

Rock Bands Sue Online Archive

Wolfgang's Vault hit by suit from reps for Led Zeppelin, Doors, Santana, and Grateful Dead.

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Red Herring

By Michael Cohn

A set of legendary rock bands has sued an online concert archive, Wolfgang's Vault, for selling rock memorabilia like t-shirts and posters, as well as streaming video and audio of their concerts, without their permission, and they may soon be joined by other monsters of rock as well.

Grateful Dead Productions, Carlos Santana, and the surviving members of Led Zeppelin and the Doors filed the suit Monday in San Francisco in the United States District Court of the Northern District of California.

A lawyer who filed the suit said other rock bands may join the suit as well. "We're not reaching out to anyone, but that's not to say other artists might not have the same sorts of grievances we might have," said Jeff Reeves, a litigation partner in the Irvine, California office of Gibson Dunn & Crutcher.

The site also features performers like the Allman Brothers, the Band, Cream, Bob Dylan, the Eagles, Guns N' Roses, Jimi Hendrix, Madonna, Bob Marley, Metallica, Nirvana, Pearl Jam, Tom Petty, Pink Floyd, the Rolling Stones, Bruce Springsteen, U2, Van Halen, the Who, Neil Young, and Frank Zappa.

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-Carlos Santana

Gibson Dunn filed the lawsuit against William Sagan, who operates the web site. Wolfgang's Vault mainly features materials from the collection of Bill Graham, a longtime rock concert promoter and impresario whose nightclubs and concert venues—the Fillmore West, the Fillmore East, and Winterland—gave many rock bands their first big break along with continuing exposure.

Posthumous Purchase

Mr. Sagan acquired the assets in 2003 from Clear Channel Entertainment after Mr. Graham's death in 1991. He named the site after Mr. Graham's original name, Wolfgang Grajonca, which was changed after Mr. Graham's family emigrated from Germany before World War II.

The collection of rock memorabilia, including original t-shirts, posters, and concert tickets, is housed in a 20,000 square foot facility in San Francisco. Wolfgang's Vault did not respond to a request for comment.

In addition to the assets from Mr. Graham, Wolfgang's Vault more recently purchased the archives of the King Biscuit Flower Hour, a long-running series of performances on the radio that began broadcasting in 1973. That purchase happened in September.

In August, the vault also bought the assets of Tom Moffatt Productions, a Hawaiian concert promoter credited with bringing the Rolling Stones to Hawaii and promoting other performers like Aretha Franklin.

The four plaintiffs contend that Mr. Sagan has been exploiting their property without permission. "We have never given permission for our images and material to be used in this way," said Bob Weir of the Grateful Dead in a statement. "What Sagan is doing is stealing. He is stealing what is most important to us—our work, our images, and our music—and is profiting from the good will of our fans."

"Bill Graham was a man of great integrity who cared very deeply about the artists he worked with as a manager and promoter," said Mr. Santana in a statement. "Bill was a close friend to me and the Santana Band for many years, and I know that what Sagan is doing would go against everything he believed in. I am fully committed to joining with other artists to protect our work, our rights, and our legacy."

Disgoring Heavy Metal

Mr. Reeves said his firm has not yet received a response from Wolfgang's Vault. There will be some initial court appearances in the next 90 days, though. He is asking for an injunction on the site selling and streaming material from the collection, as well as compensatory and punitive damages, including disgorgement of profits made from sales of the material.

"When Sagan acquired this vault of material, it contained intellectual property owned by others, like trademarks by the Grateful Dead and sound recordings," he said.

"The lawsuit argues that you can't transfer that without the permission of the artists," Mr. Reeves added. "Sure, it was sitting in Bill Graham's vault, but that doesn't mean Bill Graham had the right to convey it. This lawsuit concerns the validity of the transfer that put it into Sagan's hands."

He cited a federal anti-bootlegging statute that says concert footage can't be broadcast without the consent of the artists. The two sides have not yet been able to work out a settlement. "There have been a number of efforts made to ask him to stop doing what he has been doing and he hasn't so far," said Mr. Reeves.

He noted that a basic tenet of the case is that the late Mr. Graham would not have the right to do today what Mr. Sagan has been doing. "Graham's rights were just limited rights for the sake of promoting concerts," said Mr. Reeves. "But he did not have far-reaching rights to go out and exploit copyrights and trademarks like Sagan is now doing."

It will be up to the court to decide the outcome, but a lot of rock fans are sure to be disappointed if the material disappears from the online vault.
