

*Guzman v. Hacienda Records & Recording Studio*, Civil Action No. 6:12–CV–42, 2015 WL 4612583 (S.D. Tex. July 31, 2015)

In a recent copyright opinion, the Southern District of Texas ruled that an award of attorneys' fees to a prevailing defendant was improper because there was no indication that the plaintiff's claim was objectively unreasonable, frivolous, or brought in bad faith.

Jose Guzman, a Tejano musician, sued Hacienda Records & Recording Studio for copyright infringement based on his song "Triste Aventurera," which he composed in the early 1970s. Hacienda is a Tejano record label and recording studio that released a song titled "Cartas de Amor" in 1990. This song was the subject of Mr. Guzman's lawsuit. Ultimately, the court determined in a December 2014 opinion that Mr. Guzman had not carried his burden of proof with respect to whether Hacienda had reasonable access to "Triste Aventurera" before composing "Cartas de Amor." Thus, he could not prevail on his copyright infringement claim. Hacienda then sought attorneys' fees based on its successful defense against Mr. Guzman's claim.

The Court began by noting that courts may award a reasonable attorneys' fee under the Copyright Act and that awarding attorneys' fees is "the rule rather than the exception" in the Fifth Circuit. However, the Court also asserted that awarding attorneys' fees is a matter of the court's discretion. The Court then cited Supreme Court precedent for factors to consider in deciding whether to exercise its discretion to award attorneys' fees to Hacienda. The Court determined that it must consider the frivolousness or objective unreasonableness of Guzman's claim, whether the claim was brought in bad faith, and the need to "promote special considerations of compensation or deterrence."

The Court first found that Guzman's claim was neither frivolous nor objectively unreasonable. Although Guzman had failed to show that Hacienda had access to his song before composing "Cartas de Amor," the Court found that Guzman had made a considerable showing on the second element of his copyright infringement claim: substantial similarity. Hacienda's song, while not identical to Guzman's, was teeming with similarities to Guzman's composition. In fact, the first lines of the songs were identical aside from Hacienda's song substituting the plural form of one word where Guzman's used the singular form. Other substantial similarities included the rhythmic patterns, chord progressions, and instruments used in the songs.

Further, no evidence suggested that Guzman had brought his case in bad faith or for any improper purpose. Quite the contrary, Guzman believed he had a valid copyright claim. The record showed that Guzman attempted to resolve the claim with Hacienda through a cease-and-desist letter before filing his lawsuit. The evidence also showed that he had sought to enforce his rights in his song against other record labels.

The Court's findings on these first two factors led the Court to conclude that there was no need to "promote special considerations of compensation or deterrence" in this case. Thus, the Court denied Hacienda's request for attorneys' fees.