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Question

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I am a self made singer/songwriter. I make my own songs and sing them. My problem is that another band in the same area that I live in has copied word for word lyrics from one of my songs. Another facet to all this is that the band is made up of 3 people that are ex friends. The song is for sale on their website and is selling as I hear. The original, my song is registered with BMI (broadcast music inc.) .Do I have enough to sue? Please someone help me out.

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Posted about 1 year ago. This attorney is licensed in California.

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We practice law only in California and you should contact a local attorney in your city and state right away to protect your legal rights.

It sure sounds to me that you have more than enough to prove your case. Do you have notes or other documentation establishing that you thought of and wrote the song? Witnesses? Look, if you truly did write the song and, the other band stole your song, then you have legal rights that need to be protected.

Contact an "intellectual rights" lawyer immediately! You may want to go to the AVVO web site and look for an experienced lawyer in your area. You may also want to check www.martindale.com Look for AV rated lawyers. As an alternative, I have an old friend in Tucson that may be able to help. Contact Bob Grabb at (520) 326-2500 for help or a good referral. Tell Bob I sent you over and good luck!

By the way, if I were you, I would not attempt to handle this case on your own. Too many issues you need to deal with.

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Best Regards,

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Thomas M Dunlap PRO

Level 4 Contributor

Posted about 1 year ago. This attorney is licensed in Virginia and 2 other states.

Copyright

It sounds like they are infringing on copyrightable material. Under the Berne Convention (the US joined in 1989) you have a common law right to protection, however in order to potentially recover statutory and punitive damages you need to register your copyright immediately (happy to help) as you generally only have 90 days from the date of the infringing publication to do so (17 USC 412). Get to a lawyer today and register that copyright with the US Copyright Office ASAP!

Statutory damages for infringement of registered copyright can be found in 17 USC 504 and range from \$750 to \$30,000 per work infringed, at the discretion of the court based upon the facts and circumstances for the non-willful variety of infringement. If one can prove willful infringement damages can be as high as \$150,000 per work. On the other hand, Defendants that prove they were, in the words of the statute "not aware and had no reason to believe" they were infringing can seek a damage reduction under the same statute. Of course successful Plaintiffs get to recover their attorney's fees as well.

Demonstrating copyright infringement requires you prove all three of the following:

1. Ownership of a valid copyright
2. Copying by an infringing party (See *Keeler Brass Co. v. Continental Brass Co.*, 862 F.2d 1063 (4th Cir. 1988); *Atari, Inc. v. North American Philips Consumer Electronics Corp.*, 672 F.2d 607, 614 (7th Cir. 1982), cert. denied, 459 U.S. 880, 103 S. Ct. 176 (1982).
3. Of constituent elements in the copyrightable material that are protected (*Bouchat v. Baltimore Ravens, Inc.*, 241 F.3d 350, 353 (4th Cir. 2001). A valid copyright is an original work that is fixed in a tangible means of expression. An original work requires both a modicum of creativity and independent creation.

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