

Jay-Z is Big Pimpin' in the Ninth Circuit

After more than a decade of litigation, the Ninth Circuit has affirmed the dismissal of an infringement action against Jay-Z for his song, *Big Pimpin'*, holding moral rights under Egyptian law are unenforceable in the U.S.

Fahmy v. Jay-Z, et al., No. 16-55213 (9th Cir. May 31, 2018), involved the background music to Jay-Z's hit, which samples an obscure Egyptian song popular in the 1950s. Despite already transferring his rights to the song, the Egyptian author's heir claimed that Jay-Z was still liable for illegally sampling the tune because Egyptian law recognizes an author's inalienable "moral right" to object to offensive uses of their copyrighted work. After the district court granted judgment as a matter of law that the author's heir lacked standing, the Ninth Circuit was tasked with reviewing its decision.

At the outset, the Ninth Circuit recognized that Egyptian copyright holders possess moral rights, which include an inalienable right of integrity to object to derivative works that they deem "distortions" or "mutilations" of their own work. However, the court quickly found this moral right unenforceable for two reasons. First, the Copyright Act only recognizes moral rights in a work of visual arts, not copyrighted music. And the Berne Convention, which governs international copyright relations, only guarantees foreign authors the same protections enjoyed by American authors. Agreeing there was an absence of standing, the Ninth Circuit held that moral rights did the heir "no good here," and even if it did, they "would be insufficient to win him anything but an injunction" under Egyptian law.

Thanks to the Ninth Circuit's decision, Jay-Z is sure to keep spending cheese.