

## Jason Bloom in Media Law Resource Center Newsletter: 'Lessons from the Nicki Minaj Copyright Judgment'

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**PRACTICES** Intellectual Property, Copyright, Intellectual Property Litigation

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On January 7, 2021, Tracy Chapman accepted a Rule 68 offer of judgment from Onika Tanya Maraj a/k/a Nicki Minaj, in a copyright infringement suit alleging that Minaj copied and distributed Chapman's song "Baby Can I Hold You" without a license. The Central District of California entered judgment in the offered amount of \$450,000 the following week, ending the case. Although the Rule 68 judgment is essentially a settlement and carries no precedential value, the court's earlier summary judgment ruling, as well as the amount of the settlement offer, several lessons for copyright practitioners and creative artists.

### Background

In 2017, Minaj agreed to work with artist Nasir Bin Olu ("Nas") on a remake of the song "Sorry."

At the time, Minaj did not realize that "Sorry" was a cover to Chapman's song "Baby Can I Hold You," but she learned soon after that the song was Chapman's. While Minaj had no intention of releasing the remake on an album without first obtaining a license from Chapman, she did experiment with the song in the studio and ultimately made a recording of the remake.

Minaj tried on several occasions, through representatives and even directly over Twitter, to convince Chapman to agree to license Minaj's use of "Baby Can I Hold You," but Chapman repeatedly refused. Accordingly, Minaj elected to leave the song off of her album "Queen," which was release in August 2018.

The day after "Queen" was released without the cover Chapman's song, New York DJ Funkmaster Flex ("DJ Flex") aired Minaj's cover on his radio show. It is unclear how DJ Flex obtained the song. Both he and Minaj denied that Minaj provided the song to him, but text messages between the two, as well as Minaj's testimony, at least indicate that she had proposed sending him the song to play on his show. Minaj testified that she initially wanted the song played on the radio so that Chapman could hear it and consider licensing its release, but that she later had a change of heart and elected not to go forward. DJ Flex testified that the song was provided to him by one of his bloggers.

Chapman sued, alleging that Minaj infringed her copyright in the song in two respects: (i) by creating the cover without permission; and (ii) by distributing the song to be played on the radio. The Court found in Minaj's favor on the first point but found there to be triable issues as to the second.

Excerpted from the Media Law Resource Center newsletter. To read the full article, click [here](#).  
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