

Copyright Infringement Claim Against "Phantom of the Opera" Vanishes

New York, December 15, 1998

Andrew Lloyd Webber Vindicated Ending Nearly a Decade of Litigation

A jury in Federal Court in Manhattan today denied a claim by Ray Repp, a little known composer of religious folk music, that Andrew Lloyd Webber copied significant portions of music from "Till You," a song Repp wrote before Lloyd Webber wrote "The Phantom Song." Repp alleged that two bars of music, some eight musical notes, repeat in sequence throughout "The Phantom Song," form the heart and soul of the music, and thus claimed he deserved a significant portion of the billion dollars in revenue the opera has grossed. Andrew Lloyd Webber vigorously denied the charges. Lloyd Webber took the stand and at the piano showed the jury how he had composed "The Phantom Song" for his then wife, Sara Brightman, whose awesome voice is showcased by the tremendous range of the "Phantom's" music. Ms. Brightman had testified earlier in the trial about being with Andrew as he developed the chords that eventually became the core of the song at issue.

Despite Lloyd Webber's reputation and showmanship, the defense faced a difficult case. To most people who hear both tunes back to back, Lloyd Webber's music sounds very similar to Repp's. Given this, the key question for the jury, which included a psychotherapist and a part-time singer-songwriter, became a determination of the most likely source of the similarity between the two songs. Was it possible that Lloyd Webber had heard "Till You" and consciously or subconsciously copied it, or was there some other reasonable explanation for the similarity?

In support of the defense's position, expert musicologist, Dr. Lawrence Ferrara, analyzed Andrew Lloyd Webber's prior works and also did an extensive review of works in the public domain. During his trial testimony, Ferrara played musical phrases from "Benjamin Calypso" and "Close Every Door," music that Lloyd Webber had written prior to Repp's "Till You." This music was very similar to the music at issue, as was the public domain music Ferrara played, written by Bach, Beethoven, Mozart and others. However, the phrases that Ferrara found in the public domain and in Andrew Lloyd Webber's prior works, were not in sequence, one after the other, as they are in "Till You" and "The Phantom Song." Plaintiff's counsel pointed this out to the jury, claiming that the expert's musical phrases were just 'snippets' taken out of context and should be dismissed. The nine member jury, all but one of whom had a college degree, disagreed, taking little more than an hour to rule in Andrew Lloyd Webber's favor. Mr. Repp, whose song has earned a total of about \$75 since it was written in 1978, walked away empty handed.

Litigation Strategies provided jury research, opening statement consultation, witness assessment and jury selection assistance to Jane Stevens and the "Phantom" trial team at Gold, Farrell and Marks.

- Strategic Research
- Witness Preparation
- Demonstrative Exhibits



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