

From Blurred Lines to Thinking Out Loud: Analyzing Copyright Boundaries in the Music Industry

Tianyu Wang

Department of Art and Science, University of North Carolina at Chapel Hill, Chapel Hill, United States of America

tianyuty@ad.unc.edu

Abstract. This paper examines two landmark copyright infringement cases in the music industry--Williams v. Gaye ("Blurred Lines") and SAS v. Sheeran--which have significantly impacted the legal landscape for musical copyright. The Blurred Lines case expanded the scope of copyright protection to include the "feel" or "vibe" of a song, marking a shift towards broader interpretations of what constitutes infringement. In contrast, the ruling in SAS v. Sheeran upheld that basic musical element, such as chord progressions and harmonic rhythms, are unprotectable and part of the public domain, serving as a corrective to the Blurred Lines precedent. Through a comparative analysis of the cases, this paper explores the implications of these rulings for musicians, producers, and copyright law as a whole. The findings suggest that while copyright law aims to protect original works, it must also avoid stifling creative expression by monopolizing fundamental musical components. This analysis underscores the need for a balanced approach in copyright law that respects both the intellectual property rights of artists and the importance of a vibrant, innovative musical culture.

Keywords: Music copyright, Blurred Lines, SAS v. Sheeran, creative freedom.

1. Introduction

In the music industry, copyright law serves as a critical tool to protect artists' intellectual property. However, as creativity often involves drawing inspiration from past works, the line between homage and infringement can become blurred. This tension is exemplified by two high-profile copyright cases: Pharrell Williams v. Bridgeport Music (commonly referred to as the "Blurred Lines" case) and Structure Asset Sales, LLC v. Sheeran, which involves Ed Sheeran's hit song, *Thinking Out Loud*, accused of infringing on Marvin Gaye's classic *Let's Get It On*. Each case raised questions about how far musical influence can go before it becomes unlawful copying.

The "Blurred Lines" case was groundbreaking and controversial in its decision, as Robin Thicke and Pharrell Williams were found liable for infringing upon the "feel" and "vibe" of Marvin Gaye's *Got to Give It Up*, despite no exact duplication of melody or lyrics. This verdict could set a precedent for copyright claims based on stylistic similarity rather than direct musical elements. In contrast, Ed Sheeran faced a similar accusation over *Thinking Out Loud*, but the case took a different turn, ultimately favoring Sheeran and reinforcing a more restrictive interpretation of copyright infringement.

Through a comparative analysis of these cases, this paper will delve into the legal frameworks that determined the outcomes, examine the musical elements under scrutiny, and explore the implications for artists and the broader music industry. Ultimately, this comparison highlights how copyright law must balance protecting original works with fostering artistic freedom, as courts continue to navigate the complex intersection of inspiration and infringement in popular music.

2. Copyright Law in the United States

Copyright law is a key component of intellectual property (IP) law, specifically designed to protect the creative works of authors, artists, and musicians. The primary purpose of copyright law in the United States is utilitarian--it aims to foster innovation and creativity by granting creators exclusive

rights to their works for a limited time. This approach seeks to balance the incentive for creators to produce new works with the benefits to society as these works eventually enter the public domain.

To qualify for copyright protection, a work must be original, independently created, and contain some minimal degree of creativity. In the music industry, for example, copyrightable works include a wide range of expressions, such as musical compositions, lyrics, and recorded performances. However, copyright does not extend to ideas, facts, or useful items like titles or short phrases. Only the specific expression of an idea--such as a melody or lyric in a song--can be protected.

Copyright law grants creators several exclusive rights, including the right to reproduce the work, to make copies; the right to distribute those copies; the right to perform and display publicly; and finally, the right to make derivative works. These protection aims to prevent unauthorized use, allowing creators to benefit from their works economically. However, Copyright law also recognizes that certain uses of copyrighted material may be permissible under the doctrine of fair use.

Fair use is a legal principle that permits limited use of copyrighted material without the owner's permission under specific circumstances, particularly in cases involving criticism, commentary, education, or news reporting. The fair use doctrine is essential in promoting freedom of expression and allowing for the transformation and critique of existing works, which are integral to artistic growth. The determination if a use is qualified for fair use, courts typically apply a four-factor test, including first, the purpose and character of the use, that if the work is non-commercial, or if it is of transformative use, which add new expression or meaning; second, the nature of the copyrighted work, and the use of highly factual work are more likely to be deemed fair use than using highly creative works; third, the amount and substantiality of the portion used, the use of smaller, less significant portions of a work is more likely to be considered fair, though even a small portion can be too much if it represent a core of a work; and finally, the effect on the potential market, that if the use of the work would harm the market fo the original, it is less likely to be considered fair use.

