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# The Dua Lipa Copyright Controversy

BY CAITLIN MURACA/ ON APRIL 12, 2022



Photo by Dayne Topkin from *Unsplash*

Dua Lipa has come under fire after two separate copyright infringement claims were filed against her song "Levitating."<sup>1</sup> The popular song recently made history as the longest-charting Billboard Hot 100 hit ever among women artists, surpassing the 69-week run of LeAnn Rimes' "How Do I Live," back in 1997-1998.<sup>2</sup> Despite peaking at number two last year and never reaching the top spot, the song was still awarded Billboard's top song of 2021.<sup>3</sup>

The first lawsuit was filed in earlier in March when reggae act Artikal Sound System accused Lipa of plagiarizing their lesser-known 2017 track, "Live Your Life."<sup>4</sup> The federal claim alleges that Lipa copied the song's melody.<sup>5</sup> Attorneys for Artikal Sound System "simply allege[ ] that [Lipa] and her co-writers 'listened to and copied "Live Your Life" before and during the time they were writing "Levitating."'"<sup>6</sup> Artikal claims that the songs are substantially similar and "could not have been created independently."<sup>7</sup> The reggae act also names Warner Records as a defendant as well as the purported writers of the song.<sup>8</sup>

The second lawsuit against Lipa came just days after the first claim was filed.<sup>9</sup> L. Russell Brown and Sandy Linzer allege that Lipa copied from two of their songs, "Wiggle and Giggle All Night" and "Don Diablo."<sup>10</sup> The songwriters claim that the opening melody in "Levitating" is a copy of the melody in their songs.<sup>11</sup> The pair point to interviews where Lipa "'admitted that she deliberately emulated prior eras' and 'took inspiration' from earlier music to create a "retro" sound."<sup>12</sup> The lawsuit also names other defendants, including Warner Music Group and DaBaby.<sup>13</sup>

To prove copyright infringement, the plaintiff must demonstrate two elements.<sup>14</sup> First, the plaintiff must show “that the defendant had access to the plaintiff’s work.”<sup>15</sup> Second, it must be proven “that the defendant’s work is substantially similar to protected aspects of the plaintiff’s work.”<sup>16</sup>

Forensic musicologists play an important role in music copyright infringement cases, in which a lay person may not be able to determine the substantial similarity of the “pitch, timing, or harmonic context.”<sup>17</sup> E. Michael Harrington, who consulted on Katy Perry’s “Dark Horse” case, explains that “sounding alike is almost always unimportant,” as music from a particular style is “generally [] built upon the same musical ideas.”<sup>18</sup> Judith Finell, who delivered expert testimony on behalf of the Marvin Gaye estate in the “Blurred Lines” case, explains, “what’s protected by copyright are ‘specific series of expressions of music, not ideas, but expressions.’”<sup>19</sup> Overall, Harrington “says that he declined involvement in the Lipa suit because he feels strongly that ‘Levitating’ is not an example of copyright infringement.”<sup>20</sup>

Intellectual property lawyer Richard Busch, who served as counsel for Gaye’s family in the “Blurred Lines” case, described Artikal’s complaint as a “sparse bare-bones complaint.”<sup>21</sup> Busch believes that Artikal will face a challenge when attempting to show a likelihood of access to the song because “the song is not presently on any major streaming platform.”<sup>22</sup> Busch further explains that “something that’s similar, like a groove or a vibe, or has a similar feel because it’s the same style, it’s not enough.”<sup>23</sup>

Whether the lawsuits against Lipa will be successful seems unlikely given the statements of expert musicologists and lawyers in the field, but only time will tell.

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12. See id.
13. See id.
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23. Id.