Bloom | October 12, 2020

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Bloomberg Law quoted Haynes Boone Partner Jason Bloom in an article about whether a recent copyright win will prevent a jury from hearing Ed Sheeran's hit song "Thinking Out Loud" side-by-side with Marvin Gaye's "Let's Get It On," from which Sheeran allegedly stole.

Here is an excerpt:

But the Led Zeppelin case highlighted a path to let a future jury—in another fight Sheeran is having with different rightsholders—compare the sound recordings, something that had been effectively precluded because of the complex development of U.S. music rights.

The lawsuits against Sheeran and Led Zeppelin illustrate the value for plaintiffs of getting disputed songs played for a jury and illuminate an emerging legal backdoor that could for the first time let jurors hear records made decades ago—when artists could only register written notes and lyrics.

Led Zeppelin convinced the U.S. Court of Appeals for the Ninth Circuit in March to prevent a new trial that could have let a jury hear a 1968 recording of "Taurus" by a Los Angeles band called Spirit, who claimed the legendary British rock band stole its tune for the intro to its 1971 classic "Stairway to Heaven."

The U.S. Copyright Office agreed with the heart of the appeals court ruling: that the scope of a work's copyright protection is entirely defined by the copy of the work, or deposit, submitted for registration. But in a friend of the court brief on Led Zeppelin's behalf, it also said artists like Spirit can register decades-old sound recordings, even now, to protect elements not in the written registration.

Questions to Remain Unanswered?

Previously, courts haven't had opportunities to address the question, said copyright attorney Jason P. Bloom, who heads Haynes Boone's copyright practice.

"How many cases like that are filed, where you've got the real similarity in the sound recording but not the sheet music?" Bloom said, adding he didn't see a reason the Copyright Office suggestion would be incorrect.

To read the full article, click here.

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