

For the topic of this essay, I've chosen to explore the world of intellectual property infringement, with a particular focus on copyright infringement found within the music industry. To begin, we must understand what exactly copyright infringement is, and how it relates to the world of intellectual property rights, and review a few cases that relate.

After partaking in a business law course during my time at Jackson College, I've learned the different types of protected intellectual property rights, how they are protected, and why. To give a short overview of intellectual property rights outside of copyrights, we begin with trademarks.

Trademarks are distinctive features such as words, symbols, sounds, designs, and other characteristics that identify the manufacturer as the source of said particular good to distinguish it from competitors and products alike. The Lanham Act of 1946 protects trademarks at the federal level that have been registered through the U.S. Patent and Trademark Office, which resides in Washington, D.C.

Another form of intellectual property rights that is considered protected are patents, which also must be registered with the U.S. Patent and Trademark Office. Patents are a legal grant from the government giving the inventor of said product the exclusive right to make, use, and sell such an invention for, most commonly, a period of 20 years. Many famous patents include "Electronic Device", better known as Apple's patent for the first iPhone, "Apparatus for Production of Three-Dimensional Objects by Stereolithography", aka, the 3D Printer, and "Peer to Peer Information Exchange for Mobile Communications Devices", aka Bluetooth.

As for copyrights, this form of intellectual property rights is granted by federal statute to the author/originator of certain literary and artistic productions. The Copyright Act of 1976 gives

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copyright owners exclusive rights to their creations covered under the legislation. For such byproducts to be considered as ‘protected expression’ under said 1976 act, they must fall within one of the following categories as an original creation: literary works, musical works, and accompanying words, dramatic works and accompanying music, pantomimes and choreographic works, pictorial, graphic, and sculptural works, motion pictures and other audiovisual works, sound recordings and architectural works. Under Section 102 of The Copyright Act of 1976, there are a few notable exclusions that would not be covered as protected expression, such as unoriginal expressions and common knowledge.

For the purpose of this essay, we will focus primarily on copyright infringement, the unauthorized use of one’s protected expression that is not the copyright owner. However, like all else in the world of law, there are certain exemptions to every principle. A few common exemptions to copyright infringement include quotes from journalists and the Press, and in certain instances, educational purposes.

Therefore, we must look into a few recent cases in which copyright infringement has been not only a notable issue but a legal one as well. The most recent case I’ve chosen to reference is actually still too recent to find any relevant legal and court documents, so we will review an older case later on. Nevertheless, the Beastie Boys have sued the parent company of Chili’s as of late for using one of the group’s songs, “Sabotage” without permission from the group (CBS News). Being dated from only this month, of this year, I am sure it will be quite a while before the case even goes to court, however, it is important to note that they’d certainly had standing to sue in this instance.

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Perhaps Brinker International, the parent company of Chili's, will try to argue justification for using a clip of the song within a commercial advertisement under pretenses such as using a public clip or something of that nature. Nevertheless, I do believe that one day Brinker International will be found liable to pay damages to the Beastie Boys for copyright infringement. I say this because this is quite a common occurrence within the music industry. There are various cases of one artist suing another corporation, or even another artist on the grounds of copyright infringement.

Some other notable past cases include when rapper Marcus Gray sued Katy Perry for using clips from his song "Joyful Noise" when publishing her song "Dark Horse", requesting \$2.78 million in damages. The court awarded Gray said damages in the year 2019, but the judge would later overturn the previous decision in 2020 after an appeal claiming insufficient evidence was submitted (ABOU NAJA).

Another interesting case includes when Apple sued Microsoft in 1988 for implementing certain graphical interfaces found on the Macintosh system of the time, into the newly released Windows 2.0, in which something just bizarre happened. Ironically, Apple had in fact given Microsoft permission to use said software, however, their legal department was not notified. In the end, the court sided with Microsoft, and no matter how many times Apple attempted to submit an appeal, the court remained consistent with its previous decision.

Yet another case revolving around copyright infringement I'd like to touch on would be when artists Pharrell Williams and Robin Thicke were sued by the family of music legend Marvin Gaye for using clips of his song "Got to Give It Up" within their song "Blurred Lines". The hit single, "Blurred Lines" was released in 2013 with the artists profiting upwards of a dozen

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million in sales, however, Marvin Gaye's 1977 song "Got to Give It Up", seems far too close to the hit for this to just be coincidence.

After listening to both songs for myself, I can certainly hear the resemblance, it sounds as if the newer song was a sped up version of the same exact beat from Gaye's song. Williams and Thicke also inserted higher-pitched adlibs and modified the song to an overall higher pitch, although it also expresses that even the onomatopoeias and words themselves are incredibly similar.

As for copyright infringement as a whole, a common misconception is that the copyrighted work must be completely and entirely the same to constitute infringement of the owner's intellectual property, however, this is not the case. See, even using such material that is similar in a potentially deceptive or harmful way can also be considered copyright infringement. Marvin Gaye, having died April 1st, 1984, is not around to defend his name, nor file a suit. Nevertheless, had he been alive, royalties would certainly have been due considering the immense similarity between the songs, and the newer artists profiting so heavily from it. Furthermore, Pharrell Williams has been known to publicly speak about how deeply he was inspired by Gaye, and how he'd even composed the song "Blurred Lines" whilst thinking of Marvin Gaye and his music (Ethics Unwrapped).

Nevertheless, after a 7-day trial, a jury found both Pharrell Williams and Robin Thicke, as well as others associated with the song "Blurred Lines", guilty of copyright infringement of Marvin Gaye's 1977 song "Got to Give It Up". His three children, Frankie Christian Gaye, Nona Marvisa Gaye, and Marvin Gaye III, fought hard for their father, and their families' ownership of his music. The court awarded the Gaye heirs and estate \$7.4 million in damages, which is still

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the largest amount in damages ever awarded by the court in the music industry. In the end, the actual damages paid were brought down to \$5.3 million in damages, and 50% of all future royalties correlating with the song “Blurred Lines” are to be paid to the Gaye family (Pandora).

Conclusively, I support the decision made by the jury and court and am glad it settled the way it had. I personally was a fan of the song for years, unaware of the injustice it was doing to not only another artist but an entire family. However, after conducting such immense research, I’ve learned it is unfortunately quite common for copyright infringement to happen within the music industry, and in a way, it can be a never-ending legal battle if you allow it. All in all, it was relieving to learn that the Gaye heirs were not only awarded in damages but will continue to profit off of that song, as they rightfully deserve.

Chronicles of AP

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