

ALERT

Supreme Court Determines Some Copyright Owners Can Recover Damages Beyond the Statute of Limitations

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On May 9, 2024, the U.S. Supreme Court issued its decision in *Warner Chappell Music Inc. et al. v. Sherman Nealy et al.* (No. 22-1078), holding that copyright owners can recover damages going back more than three years based on the discovery rule, which allows a plaintiff to assert claims based on when those claims were discovered. The Supreme Court's ruling resolves a split in approaches between the Second Circuit, which limited damages to three years from the start of the infringement, and the Eleventh Circuit, which allowed damages to be recovered for more than three years under the discovery rule.

In 2018, Nealy sued the defendants for using songs owned by him. Nealy asserted that he did not know about the infringement because he was in prison. Warner Chappell argued that under the statute of limitations, even applying the discovery rule, Nealy was limited to damages incurred in the three years before Nealy filed suit. The Eleventh Circuit ruled in Nealy's favor, allowing him to seek damages beyond the three-year statute of limitations.

The majority in the 6-3 opinion stated that "[t]here is no time limit on monetary recovery," which allows a plaintiff to recover damages regardless of when the infringement occurred. In reaching its decision, the Supreme Court assumed – as Warner Chappell did in the district court – that the infringement claims were timely asserted under the discovery rule. The Supreme Court held:

If Nealy's claims are thus timely, he may obtain damages for them. The Copyright Act contains no separate time-

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based limit on monetary recovery.

Justices Gorsuch, Thomas, and Alito dissented, contending that courts should not apply a discovery rule for copyright infringement and, as a result, some of Nealy's claims were time-barred. The dissent argued that the case should have been dismissed by the Supreme Court as having been improvidently granted because it did not provide an appropriate means for the Court to squarely address the existence of the discovery rule in copyright cases.

The Court's decision could have potentially far-reaching effects on copyright law. In those cases where the discovery rule applies, plaintiffs will now be able to seek damages beyond the three-year statute of limitations regardless of what circuit they are in.

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