

-AHOURAIAN LAW-

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Did the “Blurred Lines” jury make a mistake?

On March 10th, a jury ordered Robin Thicke and Pharrell Williams pay Marvin Gaye’s estate \$7.4 Million for infringing on the copyright to Marvin Gaye’s 1977 hit song “You Got It” when they wrote and released the \$16 Million “summer hit” Blurred Lines. Oddly, the jury did not impose liability on T.I. (Clifford Harris, Jr.), who co-wrote the song (and co-owned the copyright), and Interscope Records, UMG Recordings, Inc., Universal Music Distribution, and Star Trak Entertainment (together, the “Labels”), who manufactured, licensed, distributed, and sold the song. Not surprisingly, a week later, the Gaye estate appealed, moving the court to amend the jury’s verdict to impose liability on T.I. and the Labels.

What’s interesting is that copyright infringement cases are decided by a jury, not a judge. Decisions by a jury do not establish law, only decisions by courts do. So it is always possible that a jury can make a decision that is not consistent with the law, as arguably was the case here. There is a host of case law that says that any member of a distribution chain can be sued and held liable for copyright infringement.

In fact, as a matter of law, the court had stated during trial, “[I]f you establish infringement and it’s undisputed that a Universal entity or entities distributed the recording, then there would be liability.” (See *id.* at 165:6-8). However, the jury decided otherwise, and chose not to hold T.I. and the Labels liable. In their appeal, the Gaye family argued that the jury instructions were flawed, resulting in a flawed verdict, and that because the verdict was inconsistent with well established copyright laws, it had to be amended to include all infringers, including T.I. and the Labels. They asked the judge to rule that T.I. and the Labels are directly liable for the infringement.

This week attorneys for T.I. and the Labels filed an opposition, arguing that the court can’t rule that T.I. and the Labels are directly liable because “[o]nce a jury has decided an issue, a court may not “declare” the opposite on that same issue without violating the prevailing parties’ Seventh Amendment right to a jury trial.”¹ In their opposition, attorneys for T.I. and the Labels convincingly point to precedence that explicitly rules that “courts have no power to alter jury verdicts simply because they are legally inconsistent.”² They further argued that if the judge does grant the requested declaratory relief on grounds that the jury instructions were flawed, as the Gaye estate claims, then that would entitle Thick and Williams to a new trial as well! This could start to get interesting.

These matters will be decided at the next hearing, on June 29th, 2015. Mitra Ahouraian will continue to report and provide legal analysis on the case.

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If you’d like more information about this topic, or to schedule an interview with
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¹ Williams, Thicke et al. v. Gaye et al. (2014), COUNTER-DEFENDANTS’ OPPOSITION TO COUNTER-CLAIMANTS’ JOINT POST-TRIAL MOTION FOR DECLARATORY RELIEF

² Zhang v. Am. Gem Seafoods, Inc., 339 F.3d 1020, 1035 (9th Cir. 2003)