

Laws v. Sony Music Entertainment, Inc.

448 F.3d 1134 (9th Cir. 2006)

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Plaintiff Debra Laws brought suit against defendant Sony Music Entertainment, Inc. ("Sony") for misappropriating her voice and name in the song "All I Have" by Jennifer Lopez and L.L. Cool J. The two claims relevant to this appeal were common law claim for invasion of privacy for the misappropriation of Laws' name and voice and a claim for misappropriation of Laws' name and voice for commercial purpose under California Civil Code § 3344. The suit was originally brought in the Superior Court of California, but Sony removed the case to the United States District Court for the Central District of California. Sony filed a motion for summary judgment, which the district court granted, ruling that both of Laws' misappropriation claims were preempted by the Copyright Act. Laws filed a timely appeal.

In 1979, Laws entered into a recording agreement with Elektra/Asylum Records ("Elektra") to produce master recordings of Laws' vocal performances. In 1981, Laws recorded the song "Very Special," which was released on Laws' album on the Elektra label. Elektra copyrighted the song a year later. In 2002, Elektra's agent, Warner Special Products, Inc., entered into an agreement with Sony to grant Sony a non-exclusive license to use a sample of Laws' recording of "Very Special" in the song "All I Have," performed by recording artists Jennifer Lopez and L.L. Cool J. Warner did not seek Laws' permission before it released the disc and video. "All I Have" was extremely successful and at one time was the number one song in the United States.

Because Sony does not argue that the Copyright Act preempts common law privacy actions, the only issue before the Court of Appeals was whether the act preempts Laws' right of publicity state claim. The Court used a two-part test to determine whether the Copyright Act preempted a state law claim: that the subject matter of a right of publicity claim comes within the subject matter of copyright, and that the rights asserted under California law are equivalent to those created under the Copyright Act.

The court first analyzed whether the subject matter of Laws' misappropriation claim was within the subject matter of the Copyright Act. The court concluded it was. The Copyright Act identifies the works of authorship that constitute the "subject matter" of copyright, which includes "sound recordings." Laws contended that the recording of "Very Special" was a copyrighted sound recording fixed in a tangible medium of expression. However, Laws claimed the use of her voice in "All I Have" was an unauthorized duplication of her vocal performance of the song "Very Special." The court concluded that federal copyright law preempted claims alleging misappropriation of one's voice when the entirety of the allegedly misappropriated vocal performance is contained within a copyrighted medium. Based on this analysis, the court concluded that Laws' cause of action was within the subject matter of copyright.

The court also held the rights Laws asserted under California law were equivalent to the rights protected under the Copyright Act. To satisfy the "equivalent rights" part of the preemption test, the alleged misappropriation must be equivalent to rights within the general scope of copyright as specified by § 106 of the Copyright Act. Section 106 provides a copyright owner with the exclusive rights of reproduction preparation of derivative works, distribution, and display. Laws contended that her right of publicity claim under California Civil Code § 3344 requires proof of a use for a "commercial

purpose," which is not an element of a copyright infringement claim. However, the court concluded that the mere presence of an additional element in § 3344 is not enough to qualitatively distinguish Laws' claim from a claim in copyright. The additional element does not change the underlying nature of the claim.

The court concluded that both copyright laws and the right of publicity are means of protecting an individual's investment. Congress intended the Copyright Act to preempt state laws in order to ensure copyrights remain meaningful. Thus, the court held that the district court's conclusion that the Copyright Act preempted Laws' claims was correct. The district court's decision was affirmed.