

## MEDIA

# ‘Blurred Lines’ Infringed on Marvin Gaye Copyright, Jury Rules

By **BEN SISARIO** and **NOAH SMITH** MARCH 10, 2015

For the last year and a half, the music industry has been gripped by a lawsuit over whether Robin Thicke’s 2013 hit “Blurred Lines” was merely reminiscent of a song by Marvin Gaye, or had crossed the line into plagiarism.

A federal jury in Los Angeles on Tuesday agreed that “Blurred Lines” had gone too far, and copied elements of Gaye’s 1977 song “Got to Give It Up” without permission. The jury found that Mr. Thicke, with Pharrell Williams, who shares a songwriting credit on the track, had committed copyright infringement, and it awarded more than \$7.3 million to Mr. Gaye’s family.

Nona and Frankie Gaye, two of Marvin Gaye’s children, are to receive \$4 million in damages plus about \$3.3 million of the profits earned by Mr. Thicke and Mr. Williams. The decision is believed to be one of the largest damages awards in a music copyright case. In one of the few comparable cases, in 1994, Michael Bolton and Sony were ordered to pay \$5.4 million for infringing on a 1960s song by the soul group the Isley Brothers.

Since the “Blurred Lines” suit was filed in August 2013, while the song was still No. 1, the case has prompted debate in music and copyright circles about the difference between plagiarism and homage, as well as what impact the verdict would have on how musicians create work in the future.

Mr. Thicke’s lawyers had argued that the similarity between the songs — both are upbeat dance tunes featuring lots of partylike atmospherics — was slight, and had more to do with the evocation of an era and a feeling than the mimicking of specific musical themes that are protected by copyright.

But speaking to reporters after the verdict was announced, Richard S. Busch, a lawyer for the Gaye family, portrayed the ruling as a refutation of that view.

“Throughout this case they made comments about how this was about a groove, and how this was about an era,” Mr. Busch said. “It wasn’t. It was about the copyright of ‘Got to Give It Up.’ It was about copyright infringement.”

Neither Mr. Thicke nor Mr. Williams was in court on Tuesday. But in a joint statement, they said that “we are extremely disappointed in the ruling made today, which sets a horrible precedent for music and creativity going forward.”

Howard E. King, a lawyer for Mr. Thicke and Mr. Williams, said that his clients were considering their legal options but he declined to be more specific. (Noting the fame and fortune of Mr. Thicke and Mr. Williams, however, Mr. King — a wry voice inside and outside of the court — said that the verdict “is not going to bankrupt my clients.”)

The jury decided that while “Blurred Lines” infringed on the copyright of “Got to Give It Up,” Mr. Thicke and Mr. Williams had not done so willfully. Clifford Harris Jr., better known as T. I., who contributed a rap in the song, was found not liable. According to an accounting statement read in court and attested to by both sides, “Blurred Lines” has earned more than \$16 million in profit.

The case was unusual not only for its large damages award but for the fact that it reached the level of a jury verdict at all. Music executives and legal experts said that while accusations of plagiarism — and accompanying demands for credit and royalties — are common in the music industry, it is rare for a case to progress so far.

“Music infringement claims tend to be settled early on, with financially successful defendants doling out basically extorted payoffs to potential plaintiffs rather than facing expensive, protracted and embarrassing litigation,” said Charles Cronin, a lecturer at the Gould School of Law at the University of Southern California, who specializes in music copyright.

The eight jurors in the case were instructed by the judge, John A. Kronstadt of United States District Court, to compare “Blurred Lines” and “Got to Give It Up” only on the basis of their “sheet music” versions — meaning their fundamental chords, melodies and lyrics, and not the sounds of their commercial recordings.

That led to several days of esoteric analysis by musicologists for both sides, whose testimony was often vociferously objected to by the lawyers. The disputes involved passages as short as four notes, as well as mash-ups pairing the bass line of one song with the vocals from the other.

Yet the case also had plenty of star power and revelations about some of the more unseemly practices of the music business. As part of his testimony, Mr. Thicke performed a piano medley of “Blurred Lines” and tracks by U2, Michael Jackson and the Beatles in an effort to show how easily one song could be shown to sound like another.

He also said that he had been high on drugs and alcohol throughout the recording and promotion of “Blurred Lines,” and that while he claimed a songwriting credit on the track, it was Mr. Williams who had created most of it.

“The biggest hit of my career was written by somebody else, and I was jealous and wanted credit,” Mr. Thicke testified.

As news of the ruling spread Tuesday afternoon, some legal experts expressed worry about the precedent it set. Lawrence Iser, an intellectual property lawyer in Los Angeles who was not involved in the case, called it “a bad result.”

“It will cause people who want to want to evoke the past to perhaps refrain from doing so,” Mr. Iser said. “Rather than helping to progress the arts, it is a step backward.”

For the family of Marvin Gaye — who died in 1984 — the jury’s verdict was welcome. In one of the twists of the often complicated case, Mr. Thicke and Mr. Williams sued first, seeking a declaration from a judge to protect them against infringement claims that they said had been made privately by the Gaye family. Nona and Frankie Gaye quickly countersued.

When the verdict was read on Tuesday, members of the Gaye family —

who were present at court throughout the trial — exulted and shed tears of joy.

“I’m really grateful,” said Janis Gaye, Marvin’s former wife and the mother of Nona and Frankie Gaye. “I hope people understand that this means Marvin deserves credit for what he did back in 1977.”

***Correction: March 13, 2015***

*An article on Wednesday about the copyright infringement trial involving the song “Blurred Lines” referred imprecisely to the damages awarded to the family of Marvin Gaye. The family had the option of choosing \$7.3 million in actual damages or \$9,000 in statutory damages; they could not collect both.*

Ben Sisario reported from New York and Noah Smith from Los Angeles.

A version of this article appears in print on March 11, 2015, on page B1 of the New York edition with the headline: Hit Single Plagiarized 1977 Song, Jury Rules.