

The Victorious Estate of Marvin Gaye

Legal Alert
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Another famous person's estate made headlines last week when publications such as *Forbes* and *Rolling Stone* reported a Los Angeles jury awarded \$7.4 million to the estate of the late Marvin Gaye for accidental copyright infringement. The victorious litigants were actually the children of the late singer and songwriter, Nona Gaye, Frankie Gaye and Marvin Gaye III, referred to in the jury verdict as the Gaye Parties. Before deciding that Pharrell Williams and Robin Thicke, referred to as the Thicke parties in the verdict, had infringed the copyright to Mr. Gaye's 1976 song, *Got To Give It Up* in their 2013 hit song, *Blurred Lines*, the jury first had to find by a preponderance of the evidence that the Gaye Parties owned a valid copyright to their father's composition.

Mr. Gaye, who died in 1984 after being shot by his father, failed to leave a Will thereby joining a long and distinguished list of famous personalities who died intestate. The estate was probated years ago and resulted in the singer and songwriter's "intellectual property" passing to his children.

Rumors began as people noticed the similarities between *Blurred Lines* and *Got To Give It Up* and Mr. Williams and Mr. Thicke launched a preemptive strike by filing an action against the Gaye children for declaratory relief in the United States District Court in the Central District of California (Case No. CV13-06004-JAK). That lawsuit sought a determination that *Blurred Lines* was the result of their own independent efforts and not surprisingly the children counter-claimed. Although the jury found the infringement of the copyright wasn't willful, they awarded \$4 million in copyright damages and the balance as profits from the infringement.

Intellectual property such as [copyrights](#) pass to the heirs of a deceased artist under federal law although the identity of those heirs where there isn't a Will is determined according to state law. Someone who dies without a Will is considered intestate (without a Last Will and Testament). The rules of intestate

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succession are common sense and similar from state to state. In California, where Mr. Gaye was living at the time of his death, those rules are found in the California Probate Code (see [Probate Code §6402](#)). Nevertheless, it is the U.S. Patent Office which actually controls the ownership of a copyright and issues the documents which establish ownership. The U.S. Patent Office is not the only federal entity which controls the transfer of a decedent's assets. For example the [ATF](#) (Bureau of Alcohol, Tobacco, Firearms and Explosives) regulates the transfer of Class III firearms to a decedent's heirs.