

The Web: Sue Me, Sue You, Blues

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George Harrison, after leaving The Beatles, wrote a song called the "Sue Me, Sue You, Blues" for his album, "Living in the Material World." "Hold the block on the money flow. Move it into joint escrow," wrote Harrison. "Court receiver, laughs and thrills. But in the end we just pay those lawyers their bills." Perhaps that tune would be an appropriate sound track for the legal drama unfolding in a London courtroom now? The Beatles' company, Apple Corps Ltd., is suing Apple Computer, Inc., claiming that the latter's iTunes.com music service violates a contract, experts are telling The Web. A ruling could come as early as this week.

"As I understand it, Apple Computer has the right under an earlier settlement agreement with Apple Corps. Ltd. to distribute music, or

digital information, but not produce music under the Apple logo," Dan Venglarik, a partner with the law firm of Davis Munck Butrus, P.C., based in Dallas, told The Web.

The case, thus, centers on contract law, interestingly, and not trademark law, though use of the apple logo is, ostensibly, part of the controversy, as lawyers say. The companies reached a deal a quarter of a century ago that prohibited Apple Computer from entering the music business. Therein lies the problem. One legal expert, Christine Haight Farley, an associate professor of law at the American University Washington College of Law, at Washington, D.C., said this contract Apple Computer and The Beatles, signed 25 years ago, is flawed. "I think Apple Computer made a multi-million pound mistake in 1981," Farley told The Web. "It may just have been the kind of mistake a technologically prescient, but legally unsophisticated, company makes."

Back then, Apple was just making computers, and there was probably no way the public would be confused as to whether Apple Corps or Apple Computer was behind a particular product, or service, lawyers tell The Web.

But today's computing technology is creating new, unforeseen clashes in the courts. The understanding of what is content today contrasts greatly with what was considered content 25 years ago. Today, content might be considered a service, experts said.

That is exactly what Apple Computer is arguing in court -- that its iTunes.com service, where consumers can download over the Internet music from all manner of recording arts, for 99 cents a song.

A preview of today's clash occurred back in 1991 when Apple Corps -- which has now sued Apple Computer three times -- litigated over a music synthesizer technology that Apple Computer had included in its

computers. That case was settled for \$30 million -- in favor of The Beatles.

Some lawyers, however, reckon that the Beatles' case may be a publicity stunt, or a negotiating move. The reason for this is comments made in court, recently, by Neil Aspinall, the long-time manager and producer of the Fab Four. "We're remastering the whole Beatles catalog, just to make it sound brighter," Aspinall said in open court late last month. "I think it would be wrong to offer downloads of the old masters when I am making new masters. It would be better to wait and try to do them both simultaneously, so that you then get the publicity of the new masters and the downloading, rather than just doing it ad hoc."

As of today, the Beatles music catalog is not available for downloading over the Internet -- though many of the lyrics are -- but Steve Jobs, founder of Apple Computer, is hoping to be the man to bring them legally online.

Until that deal is reached, and until this lawsuit is settled, the two companies will remain engaged in the "Sue, Me, Sue You, Blues."

As George Harrison wrote and sang back in the early 1970s, "You serve me, And I'll serve you. Swing your partners, all get screwed. Bring your lawyer. And I'll bring mine. Get together, and we could have a bad time."

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