

Did Led Zeppelin Steal the Stairway to Heaven?

Description

Did Led Zeppelin copy the opening of its iconic song “Stairway to Heaven” from a lesser-known band? A jury in California will decide in May whether the song copied elements of “Taurus,” a 1967 instrumental track from the band Spirit.

Written in 1971, “Stairway to Heaven” is arguably the best known rock song of all time. As of 2000, the song had been broadcast on radio over three million times. It is also the biggest-selling single piece of sheet music in rock history. For decades, the song has been a staple at weddings and high school proms.

Last week, a federal judge ruled that there is enough similarity between the opening of “Stairway to Heaven” and “Taurus” to allow the case to be decided by a jury. As a result, the plaintiff, a Trust for the benefit of the heirs of Spirit guitarist Randy Wolfe, who died in 1997, will get an opportunity to try to prove that Led Zeppelin singer Robert Plant and guitarist Jimmy Page, the authors of “Stairway to Heaven,” copied at least some parts of the song from “Taurus.”

In order to prevail, the plaintiff does not have to show that Plant and Page intentionally copied “Taurus.” Instead, copyright law permits the plaintiff to establish copying with circumstantial evidence, by showing that Led Zeppelin had access to, or knew of, “Taurus,” and that “Taurus” and “Stairway to Heaven” are “substantially similar.”

So far the Trust has no direct evidence that Plant or Page ever heard “Taurus” before writing “Stairway to Heaven.” But the Trust has provided evidence that both bands performed at the same music festival on the same day three times between the release of “Taurus” in 1967 and the release of “Stairway to Heaven” in 1971. At two of these concerts, the groups performed back-to-back. The plaintiff also had testimony that Spirit regularly performed “Taurus” at its shows, although Led Zeppelin disputed this fact and produced a set list from one show where “Taurus” was not listed. The federal judge found that this was sufficient circumstantial evidence to let the jury decide whether Plant and Page had access to “Taurus” before writing “Stairway to Heaven.”

The judge also found there is enough evidence that the jury should decide whether there is “substantial similarity” between the two songs under the copyright law. This “substantial similarity” test is used in all copyright infringement disputes, but is more difficult to apply in music cases because the same chord progressions are used in many different songs over decades. Copyright law does not protect “standard, stock or common” expressions, whether in words or in music.

Here, the judge found that both songs have a repeated A-minor descending chromatic bass line lasting 13 seconds and separated by a bridge of either seven or eight measures, and that the similarity appears in the opening two minutes of each song. While the judge found that “a descending chromatic four chord progression is a common convention that abounds in the music industry,” the judge also found that there are enough other similarities for a jury to decide whether the two songs are “substantially similar.”

A U.S. Supreme Court decision in 2014 paved the way for these types of music copyright infringement lawsuits. In that case, involving the movie *Raging Bull*, the Court held that there are no time limits on bringing copyright infringement suits, but that damages can only be awarded for future infringements and for infringements that occurred in the three years before the suit was filed. In March 2016, a jury awarded singer Marvin Gaye's children nearly \$7.4 million (later reduced to \$5.2 million) after determining singers Robin Thicke and Pharrell Williams copied Gaye's 1977 song "Got To Give It Up" when they wrote the 2013 hit song "Blurred Lines."

Although the Trust prevailed in federal court last week, it still faces a number of hurdles in its trial, including:

- Wolfe gave interviews in 1991 where he commented that it was "fine" that Led Zeppelin used "Taurus" and that "I'll let [Led Zeppelin] have the beginning of "Taurus" for their song without a lawsuit."
- There is some conflicting evidence as to whether Wolfe gave up his copyright in the song to his music publishing company. If the jury finds that he did give up his rights, then the Trust has no copyright to enforce in this lawsuit.
- The copyright covers only the sheet music composition of "Taurus," not the recorded version. The jury may not hear the performance elements in the recorded version of "Taurus" which definitely add to the similarities of the two songs.
- Even if successful, the Trust will only be able to recover damages for infringements since 2011, not since 1971 when "Stairway to Heaven" was written and first performed.

Did Plant and Page copy or borrow from "Taurus?" It makes me wonder.

Here are the links to both songs:

[-Taurus](#)

[-Stairway to Heaven](#)

Date Created

April 14, 2016