ARE Copyright Alert: New York District Court Awards Seinfeld Fees Based on â€œObjectively Unreasonableâ€• Copyright Claims Brought by Former Comedians in Cars Collaborator

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In a decision issued on February 26, 2021, a judge in the Southern District of New York held that Jerry Seinfeld is entitled to recover attorneys' fees incurred defeating plaintiff's copyright claims barred by the Copyright Act's three-year statute of limitations, 17 U.S.C. § 507(b). *Charles v. Seinfeld*, No. 18-cv-1196 (AJN), 2021 U.S. Dist. LEXIS 36461 (S.D.N.Y. Feb. 26, 2021).

Applying the factors considered for the attorney fee shifting provision of the Act, 17 U.S.C. § 505, the Court found that, by waiting six years to file suit, plaintiff's claims were "objectively unreasonable" and "[seemingly] opportunistic," and concluded that "an award of fees would promote the purposes of the Copyright Act by deterring plainly time-barred claims." Id. at *8, 12-13.

Background

The case centers on plaintiff Christian Charles's claimed ownership of copyrights in Seinfeld's acclaimed series Comedians in Cars Getting Coffee based on the work Charles and his production company purportedly provided in the development of the pilot episode in 2011.

Charles first alleged ownership in the show in 2011, requesting backend compensation from Seinfeld. Seinfeld immediately and repeatedly refused Charles's requests, making clear that Seinfeld disputed Charles's claim of ownership. In 2018, at least six years after Charles received notice of the ownership dispute, Charles filed suit, alleging copyright infringement.

Seinfeld moved to dismiss on the ground that Charles's claims were time-barred by the Copyright Act's three-year statute of limitations, 17 U.S.C. § 507(b). The District Court granted Seinfeld's motion and the Second Circuit affirmed, finding that because ownership—not infringement—was the dispositive issue, Charles's infringement claim accrued no later than 2012, when he was on notice that his ownership claim was in dispute. See *Charles v. Seinfeld*, 410 F. Supp. 3d 656 (S.D.N.Y. 2019), aff'd, 803 F. App'x

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550 (2d Cir. 2020).

“This Was Not a Close Case”

Section 505 of the Copyright Act authorizes a court in its discretion to award a prevailing party reasonable attorney’s fees in a copyright action. 17 U.S.C. § 505. Courts consider a number of factors in a § 505 analysis, with substantial weight given to the “objective reasonableness” of a party’s claims. See *Kirtsaeng v. John Wiley* & Sons, Inc., 136 S. Ct. 1979, 1988 (2016). Other factors include the frivolousness of the claims and the party’s motivation in bringing suit. Id. at 1985.

Declining to adopt the Magistrate Judge Parker’s recommendation, Judge Nathan granted Seinfeld’s motion for fees, finding, inter alia, that “[u]nder controlling Second Circuit precedent, [Charles’s] claims were plainly untimely” and thus not objectively reasonable. Charles v. Seinfeld, 2021 U.S. Dist. LEXIS 36461 at *7.

Judge Nathan rejected Charles’s contention that the Sixth Circuit’s decision in Everly v. Everly, 958 F.3d 442 (6th Cir. 2020)—decided after the Court’s dismissal of Charles’s claims—supports a finding that his claims were not, in fact, objectively unreasonable.

In Everly, the “Sixth Circuit held that a claim asserting an author’s termination-of-transfers right [under Section 203 of the Copyright Act] does not accrue until another person repudiates the claimant’s status as an author. In this context, another person’s claim to own the copyright does not start the clock, because it does not necessarily give the author notice that their claim of authorship is disputed.” *Charles v. Seinfeld*, 2021 U.S. Dist. LEXIS 36461 at *9-10 (citing Everly, 958 F.3d at 452-53).

However, “[c]ases involving the termination-of-transfers right, [Everly] explained, are different from ‘ownership cases in which a defendant has raised a statute of limitations defense based on the defendant's repudiation of the plaintiff's authorship.” Id. at 11 (quoting Everly, 958 F.3d at 453). Accordingly, Judge Nathan explained, “[Charles’s] claims would be as unreasonable after Everly as they were before that case was decided.” Id.

We will continue to monitor and report on developments in this area of copyright law. In the meantime, please feel free to contact us to learn more.

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