

Top Five Famous IP Infringement Cases

1

David Slater vs PETA

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Settled in 2017, this case was between photographer David Slater and animal rights activists, who argued that Naruto, a rare, crested macaque from Indonesia, owned the rights to a selfie it took on Slater's camera.

Slater set up a tripod amongst the monkeys so they could approach it. A US court in January 2016 found that copyright protection could not be applied to the monkey, despite People for the Ethical Treatment of Monkeys (PETA) claiming that the monkey owned the picture as the animal took it and was the author.

PETA said that "The fact that copyright ownership by an animal has not been previously asserted does not mean that such rights cannot be asserted.

"Insofar as the issue of non-human authorship has been considered by this court, it remains an open question. The only requirement articulated by this court so far is that the 'author' be of this world. And Naruto certainly meets that requirement."

Slater claimed that PETA were only doing this for publicity. Eventually, Slater agreed to contribute 25% of the photo's profits to registered charities protecting the monkey's habitat, and the case was settled in 2017. [1]

2

Ed Sheeran vs Sam Chokri

The British pop singer has been at the centre of a few famous cases recently, bringing into question if pop songs, which all share similar notes and melodies, can ever be proven to be copied from each other and what this means for intellectual property.

In April 2022, Sheeran won a copyright High Court battle over his song 'Shape of You' against Sam Chokri, who claimed that the "Oh I" hook in 'Shape of You' was too similar to part of Chokri's song 'Oh Why'.



Sheeran said that "Coincidence is bound to happen if 60,000 songs are being released every day on Spotify. That's 22 million songs a year and there's only 12 notes that are available."

The judge eventually ruled that Sheeran did not deliberately or subconsciously copy Chokri's song and that despite sharing similarities, the differences between the songs made the judge believe that the origins of 'Shape of You' were not from 'Oh Why'. There was only a "speculative foundation" to the case that Sheeran heard Chokri's song before starting on his own, according to the judge, and it could not be proven. [2]

However, Sheeran is now facing another copyright claim over his song 'Thinking out Loud' and Structured Asset Sales LLC who own part of Marvin Gaye's 'Let's Get It On'. [3]

3

Lucasfilm vs High Frontier

It is easy to see why Ronald Regan's Strategic Defence Initiative (SDI) was nicknamed 'Star Wars' – the program was designed to protect the US from ballistic nuclear weapons using lasers and particle beam weapons in space.

George Lucas's production company did not take kindly to their film being associated with the controversial plan for missile warfare in space, and so filed a lawsuit against two public interest groups who referred to Regan's program as Star Wars: High Frontier and the Committee for a Strong, Peaceful America.

The public interest groups won the case, on the ruling they did not attach the name Star Wars to products or services. [4][5]



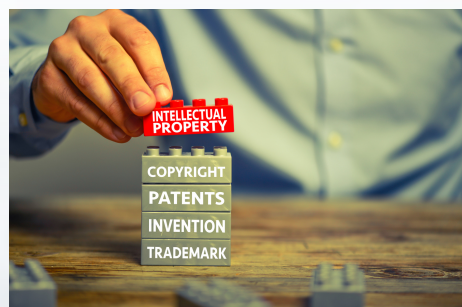
4

Dr Dre vs Dr Draï

Settled in 2018, this case revolved around the rapper Dr Dre, part of the famous group NWA from Compton, who tried to prevent a gynaecologist called Draïon M Burch from trademarking the name Dr Draï. Burch was also a public speaker on women's health issues and an author of books.

The rapper argued that there could be confusion between the two names, but Burch responded that Dr Dre is not a doctor or involved with any medical practice and therefore there would not be any confusion.

Dr Dre lost the case, as the US trademark office said Dr Dre failed to show the connection that the public would make between his name and the gynaecologist's. [6]



5

Barbie vs Bratz

In 2011, US toymaker Mattel, the makers of Barbie, was found to have stolen trade secrets from their smaller rival, MGA Entertainment, the maker of Bratz dolls, with a settlement of £53.5m.

In this famous case that started in 2006, Mattel accused Bratz designer Carter Bryant of developing his idea for the dolls in the late 1990's whilst working for them, before taking his idea to MGA.

MGA countersued, saying Mattel had committed corporate espionage, "using spies with fake business cards and dummy invoices to gain access to MGA's ideas." They also accused Mattel of blackmailing media and business partners to not do deals with MGA.

Bryant insisted he thought of the idea for Bratz between jobs. Originally in 2008, Mattel were awarded \$100m in damages and ordered MGA to give the Bratz franchise to Mattel, but this was overturned in 2010 when judges found that MGA did indeed create the Bratz dolls authentically.

Mattel had reportedly lost over \$300m in profit because of Bratz – the long case concluded that this was not due to a product that they owned. [7]



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[6] Beaumont-Thomas, "Ben, Dr Dre loses trademark battle with gynaecologist Dr Draï", The Guardian, 10/05/18, Accessed on 8/11/22, <https://www.theguardian.com/music/2018/may/10/dr-dre-loses-copyright-battle-with-gynaecologist-dr-drai>

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