



4-12-2022

The Dua Lipa Copyright Controversy

Caitlin Muraca

Cardozo Arts & Entertainment Law Journal

Follow this and additional works at: <https://larc.cardozo.yu.edu/aelj-blog>



Part of the [Law Commons](#)

Recommended Citation

Muraca, Caitlin, "The Dua Lipa Copyright Controversy" (2022). *AEJ Blog*. 322.
<https://larc.cardozo.yu.edu/aelj-blog/322>

This Article is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in AELJ Blog by an authorized administrator of LARC @ Cardozo Law. For more information, please contact larc@yu.edu.

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."¹ 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 1997-1998.² Despite peaking at number two last year and never reaching the top spot, the song was still awarded Billboard's top song of 2021.³

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."⁴ The federal claim alleges that Lipa copied the song's melody.⁵ 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."'"⁶ Artikal claims that the songs are substantially similar and "could not have been created independently."⁷ The reggae act also names Warner Records as a defendant as well as the purported writers of the song.⁸

The second lawsuit against Lipa came just days after the first claim was filed.⁹ L. Russell Brown and Sandy Linzer allege that Lipa copied from two of their songs, "Wiggle and Giggle All Night" and "Don Diablo."¹⁰ The songwriters claim that the opening melody in "Levitating" is a copy of the melody in their songs.¹¹ 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."¹² The lawsuit also names other defendants, including Warner Music Group and DaBaby.¹³

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

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.”¹⁷ 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.”¹⁸ 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.’”¹⁹ Overall, Harrington “says that he declined involvement in the Lipa suit because he feels strongly that ‘Levitating’ is not an example of copyright infringement.”²⁰

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.”²¹ 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.”²² 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.”²³

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.

Caitlin Muraca is a Second Year Law Student at the Benjamin N. Cardozo School of Law and a Staff Editor for the Cardozo Arts & Entertainment Law Journal. Caitlin is interested in Music Law. Caitlin is also a member of the Entertainment Law Society and is currently an extern at David M. Ehrlich & Associates and Janine Small PLLC.

1. See Jeremy Orosz, Dua Lipa’s “Levitating” Plagiarism Lawsuit Could Change Music Forever, Slate (Mar. 17, 2022, 3:41 PM), <https://slate.com/culture/2022/03/dua-lipa-levitating-copyright-infringement-plagiarism-case.html> [<https://perma.cc/Z26K-3PUL>].
2. See Gary Trust, Dua Lipa’s ‘Levitating’ Makes History as the Longest-Charting Billboard Hot 100 Hit Ever Among Women, Billboard (Mar. 14, 2021), <https://www.billboard.com/music/chart-beat/dua-lipa-levitating-history-longest-charting-hot-100-1235043660/> [<https://perma.cc/QC5H-NL6U>].
3. See Orosz, supra note 1.
4. See Bill Donahue, Dua Lipa Accused of Stealing ‘Levitating’ From Florida Reggae Band in New Lawsuit, Billboard (Mar. 1, 2022), <https://www.billboard.com/business/legal/dua-lipa-accused-stealing-levitating-artikal-sound-system-lawsuit-1235037859/> [<https://perma.cc/4PPK-RXRM>].

5. See Izzy Kapnick, South Florida Reggae Band Claims Lipa Ripped Off Its Melody, Miami New Times (Mar. 3, 2022, 9:00 AM), <https://www.miaminewtimes.com/music/south-florida-band-artikal-sound-system-sues-dua-lipa-over-copyright-infringement-14019017> [<https://perma.cc/7NLN-8G2C>].
6. Drew Schwartz, The Dua Lipa Lawsuits Could Cost Her Millions, According to a Lawyer, Vice (Mar. 10, 2022, 4:57 PM), <https://www.vice.com/en/article/wxdbmq/the-dua-lipa-lawsuits-could-cost-her-millions-according-to-a-lawyer> [<https://perma.cc/NX5Q-KDA7>].
7. Adrian Gonzalez Cerrillo & Sana Hakim, "Levitating" Lawsuits: Understanding Dua Lipa's Copyright Infringement Troubles, Nat.t Law Rev. (Mar. 21, 2022), <https://www.natlawreview.com/article/levitating-lawsuits-understanding-dua-lipa-s-copyright-infringement-troubles> [<https://perma.cc/V9MP-SG8H>].
8. See Kapnick, *supra* note 5.
9. See Bill Donahue, Dua Lipa Hit With Another Copyright Lawsuit Over 'Levitating', Billboard (Mar. 6, 2022), <https://www.billboard.com/business/legal/dua-lipa-copyright-lawsuit-levitating-brown-linzer-1235040111/> [<https://perma.cc/J9R8-QQK5>].
10. See *id.*
11. See *id.*
12. See *id.*
13. See *id.*
14. See Heather Antoine, Dua Lipa Sued Again (And Again) For Copyright Infringement – Do These Lawsuits Have Merit?, Forbes (Mar. 8, 2022, 9:07 PM), <https://www.forbes.com/sites/legalentertainment/2022/03/08/dua-lipa-sued-again-and-again-for-copyright-infringementdo-these-lawsuits-have-merit/?sh=3844dbb878d3> [<https://perma.cc/39HC-YT22>].
15. *Id.*
16. *Id.*
17. *Id.*
18. Ethan Shanfeld, Dua Lipa's Dual Lawsuits Explained: Musicologists Break Down 'Levitating' Similarities, Variety (Mar. 17, 2022, 8:00 AM), <https://variety.com/2022/music/news/dua-lipa-levitating-lawsuits-explained-1235204715/> [<https://perma.cc/M2X9-G4TL>].
19. *Id.* (The "Blurred Lines" case, referring to Robin Thicke's track "Blurred Lines," set a seemingly dangerous precedent that "somebody can make a claim based upon a song that sounds the same, yet is materially different.")' Blurred Lines Between Inspiration and Infringement: Ninth Circuit Holds "Blurred Lines" Infringes Copyright, Jones Day (July, 2018), <https://www.jonesday.com/en/insights/2018/07/blurred-lines-between-inspiration-and-infringement> [<https://perma.cc/QV6K-E3N4>] (explaining "that Gayes' burden of proof of substantial similarity was lowered because Williams and Thicke admitted at trial a high degree of access [to the song]").
20. *Id.*

21. Vittorio Zunino Celotto, Dua Lipa Faces Two Lawsuits Over Her Song 'Levitating.' Some Legal Experts Say Copyright Infringement is Hard to Prove, NBC News (Mar. 7, 2022, 6:24 PM), <https://www.nbcnews.com/pop-culture/music/dua-lipa-faces-two-lawsuits-song-levitating-legal-experts-say-copyrigh-rcna18800> [<https://perma.cc/45JM-WGGY>].
22. Id.
23. Id.