

PUBLICATION

Supreme Court Puts Raging Bull Copyright Back in the Ring

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This month, the U.S. Supreme Court in *Petrella v. Metro-Goldwyn-Mayer, Inc.* revived copyright infringement claims based on the motion picture *Raging Bull*, and in the process may have killed the "discovery rule" for when a copyright claim accrues. *Raging Bull* is based on the life of boxing champion Jake LaMotta, who co-wrote a screenplay in 1963 with Frank Petrella telling his story. MGM released the movie in 1980. Frank Petrella's daughter renewed the copyright in the screenplay, and eventually sued MGM for copyright infringement.

The Court determined that the three-year statute of limitations for copyright infringement claims begins to run on the date the infringement occurs, not on the date the copyright owner discovers the infringement. The Court also observed that there may be several distinct acts of infringement and, thus, several distinct accruals of claims – which is often the case with many copyright infringement cases. This means that the accrual, and expiration, of one cause of action for copyright infringement does not necessarily bar a separate, later claim of infringement.

Interestingly, the central issue before the Court was whether Ms. Petrella had waited too long to file suit and therefore was barred by the doctrine of laches, which is defined as when one's unreasonable delay in pursuing a right or claim results in the equitable bar of the claim. The Court said "no," allowing Ms. Petrella to maintain her suit, which she filed in 2009, even though she first became aware of her potential copyright claim as early as 1991, because Ms. Petrella did not sue for the acts of infringement occurring in 1991 but only the infringements that occurred in the three years preceding her filing suit. But in reaching its decision, the Court squarely addressed the statute of limitations, 17 U.S.C. §507(b), and found that a copyright claim arises when an infringing act occurs: "Under the Act's three-year provision, an infringement is actionable within three years, and only three years, of its occurrence. And the infringer is insulated from liability for earlier infringements of the same work."

Prior to *Petrella*, the general rule in the federal Circuit Courts was that copyright claimants could file suit and claim damages if they did so within three years of first discovering an act of infringement, and by some interpretations, the claim for damages could be extended back in time as far as the previously unknown infringing acts occurred. Thus, an infringer who had been copying for ten years but was not found out until year eight and sued in year ten could be held liable for acts of infringement over the entire ten-year period. *Petrella* makes it clear that our hypothetical infringer can only be liable for damages from infringing acts that occurred in the three years before suit was filed. *Petrella* also makes clear that the hypothetical plaintiff, who found out and knew of the infringement in the first year, would not be prohibited from bringing his action in the tenth year for any independent acts of infringement that occurred in the final three years of infringement.

The Supreme Court's decision clarifies the point of accrual of a copyright infringement claim and establishes that the expiration of an earlier copyright infringement claim does not necessarily bar a later claim based on an independent act of infringement. Going forward, the Supreme Court's decision is a mixed blessing for both copyright owners and infringers. Infringers no longer have to be concerned with an almost unlimited "look back" period, and owners will almost never have to contend with laches as a defense to their claim.

If you have any questions or want to discuss how this decision could impact your business, contact your Baker Donelson attorney or one of the attorneys in the Firm's Intellectual Property group.