



msk mentioned in *law360*'s "top 7 copyright rulings of 2020: a midyear report"

Law360

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MSK was mentioned in the article, "Top 7 Copyright Rulings Of 2020: A Midyear Report," published by *Law360* on June 25, 2020 for two cases (*Estate of James Oscar Smith et al. v. Cash Money Records Inc. et al.* and *Gray v. Perry*). MSK Intellectual Property partner **Christine Lepera** was the lead counsel on both cases.

attorneys

Christine Lepera

practice areas

entertainment & ip litigation
intellectual property
litigation

From the article...

6. Estate of James Oscar Smith v. Cash Money Records

The Second Circuit's **February decision** — rejecting a lawsuit against Drake over a snippet of spoken-word jazz featured in his 2013 song "Pound Cake" — was a rare application of fair use to music sampling.

The appeals court said Drake didn't violate copyright law by incorporating a 35-second clip of a song called "Jimmy Smith Rap" into the 2013 hit, saying it was a "transformative" new use of the old material.

"The message of the 'Jimmy Smith Rap' is one about the supremacy of jazz to the derogation of other types of music, which — unlike jazz — will not last," the panel wrote. "On the other hand, 'Pound Cake' sends a countermesssage — that it is not jazz music that reigns supreme, but rather all 'real music,' regardless of genre."

A fair use ruling was an unusual sight in a case over music sampling. The vast majority of outright samples by mainstream artists in today's music industry are "cleared" as a matter of course, and the litigation over those that aren't has focused on other issues.

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The case is Estate of James Oscar Smith et al. v. Cash Money Records Inc. et al., case number 19-28, in the U.S. Court of Appeals for the Second Circuit.

Read the full ruling [HERE](#).

Six More Rulings You Need To Know ...

Gray v. Perry

A direct product of the "Stairway to Heaven" ruling, this **March decision** by a California federal judge overturned a headline-grabbing **jury verdict** that Katy Perry's 2013 song "Dark Horse" had infringed an earlier Christian rap song.

Read the full ruling [HERE](#).

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