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CASES OF INTEREST

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IP/Entertainment Law Weekly Case Update for Motion Picture Studios and Television Networks

March 1, 2012

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- [Roger Miller Music, Inc. v. Sony/ATV Publishing, LLC](#)

Roger Miller Music, Inc. v. Sony/ATV Publishing, LLC, USCA Sixth Circuit, February 22, 2012

 [Click here for a copy of the full decision.](#)

- Sixth Circuit reverses district court's judgment and holds that defendant, music publisher who was assignee of renewal rights in numerous songs, and not songwriter's widow, owns renewal copyrights to songs where songwriter died after defendant filed renewal applications but before renewal term began.

Plaintiffs, Roger Miller Music Inc. (RMMI) and Mary Miller, widow of famed country singer and songwriter Roger Miller, sued Sony/ATV Publishing for copyright infringement, claiming that RMMI was the owner of the renewal copyrights for Miller's songs. Miller, best known for the hit song "King of the Road," assigned the original and renewal copyrights to his songs to Tree Publishing Co., Sony's predecessor-in-interest, in a series of contracts in the 1960's. In return, Miller was entitled to receive royalty payments from the use of these songs. In January and April 1992, Sony filed applications to register the renewal copyrights for songs with renewal terms beginning Jan. 1, 1993. Miller died in October 1992, after the application but before the copyright renewal term began. In his will, Miller granted all interests in his intellectual property to



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his wife Mary, who assigned those interests to RMMI. For 12 years prior to the lawsuit, Sony continued to exploit Miller's songs and paid royalties to RMMI.

After protracted litigation, the district court held that Sony did not own the renewal copyrights for the songs that had renewal dates after Miller's death, that Sony was infringing on those copyrights, and awarded RMMI and Mary Miller \$903,349 in infringement damages. The court reasoned that Miller died prior to the vesting of the renewal rights, and the Copyright Act did not include assignees in the list of statutory successors to those rights. The singer/songwriter had to have been alive at the start of the renewal term to effectuate his assignment of the renewal copyright to Sony.

On appeal, the Sixth Circuit reversed, agreeing with Sony that Miller only had to be alive when the applications were filed. Citing to the 1992 amendments to the Copyright Act, the appeals court held that an author is entitled under § 304(a)(1)(C) to the renewal and extension of the copyright if he is still living. Under the Copyright Act, "[t]he renewal copyright vests in any party entitled to it 'at the time the application is made.' The author (and therefore any of his assignees) thus secures an interest in the renewal copyright so long as he is still living at the time of application for renewal with the Copyright Office. This interest is not lost even if the author subsequently dies prior to the commencement of the renewal term." Miller was entitled to the renewal copyright because he was living at the time the application for registration was made, and Sony, in turn, was entitled as Miller's assignee and took ownership at the time the interest vested on January 1, 1993. The fact that the interest in the renewal copyright vests at the beginning of the renewal term – on Jan 1, 1993, after Miller's death – did not require a different result, according to the court. The date of vesting is not dispositive of who owns the copyright, since the 1992 Copyright Act separates the question of who is



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entitled to the renewal rights from the question of who is alive when renewal vests. The date of the renewal application determines entitlement to ownership and a party can become entitled to ownership of the renewal copyright prior to the time it actually vests.

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