

# Copyright case: Philpot v. LM Communications II of South Carolina Inc., USA

Kluwer Copyright Blog  
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On remand, the district court must apply the Fogerty factors in determining whether the photographer is entitled to an attorney fee award.

Given its determination that a media company committed copyright infringement by posting a copyrighted photograph of singer Willie Nelson on a radio station website without including the required Creative Commons attributions, the federal district court in Lexington, Kentucky, erred in concluding that photographer Larry Philpot was not a "prevailing party" entitled to attorney fees under Section 505 of the Copyright Act, the U.S. Court of Appeals in Cincinnati has held in an unpublished opinion. On remand, the district court was instructed to apply the Fogerty factors to Philpot's claim for attorney fees with recognition of Philpot as a prevailing party (Philpot v. LM Communications II of South Carolina, Inc., September 10, 2019, Batchelder, A.).

Case date: 10 September 2019

Case number: No. 18-6207

Court: United States Court of Appeals, Sixth Circuit

A full summary of this case has been published on [Kluwer IP Law](#).