Overall, copyright law in the United States seeks to balance protecting creators- rights with allowing the public sufficient access to creative works to foster an environment of ongoing innovation. This balance is crucial in maintaining a vibrant and diverse cultural landscape where artists and the public alike can benefit from the continued development of new ideas and expressions.

3. Blurred Lines

The Blurred Lines case, officially known as Pharrell Williams et al. v. Bridgeport Music, Inc., is one of the most significant and controversial copyright cases in the music industry. The plaintiffs, Pharrell Williams, Robin Thicke, and T.I., were accused by the estate of Marvin Gaye of copying substantial elements from Gaye's 1977 hit *Got to Give It Up* in their song *Blurred Lines*. The case revolved around whether *Blurred Lines* had unlawfully copied the "feel" or "vibe" of *Got to Give It Up*, even though there was no direct copying of melody, lyrics, or specific harmonic structures.

The Gaye estate argued that *Blurred Lines* infringed on the copyright of *Got to Give It Up*, not through direct note-for-note copying, but by emulating the overall feel and groove of Gaye's song. Their expert witness identified eight key musical similarities between the two songs, including the rhythm, bassline, percussion, keyboard, and background vocals. The Gaye estate maintained that these combined elements created an unmistakable similarity between the songs, which should be protected by copyright.

The defense, representing Williams, Thicke, and T.I., argued that the songs were not substantially similar and that the elements in question were generic and commonly used in many songs, particularly in the funk and soul genres. They contended that copyright law should not protect a song's style, feel, or genre, as these are unprotectable ideas under the doctrine of "idea-expression dichotomy" in copyright law. Instead, only specific expressions--such as melodies, lyrics, or unique arrangements--should be subject to copyright protection.

The court applied the "extrinsic" and "intrinsic" tests for substantial similarity in determining whether *Blurred Lines* infringed upon *Got to Give It Up*. The extrinsic test involved an objective

comparison of specific musical elements, such as rhythm, melody, and harmony. The intrinsic test, on the other hand, asked whether an ordinary listener would perceive the two songs as substantially similar in their overall aesthetic.

The court ultimately ruled in favor of the Gaye estate, concluding that *Blurred Lines* had appropriated the “feel” of *Got to Give It Up*. Notably, the court broadened the scope of copyright protection by including intangible elements like the groove, rhythm, and overall vibe of the song in its assessment. The ruling allowed for the protection of not just specific musical notes or lyrics, but the selection and combination of unprotectable elements that, when taken together, created a distinctive feel. As stated in the ruling: “Finally to the extent that any of these elements is itself not protectable, the combination and selection of these elements may be considered under the extrinsic test because ‘the over-all impact and effect indicate substantial appropriation [1].”

4. Analysis of the implication

The ruling in the *Blurred Line* case had a far-reaching impact on the music industry, and many argued that it went too far. Turville, Taylor in his work *Emulating vs. Infringement: The Blurred Lines of Copyright Law* argues that there is a critical distinction between emulation and infringement in the context of copyright law. Emulation refers to artists drawing inspiration from existing works, a common and necessary practice in creative industries such as music, where genres and styles evolve by building on what has come before. This involves borrowing stylistic elements, themes, or general artistic approaches without copying the protected, original expression of the work. In contrast, infringement occurs when an artist crosses the line by directly copying protected aspects of a work--such as specific melodies, lyrics, or arrangements--without permission. Taylor contends that the *Blurred Lines* case blurred this line between permissible emulation and unlawful infringement by extending copyright protection to the “vibe” or “feel” of a song, which are not traditionally protected elements under copyright law. He argues that this broad interpretation could lead to more frequent claims of infringement based on subjective elements, thus stifling artistic creativity. The distinction, Taylor argues, lies in how the law should protect the specific expression of an idea, not the general aesthetic experience that a work conveys, which should remain free for others to draw upon and reinterpret. The decision in *Blurred Lines*, according to Taylor, creates legal uncertainty, making it more difficult for artists to navigate where the line between inspiration and infringement truly lies [2].

The *Blurred Lines* case has introduced significant concerns about its long-term impact on the music industry, particularly when it comes to the balance between protecting original works and allowing artistic freedom. One of the fundamental issues with the ruling is that it appears to disregard the fact that Western popular music is built on a relatively limited set of musical tools. There are only so many notes, chords, meters, and instruments available within the standard structures of popular music. For example, many songs in rock, pop, and blues share the same or very similar chord progressions, such as the I-IV-V progression or the 12-bar blues structure. These are fundamental building blocks of countless songs across various genres. Additionally, common meters such as 4/4 time and standard instruments like the guitar, piano, and drums are integral to many compositions. If every artist who uses a similar groove or chord progression to a previous hit song could be sued for copyright infringement, the entire creative landscape of popular music would be at risk.

