

Wesley Lewis in World IP Review: Sound Decisions: Have the Courts Found Harmony on Music Copyright'

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PRACTICES Intellectual Property, Copyright

World IP Review quoted Haynes Boone Associate Wesley Lewis in an article about complaints from people in the music industry that the threshold for music copyright infringement has become distorted in recent years, reflecting a disconnect between music copyright law and creators.

Here is an excerpt:

Perhaps most contentious of all was a California jury's August 2019 decision to award \$2.7 million against Perry for infringing Christian rapper Flame's "Joyful Noise" on her 2013 hit "Dark Horse."

The musical elements in question consisted of an eight-note phrase in an instrumental beat. The decision was met with shock, with Perry claiming she had suffered a "miscarriage of justice," while one lawyer told WIPR at the time that the "test for music copyright infringement is fundamentally broken."

'Lowering of the bar'

According to Wesley Lewis, attorney at Haynes Boone, high-profile decisions like the one involving Perry represent a "real lowering of the bar with respect to the amount of expression necessary to constitute copyrightable subject matter."

That means, Lewis says, that musicians are "exposed to significant risk that they will be sued for infringement based on a portion of a work previously thought to be too small to be protectable."

Excerpted from *World IP Review*. To read the full article, click [here](#). (Subscription required)