

## Grateful Dead Wins Dismissal of Music Archive Claims (Update1)

By Joel Rosenblatt



Oct. 17 (Bloomberg) -- The Grateful Dead, the Doors, Led Zeppelin and other musicians won the dismissal of most claims filed by a music archive arguing the groups conspired to destroy its business.

U.S. District Judge James Ware in San Jose, California, today dismissed the claims in a countersuit filed by the San Francisco-based Bill Graham Archive and its chief executive officer, William Sagan.

The musicians sued the archive last year for copyright and trademark infringement, claiming its online recordings and retail sales violated their publicity rights. The archive countersued in February, arguing Warner Music Group Corp. and Sony BMG Music Entertainment attempted to destroy its business through the musicians' lawsuit.

The archive's argument that the suit caused economic harm is "premature" because such a claim depends on the musicians winning the suit, Ware said in his order. The judge dismissed that claim and four others, allowing the archive the chance to revise all of them.

"These claims were not dismissed outright," Michael Elkin, a lawyer for the archives, said in a phone interview. The rejected allegations "are in the case and will remain in the case" because Ware gave the archive 10 days to "beef up" and re-file the countersuit claims, Elkin said.

The judge let one claim stand and didn't rule on another.

#### Memorabilia and Tapes

Ware refused to dismiss the archive's claim that Grateful Dead Productions violated a 2003 settlement agreement with the archives by failing to provide accounting statements and royalty payments.

In 2002, Sagan bought memorabilia and concert tapes created and collected by concert promoter Bill Graham, who died in a 1991 helicopter crash, for about \$6 million. Sagan's Web site, Wolfgangsvault.com, sells the items and offers free concerts as streaming audio broadcasts.

The case was filed by licensing firm Grateful Dead Productions on behalf of musicians Robert Weir, Phil Lesh, Mickey Hart and Bill Kreutzmann. Cadestansa LLC sued on behalf of Carlos Santana. Led Zeppelin rockers James "Jimmy" Page, John Paul Jones and Robert Plant filed as individuals, as did former members of the Doors, Raymond Manzarek, Robby Kreiger and John Densmore.

The musician's lawyers, Jeffrey H. Reeves and Ashlie Beringer, didn't immediately return a call. Josh Jessen, a third lawyer for the groups, declined to comment.

The case is Grateful Dead Productions v. Sagan, 06-7727, U.S. District Court, Northern District of California (San Francisco).

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