



COPYRIGHT PLAINTIFFS MAY EARN DAMAGES BEYOND THE THREE-YEAR LIMITATIONS PERIOD, PER THE SUPREME COURT

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On May 9, 2024, the United States Supreme Court issued an opinion allowing copyright plaintiffs to receive damages for infringement outside of the Copyright Act's three-year limitations period.

The Copyright Act requires copyright owners to bring a claim of infringement within three years of its accrual. 17 U.S.C. § 507(b). Prior to today's opinion, the Circuit Courts of Appeals were split on whether plaintiffs are entitled to monetary damages incurred outside of the three-year period, assuming the infringement claim is timely filed. The Supreme Court's answer to that question is an affirmative yes – a major win for copyright owners.

The plaintiff in *Nealy, et al. v. Warner Chappell Music, Inc., et al.* sued Warner Chappell Music and others for copyright infringement after a song recorded and released by the plaintiff's former music recording venture was interpolated into Flo Rida's song, "In the Ayer," without the plaintiff's consent. "In the Ayer" was a major hit upon its release and was licensed for use in popular television shows. Additionally, other songs released by the plaintiff's company ended up in music later released by the Black Eyed Peas and Kid Sister. While the District Court determined that the plaintiff's claims were timely filed, the issue on appeal was whether the plaintiff could recover all damages incurred from the infringement, some as far back as ten years, or if he was limited to only the damages incurred the three years prior to filing the claim.

The majority opinion, delivered by Justice Kagan, held that "a copyright owner possessing a timely claim for infringement is entitled to damages, no matter when the infringement occurred." After this holding, successful copyright infringement plaintiffs may be awarded damages from infringing activities from as long as decades prior, so long as the claim was timely filed.

Notably, the Court did not address the "discovery rule," which provides that plaintiffs may assert copyright infringement claims within three years of the plaintiff discovering the alleged infringement, even if the infringing activities occurred more than three years prior. As the parties in this case did not argue that question on appeal, the Court assumed, without making a decision, that the discovery rule applied in this case and the plaintiff's claims were timely filed.

SOURCES:

Nealy v. Warner Chappell Music, Inc., 601 U.S. ____ (2024) (available at https://www.supremecourt.gov/opinions/23pdf/22-1078_4gci.pdf)