

Copyright Infringement Suit for the song “Stairway to Heaven”

(A FACTUAL ANALYSIS)

Parties-

- Plaintiff- **Michael Skidmore** (a trustee for the late Randy Wolfe aka Randy California- Spirit rock band’s guitarist and the composer of the song Taurus (1967))
- Defendants- Led Zeppelin’s lead singer Robert Plant and lead guitarist Jimmy Page

Issue-

Whether *Led Zeppelin* stole the “opening chords” for their 1971 song “Stairway to Heaven” the critical guitar riff from *Spirit*’s song, ‘Taurus’ after judge notes ‘substantial’ similarities between the two songs.

Issue of Law-

Copyright Infringement.

Court- Central District of California

Stages-

- Case first filed in 2014, in an attempt to block the re-release of Stairway to Heaven.
- Gary Klausner, a U.S. district judge, ruled that the two songs — "Stairway" and Taurus's 1968 hit "Spirit" have "enough similar protectable expression" to prompt a trial beginning May 10th. “While it is true that a descending chromatic four-chord

progression is a common convention that abounds in the music industry, the similarities here transcend this core structure”, the Judge said.¹

- Led Zeppelin to face a jury trial after June 14 (as trial delayed)

CONTENTIONS

Plaintiff-

Page and Plant would have heard Taurus when Spirit and Led Zeppelin were on tour together in the late 1960s, and that it was then directly copied on Stairway to Heaven without ever crediting Wolfe.

Plaintiff’s attorneys have suggested that they would settle if the band pays Skidmore \$1 with a songwriting credit of “Stairway to Heaven,” to Randy California.

Spirit’s lawsuit seeks an injunction to prohibit a scheduled reissue of Led Zeppelin’s albums that have been completely remastered by guitarist and producer Jimmy Page.

The lawsuit also sought an injunction against the release of any additional albums containing the song “Stairway to Heaven”

Defendants-

In a six-page declaration filed with the court, Page said he didn’t hear, or had even heard of, the 2-minute, 37-second “Taurus” until two years ago. He also claimed that that he has no memory of seeing Spirit perform in a concert.

Zeppelin’s lawyers insist that the alleged similarities come from a common musical ground that’s centuries-old, and therefore falls outside of copyright protection.

¹ Ruling available at- <https://www.documentcloud.org/documents/2800142-Gov-UScourts-Cacd-617820-159-0.html#document/p1>

Present view-

- Judge's ruling- A trustee can only get 50% of any damages awarded. The continued royalties generated by Stairway to Heaven means that a large amount is at stake.
- The performance and publishing worth of LED ZEPPELIN's "Stairway to Heaven" is estimated to be over \$560 million, at present as the album America's third biggest-selling album of all time, Led Zeppelin IV.
- The case may have wider implications across the music industry because of the length of time that has passed since the song was written. As the case is from nearly 50 years ago.
- LED ZEPPELIN could quash their entire copyright infringement lawsuit over their 1971 classic "**Stairway to Heaven**" for "1 dollar". The trust is hoping to not only win a monetary judgment, but also secure a writing credit for **Randy California** for the same.

Some of the restrictions for the upcoming lawsuit that may act in **Plant** and **Page's** favor:

- The only version of "**Taurus**" that will be allowed to be played during the trial will be those that were filed with the copyright office in 1967. Other versions that the plaintiff's lawyers wanted to present that, presumably, showed the similarities between guitar passages even better, are now off limits.
- The expert's written opinions that were to be submitted at trial that were based on the disallowed recordings have been rejected. The plaintiff's lawyers have five days to submit new reports based only on the allowed recordings.
- All testimony on LED ZEPPELIN's history of plagiarism is barred. The only evidence that will be allowed will be two quotes made by Jimmy Page, himself, in magazine articles on how he wrote music.

- There will be no testimony on the drinking or drug habits of the members of LED ZEPPELIN.
- There will be no testimony on the wealth of the members of the group.

VERDICT

After hard pressed arguments by both counsels, Led Zeppelin won the copyright lawsuit that claimed they had plagiarized the music to their most celebrated song, "Stairway to Heaven." The jury determined that the lawyer representing the estate of late guitarist Randy Wolfe, who played with the group Spirit, did not prove that the hard rockers lifted the song's intro from Spirit's 1968 instrumental "Taurus." Irrespective of similarities in the sound recordings, the case was decided based on the only protectable aspect – the musical composition of "Taurus" and *not* the sound recording. During deliberations, the jurors asked to see clips of each expert rendition more than once. Ultimately, the jury returned a unanimous verdict in favor of Led Zeppelin.

APPEAL

The battle over "Stairway to Heaven" is not completely over as Spirit's attorney filed an appeal with a federal court to argue the June verdict that sided with Led Zeppelin in the copyright infringement case. In a 90-page brief filed Wednesday at the United States Court of Appeals for the Ninth Circuit, the attorney representing guitarist Randy (California) Wolfe's estate argued that a series of "erroneous" jury instructions were to blame for the unanimous verdict siding with Led Zeppelin in the matter.

CONCLUSION

Notwithstanding the appeal, the *Led Zeppelin* case emphasizes the conception that diverse aspects of a whole song, particularly the musical composition, the instrumentation and the concluded recording, each are question to analysis in a probable copyright infringement claim, and the analysis can speak different outcomes in claims of

infringement. Originality of any piece of work is a subjective matter and difficult to determine.

The complexities involved can be explained by a simple example- Robert Johnson Blues (1940s) was an influencer to BB King Blues (1960s) which in turn influenced Jimmy Hendrix, Eric Clapton, Led Zeppelin, Deep Purple – Rock & Blues (late 1960s) which in turn influenced the various rock, alternative rock, grunge rock bands that we see today. Given the basics of music will always remain the same, it is imperative that future musician will always be inspired by something done in the past. If the formers start suing the latter basis slight inspiration, there will be plethora of never ending Copyright Litigations which will never cease to end. Thus, the true test of Copyright is the principle of “substantial reproduction” wherein the subject of copyright dispute should not be identical or so deceptively similar that to an average ear, it appears to be a copy.

Led Zeppelin in the present case clearly escaped infringement allegations due to the following and widely known doctrine of Copyright Law as held in various Judicial fora across the world and reiterated in an Indian Judgment-***The Gramophone Co. of India v. Super Cassettes Industries Ltd. (2010) Delhi H.C. CS(OS) Nos.1625/1999 & 399/2005-***

“The limited rights conferred by Section 14 (e) on the owner of copyright in a sound recording (viz. the exclusive right to make other sound recording embodying it; to sell or hire any copy of the sound recording; or to communicate the sound recording to the public) harmonizes with the rights which vest in the owner of the primary literary, dramatic and musical work utilized to make a sound recording. The owner(s) of copyright in the literary, dramatic and musical works can make or authorize the making of a new sound recording by utilizing the same literary, dramatic or musical work which may earlier have been utilized for making an earlier sound recording. This right is not abridged or taken away by the said provision.”

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