By ruling in favor of the Gaye estate in the *Blurred Lines* case, the court extended copyright protection to intangible elements like the “vibe” or “feel” of a song, rather than focusing solely on more concrete elements such as melody or lyrics. This broader interpretation of copyright law has sparked fears that it could severely limit creativity in the music industry. If artists are required to steer clear of common stylistic features or are vulnerable to legal challenges based on similarities in the overall aesthetic experience of their music, the potential for creative exploration is diminished. Musicians, especially in popular genres, often draw inspiration from one another, and it is common for artists to build upon existing genres or styles, just as the song *Blurred Lines* built upon *Got to*

Give it Up. This process of innovation through borrowing and reinterpreting is essential to the evolution of music.

The underlying principle of copyright law is to promote creativity and the production of new works by protecting original expressions, not ideas or unprotectable elements such as genre conventions or musical styles. However, the *Blurred Lines* case sets a precedent that could contradict this core principle. By placing restrictions on the use of basic, ubiquitous musical elements--such as chord progressions, rhythms, and overall grooves--the ruling may inhibit rather than encourage artistic innovation. Instead of fostering a legal environment where musicians feel free to experiment and develop new sounds, the ruling threatens to create a culture of caution, where artists may feel the need to avoid certain stylistic choices for fear of litigation.

In fact, there is evidence suggesting that there has been an increase in settlements outside of court following the *Blurred Lines* case. The case created a significant level of uncertainty in the music industry, leading many musicians to fear the high cost and unpredictability of litigation. The ruling broadened the scope of what can be considered infringement, making artists more vulnerable to lawsuits based on similarities in style or feel. As a result, many musicians who draw inspiration from others' works prefer to settle disputes to avoid expensive and lengthy court battles. This trend reflects a growing concern that even unintentional similarities could result in costly legal consequences [3].

5. SAS v. Sheeran

The *SAS v. Sheeran* case revolves around Structured Asset Sales, LLC (SAS), which owns an 11.11% beneficial interest in the royalties from Marvin Gaye's song *Let's Get It On*. SAS brought a copyright infringement lawsuit against Ed Sheeran, claiming that Sheeran's song *Thinking Out Loud* infringed on *Let's Get It On* by copying key elements such as the chord progression and harmonic rhythm. The plaintiff argued that the combination of these elements in *Let's Get It On* was original and protectable under copyright law.

The defendants, including Sheeran and his co-writers, argued that these musical elements were too commonplace in popular music to be protected. They emphasized that chord progressions and harmonic rhythms are fundamental building blocks of music and are widely used in many songs, especially in genres like pop and soul. Sheeran's defense pointed to numerous other songs that used similar progressions, both before and after the release of *Let's Get It On*, to demonstrate that these elements belong to the public domain and cannot be monopolized by one composition.

In a key legal analysis, the court addressed whether the combination of two unprotected musical elements (the chord progression and harmonic rhythm) could meet the threshold for copyright protection. The court concluded that these elements were too basic and had been used in many prior works, both before and after *Let's Get It On*. Therefore, it was determined that protecting this combination would effectively grant *Let's Get It On* a monopoly over a fundamental aspect of popular music. Ultimately, the court ruled in favor of Sheeran, dismissing the case, and finding that the elements in question were not sufficiently original to warrant copyright protection [4].

6. Implications of the SAS v. Sheeran Case

The *Structured Asset Sales, LLC (SAS) v. Ed Sheeran* case has significant implications for the future of copyright law in the music industry. The ruling provides a counterbalance to the controversial *Blurred Lines* case, reinforcing the notion that basic musical elements such as chord progressions and harmonic rhythms are part of the public domain and cannot be monopolized by any one song. This decision not only clarified certain aspects of music copyright but also reestablished key boundaries to protect creativity and innovation within the industry. Several important points arise from the court's analysis and ruling [5].

One of the most important implications of the *SAS v. Sheeran* case is the court's reinforcement of the principle that basic musical elements, such as chord progressions, harmonic rhythms, and other

fundamental building blocks of music, cannot be copyrighted. The court emphasized that protecting such commonplace musical features would create a dangerous precedent, leading to monopolization of fundamental elements of music, which are essential to the genre and accessible to all musicians.

