

George Vs. Victor Talking Machine Co.

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SooperKanoon Citation : sooperkanoon.com/95876

Court : US Supreme Court

Decided On : Dec-17-1934

Appeal No. : 293 U.S. 377

Appellant : George

Respondent : Victor Talking Machine Co.

Judgement :

George v. Victor Talking Machine Co. - 293 U.S. 377 (1934)

U.S. Supreme Court George v. Victor Talking Machine Co., 293 U.S. 377 (1934)

George v. Victor Talking Machine Co.

No. 128

Argued December 5, 1934

Decided December 17, 1934

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CERTIORARI TO THE CIRCUIT COURT OF APPEALS

FOR THE THIRD CIRCUIT

SYLLABUS

1. A decree of the District Court finding infringement of the common law right of property in a song, granting an injunction, and

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appointing a master to take and state an account of profits and report to the court, with the usual provisions for exceptions to such report, is interlocutory. P. [293 U. S. 378](#) .

2. An appeal from such a decree, taken after the time limited by Jud.Code 129, 28 U.S.C. 227, has expired is beyond the jurisdiction of the Circuit Court of Appeals. P. [293 U. S. 379](#) .

69 F.2d 871 reversed.

Certiorari to review a decree reversing, on the merits, a decree of injunction and for an accounting of profits in a suit based on an infringement of the plaintiff's common law right of property in the words of a song.

PER CURIAM.

Review was limited to the question of the jurisdiction of the Circuit Court of Appeals. The suit was brought for the infringement of the common law right of property in a song, and the bill sought an accounting of profits made by the defendant. The District Court sustained the plaintiff's right as author, and found infringement. Decree was entered granting an injunction and appointing a special master to take and state an account of profits, and to report to the court, with the usual provisions for exceptions to the report. The decree was interlocutory. [The Palmyra](#), 10 Wheat. 502; [Perkins v. Fourniquet](#), 6 How. 206, [47 U. S. 208](#) -209; [Craighead v. Wilson](#), 18 How. 199, [59 U. S. 202](#) (explaining [Forgay v. Conrad](#), 6 How. 201); [Beebe v. Russell](#), 19 How. 283, [60 U. S. 287](#) ; [Humiston v. Stainthorp](#), 2

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Wall. 106; *Keystone Manganese & Iron Co. v. Martin*, [132 U. S. 91](#) , [132 U. S. 93](#) , [132 U. S. 97](#) ; *McGourkey v. Toledo & Ohio Central Ry. Co.*, [146 U. S. 536](#) , [146 U. S. 547](#) ; *Guarantee Co. v. Mechanics' Savings Bank & Trust Co.*, [173 U. S. 582](#) , [173 U. S. 586](#) ; *Simmons Co. v. Grier Brothers Co.*, [258 U. S. 82](#) , [258 U. S. 89](#) . The decree was entered on March 31, 1933, and the appeal to the Circuit Court of Appeals was not taken until May 18, 1933. The Circuit Court of Appeals entertained the appeal and reversed the decree of the District Court. As the appeal was not taken within the time prescribed by law, the Circuit Court of Appeals was without jurisdiction. Jud.Code 129, 28 U.S.C. 227. The decree of the Circuit Court of Appeals is reversed, and the cause is remanded to that court with directions to dismiss the appeal.

It is so ordered.