

Funkadelic Musician's Copyright Claims Too Late, Clinton Says

By **Danielle Ferguson**

Law360 (April 18, 2023, 9:36 PM EDT) -- The estate of renowned keyboardist Bernie Worrell is attempting to re-litigate already dismissed royalty accounting claims for his contributions to songs recorded in the 1970s and 1980s that are too old to litigate, one of Worrell's former bandmates, George Clinton, said Tuesday in his bid to have the case dismissed.

An attorney for Clinton, owner of Thang Inc. and a member of the Parliaments and Funkadelic alongside Worrell, told a Michigan federal judge Tuesday that the Worrell estate is "creatively" attempting to jump jurisdictions to seek royalties.

Additionally, the claims are decades too old, said James Allen of Schenk & Bruetsch, representing Clinton and Thang Inc.

"While he was alive, for almost half a century, (Worrell) never made a claim for ownership in the copyrighted works. Why? Because he knew he had no interest," Allen said after the hearing. "I am confident that the court will see it that way in the end."

The estate of George Bernard Worrell Jr., known in the music industry as Bernie Worrell, sued Clinton, Thang Inc., Sony Music, Universal Music Group, Warner Brothers Records, HDH Records, Westbound Records and Soundexchange in May 2022, alleging the defendants were withholding royalties made from the revenues of the song recordings Worrell contributed to. Just Clinton and Thang Inc. were involved in Tuesday's hearing and the request to dismiss the case. The other defendants have made no appearance in the case.

Worrell and Clinton are former bandmates of Funkadelic and the Parliaments, which created music that was inspired in and by the city of Detroit in the 1970s. Worrell contributed as a songwriter, musician, producer and performer on a majority of the groups' songs that were recorded in the 1970s and 1980s, according to the complaint. The estate alleges the works have generated millions of dollars in revenue through sales and commercial exploits, and that Clinton and the record label have refused to pay any royalties.

In May 2019, the estate sued the same defendants in New York state court, alleging breach of contract, breach of duty of good faith and fair dealing. That case was dismissed because the contract attached to the complaint couldn't be authenticated.

Clinton and Thang Inc. moved to dismiss the Michigan federal case in September, alleging the claims fall "long outside" the statute of limitations for any co-ownership claim to the works.

"The reason we have statutes of limitation is to avoid the precise problem that is being set up here, which is to force parties to try to recreate decades' worth of a relationship, poked by a number of different suits over an interest in the royalties," Allen told the court Tuesday. "It seems like over the years, somebody gets an idea and tries to take a shot in royalties."

Allen also said the estate's claim requesting the books and documents regarding money made off the records was too vague to survive the motion to dismiss, and it had already been dismissed in other lawsuits.

"They can't keep getting their request for accounting dismissed and then shuffle off to the next jurisdiction that may have some arguable tie to the facts and circumstances in this case," Allen said. "New York sent the plaintiffs packing and the (plaintiffs) took up here in Detroit because it was the last refuge that they had."

Daniel Quick of Dickinson Wright PLLC, representing the estate, said the Michigan federal court is the proper venue to litigate these claims because federal courts have jurisdiction to hear declaratory relief claims for copyright ownership and states do not have authority to hear copyright ownership cases.

The lawsuit isn't barred by the statute of limitations, Quick said, because the clock starts ticking once there is a repudiation of ownership, which occurred when Clinton said in 2019 that there wasn't a contract over the works between the musicians. Worrell had thought there had been a contract since 1976, Quick said Tuesday.

If there was no contract, then Worrell, whom Quick said is one of the most "iconic" figures in music in the last 60 years, was a co-owner of the works, according to the estate's response. Co-owners cannot sue for copyright infringement, so the accounting and declaratory relief claims are the only claims the estate can bring, Quick said.

"This action does not include even a scintilla of fact or evidence that relates to that disavowed recording contract – this action solely focuses on what works Worrell created and performed on with Clinton and, in the absence of any recording contract between Worrell and defendants, what plaintiff's rights are and thus have always been with respect to the works at issue," according to the estate's response to the motion to dismiss.

Quick said Worrell never received any substantial amount of money from his works, and said Clinton was "notorious" for not paying artists who contributed to works.

Quick declined to comment after the hearing.

The estate is represented by Daniel Quick of Dickinson Wright PLLC.

George Clinton and Thang are represented by James P. Allen of Schenk & Bruetsch PLC.

The case is *Worrell v. Thang Inc. et al.*, case number 4:22-cv-11009, in the U.S. District Court for the Eastern District of Michigan.

--Editing by Michael Watanabe.