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Jan 12 2011 4:21 PM EST 14,286

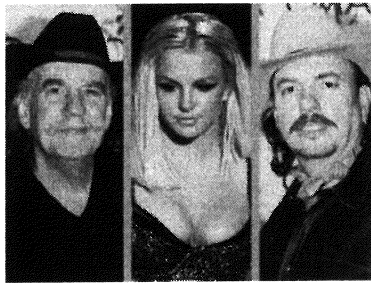
Britney Spears' 'Hold It Against Me' Likely Safe From Copyright Case

Country music duo the Bellamy Brothers are upset over Britney song title's resemblance to their 1979 hit.

By Gil Kaufman

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Britney Spears and the Bellamy Brothers
Photo: Getty Images

Chances are, nobody out there is going to confuse the Bellamy Brothers' slow-rolling, 1979 Tex-Mex country hit "If I Said You Have a Beautiful Body Would You Hold It Against Me" with Britney Spears' new club grinder "Hold It Against Me."

Yeah, the titles are somewhat similar, but even with the noise the "Let Your Love Flow" sibling act is making over a possible legal challenge to Brit, the chances of winning a case over the borrowing of a song title is pretty slim, according to a noted copyright attorney who spoke to MTV News.

"A title is not copyrightable," said lawyer Brian Caplan, who has more than 20 years of experience in intellectual property and entertainment law. (Caplan does not represent the Bellamy Brothers.) "The expression, either in lyrics or music in a composition is copyrightable, however if something has been used previously by multiple sources, one can argue that it is trite or commonplace and the latter user has no right to it."

David Bellamy conceded to *Entertainment Weekly* that he first heard the title phrase — a favorite cheesy pick-up line for bar-trollers across the globe — while watching reruns of the classic Groucho Marx show "You Bet Your Life." The mustachioed comedian used the line on the show one night in an attempt to sidle up to a buxom blonde, Bellamy recalled.

"It was just really funny, and I thought, 'Well, that'd make a really good song title,'" Bellamy said, acknowledging that many songs have

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the same, or similar, titles these days. "But this particular title is kinda hard to disguise, because the title is the song. It's not like saying, 'I love you, baby.' I think songwriters have become watered-down. This makes me sound like an old man again, but I find that songwriters now are not as strong as they used to be in the '60s or '70s."

Lawyer Caplan, who had not heard either song when MTV News contacted him to comment, said that just because a title is not copyrightable does not mean a potential case would automatically go away. "It means that there would be a strong argument as it moves forward to have it dismissed, though," he said. "If you can show through a survey of prior art that that phrase has been used previously by others prior to the plaintiff's use, then it significantly undermines [the case] and if it's only used in the title it's a slam dunk."

As an example, he said if someone wrote a song called "Jersey Girl" or "My Jersey Girl," despite the fact that Rock and Roll Hall of Fame Inductee Tom Waits wrote his "Jersey Girl" in 1980 — and Jersey boy Bruce Springsteen helped popularize it a year later — as long as the rest of the song is different musically, lyrically and melodically, there would be no case there, either.

In the meantime, Spears is burning up the charts with her tune and breaking some records along the way. "Hold It Against Me" immediately shot to #1 on iTunes upon release this week and broke all previous records for most spins upon its release on Monday.

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