In this case, the court found that the chord progression and harmonic rhythm in *Let's Get It On* were so commonplace that they had been used in many other songs, both before and after the release of *Let's Get It On* in 1973. The court ruled that to grant copyright protection to these elements would give the song an "impermissible monopoly" over a basic musical pattern, hindering other musicians' ability to create new works. This ruling sets an important boundary, reminding the industry that copyright law protects specific expressions of ideas, but not the ideas themselves, particularly when those ideas consist of widely used and foundational elements of music [6].

The Ed Sheeran ruling stands in stark contrast to the *Blurred Lines* case, where the court extended copyright protection to abstract elements and future artists would face legal risk for drawing inspiration from previous works. The Ed Sheeran case helps to correct this overreach by reaffirming the core principles of copyright law. The ruling clarified that copyright should not be used to protect general styles, genres, or basic musical elements, but instead should focus on protecting specific, original expressions. Therefore, restoring some balance to the application of copyright law in music. The *SAS v. Sheeran* ruling also has important implications for preserving creative freedom within the music industry. By reaffirming that basic musical elements are not protectable, the court ensured that musicians can continue to innovate, borrow, and reinterpret existing musical structures without the fear of being sued for infringement. This is particularly important in genres like pop, rock, and blues, where certain chord progressions and harmonic structures are central to the music and are used in countless songs. Had the court ruled in favor of *SAS*, it could have set a troubling precedent that would have restricted the creative process by discouraging musicians from using common musical elements for fear of copyright infringement claims. The decision recognizes that creativity often involves drawing from existing works and building upon them, and that copyright law should not punish artists for doing so unless they directly copy protectable, original elements.

Another significant implication of the Ed Sheeran case is the legal clarity it provides for musicians, songwriters, producers, and record labels. In the wake of the *Blurred Lines* ruling, there was considerable confusion and concern within the industry about the scope of copyright protection, with many artists feeling vulnerable to legal action even if they did not directly copy another artist's work. The Ed Sheeran ruling reaffirms that while copyright law protects original expressions, it does not extend to fundamental musical building blocks, and thus we could possibly see more creative music being produced in the future.

The court's careful analysis of the numerosity requirement, which states that a combination of unprotectable elements can only be copyrighted if those elements are numerous enough and their selection and arrangement is original enough, provides an important guideline for future copyright disputes [7]. In this case, the court found that the combination of the chord progression and harmonic rhythm in *Let's Get It On* did not meet this threshold, as it consisted of only two common elements that had been used in many other works. This sets a clear standard that future courts can rely on when evaluating similar claims of infringement.

7. Conclusion

The *Blurred Lines* and *SAS v. Sheeran* cases represent two pivotal moments in the interpretation of music copyright law. These cases illustrate contrasting views on how copyright law should balance the protection of original works with the need to maintain a public domain that allows for creative freedom, and together, these cases underscore the challenges in defining the boundaries between inspiration and infringement in music, especially within genres where foundational elements are widely shared. Through the comparison analysis, the ruling in *SAS v. Sheeran* conforms to the utilitarian principle of copyright law to a greater degree, to promote creativity, instead of monopoly. Showing that future rulings must carefully navigate boundaries of copyright law to better support a

music industry that fosters both respect for intellectual property and the creative exchange necessary for artistic growth. However, the numerosity requirement in *SAS v. Sheeran* case still could be interpreted as not overturning the precedent in the *Blurred Lines*, meaning that the vibe and feeling of a song could still be protected under copyright law.

References

- [1] *Williams v. Bridgeport Music, Inc.* (No. LA CV13-06004-JAK, 2014 WL 7877773), 2014.
- [2] Turville, Taylor. *Emulating vs. infringement: the blurred lines of copyright law.* *Whittier Law Review*, 2018, 38 (2): 199-222.
- [3] Kevin Parks, *Blurring the Lines: The Practical Implications of Williams v. Bridgeport Music*, *Landslide*, 2016, 3: 8.
- [4] *Structured Asset Sales, LLC v. Sheeran*, 18 Civ. 5839 (LLS), 2023.
- [5] Santiago, J. M. *The blurred lines of copyright law: setting new standard for copyright infringement in music.* *Brooklyn Law Review*, 2017, 83 (1): 289-322.
- [6] Madison, Allen, Lombardi, Paul. *Blurred justice.* *Loyola of Los Angeles Entertainment Law Review*, 2019, 39 (2): 145.
- [7] Menell, P. S. *Reflections on music copyright justice.* *Pepperdine Law Review*, 2022, 49 (3): 533-614.