
Kluwer Copyright Blog

Copyright case: Estate of Smith v. Graham, USA

Peter Reap (Wolters Kluwer Legal & Regulatory US) · Tuesday, June 9th, 2020

Drake's use of the lyrics for a 35-second sample of another song was transformative, the amount used was reasonable, and there was no evidence his use negatively affected the sampled song's market.

Affirming a ruling by the federal district court in New York City, the Second Circuit has determined that rapper Drake was correctly awarded summary judgment on a copyright infringement claim brought by the estate of the late jazz musician Jimmy Smith because Drake's use of the lyrics for a 35-second sample of one of Smith's songs was fair use. Under the relevant fair use factors, Drake's use of the lyrics was transformative, the amount used was reasonable, and there was no evidence his use negatively affected the sampled song's market. Thus, the decision of the lower court was affirmed (*Estate of Smith v. Graham*, February 3, 2019, Calabresi, G.).

Case date: 03 February 2020

Case number: No. 19-28

Court: United States Court of Appeals, Second Circuit

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

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