

Sinatra v. Goodyear Tire & Rubber Company

FACTS: Plaintiff: Professional entertainer: Nancy Sinatra, recorded a popular song titled: “These Boots Are Made for Walkin’” where Criterion Music held copyright to the music, lyrics and arrangement. Defendants: Corporation: Goodyear Tire & Rubber Company and Advertising agency: Young and Rubicam, Inc., produced and exhibited radio and television commercials centered on the music and revised song lyrics with voice(s) of anonymous female singer(s), four girls that appear briefly with tires and a male narrator who gives the tire commercial. She alleged that her name is highly identified with the song and that the defendants chose singers that imitated her voice and style and the girls imitated her dress and mannerisms to deceive the public that she participated in the commercials.

PROCEDURE: Sinatra sued for general and punitive damages, accounting of sales of Goodyear tires during the period, performance royalty and an injunction. Defendants filed motion to dismiss and judgement. US Court of Appeals, 9th Circuit, found in favor for the defendants. The plaintiff appealed.

ISSUE: Can the performing artist (who does not hold the copyright) claim unfair competition and passing-off by the defendants?

CONCLUSION: No. The case is not related to copyright infringement because Criterion Music held copyright and the actual tape or other recording of the plaintiff’s voice was not replayed in this case.

RATIONALE: The performances of “These Boots Are Made for Walkin’” were anonymous where the audio or visual representation did not embody the performance or voice of any particular individuals. Imitation alone is not enough for cause of action. As noted to be unrelated to copyright law (as Sinatra is not the copyright holder), they reviewed California state laws on unfair competition defined as: “unlawful, unfair or fraudulent business practice and unfair, untrue or misleading advertising.” There was no business competition between the parties because plaintiff sells phonograph records while defendants sells tires. Also, it was determined to be difficult to protect or police a “performance” or the creation of a performer in handling copyrighted material licensed to another, clashing with the recognition of performers’ secondary meanings on the material (unless performer obtains the copyrighted material directly).