

Copyright case: Flo & Eddie Inc. v. Pandora Media LLC, USA

Kluwer Copyright Blog
December 24, 2019

Cheryl Beise (Wolters Kluwer Legal & Regulatory US)

Please refer to this post as: Cheryl Beise, 'Copyright case: Flo & Eddie Inc. v. Pandora Media LLC, USA', Kluwer Copyright Blog, December 24, 2019, <http://copyrightblog.kluweriplaw.com/2019/12/24/copyright-case-flo-eddie-inc-v-pandora-media-llc-usa/>

Factual questions precluded deciding novel legal issues regarding the scope of MMA's preemption of state-law infringement claims involving pre-1972 sound recordings and whether Pandora qualified for the preemption defense.

The U.S. Court of Appeals in San Francisco has returned a case to the federal district court in Los Angeles to consider in the first instance whether the 2018 Orrin G. Hatch-Bob Goodlatte Music Modernization Act ("the MMA") was likely to preempt California statutory and common law copyright infringement claims brought against Pandora Media by two members of 1960s folk rock band, The Turtles—who claimed that their Pandora violated their rights by publicly performing the group's pre-1972 musical works without authorization. The MMA preempts common-law copyright claims arising from the use of pre-1972 recordings that occurs on or after the date of the MMA's enactment, as well as certain statutory claims if specific conditions are met, including the payment of royalties for past transmissions of pre-1972 sound recordings. Pandora had appealed the district court's denial of its anti-SLAPP motion to the Ninth Circuit, which, in turn, had referred the case to the California Supreme Court to clarify questions regarding state copyright law. However, following enactment of the MMA, the state high court dismissed the certified questions and returned the case to the Ninth Circuit (*Flo & Eddie, Inc. v. Pandora Media, LLC*, October 17, 2019, per curiam).

Case date: 17 October 2019

Case number: No. 15-55287

Court: United States Court of Appeals, Ninth Circuit

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