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Who Owns A Beat? The Dispute Over Reggaeton's Core Sound

By **Ivan Moreno**

Law360 (August 14, 2025, 4:49 PM EDT) -- The origin of the rhythm that underpins much of reggaeton music is at the center of a copyright lawsuit from Jamaican artists who claim a loop from an instrumental song they released in 1989 has become foundational to reggaeton, which thousands of songs have copied without permission.

The complaint in Los Angeles federal court names more than 160 of reggaeton's biggest stars, including Bad Bunny, Luis Fonsi and Ivy Queen, accusing them of using the drum-and-percussion elements in "Fish Market," a song by reggae and dancehall producers Cleveland "Clevie" Browne and the late Wycliffe "Steely" Johnson.

The duo, known as Steely & Clevie, argue their song launched what's called the "Dem Bow Riddim," which some reggaeton artists have said is integral to the genre, according to their suit.

The case, now at the summary judgment stage, raises questions about the extent to which familiar music rhythms are protectable by copyright law. The defendants maintain that the rhythm at issue incorporates preexisting elements that are common musical building blocks, including the Afro-Cuban habanera rhythm and surf beat.

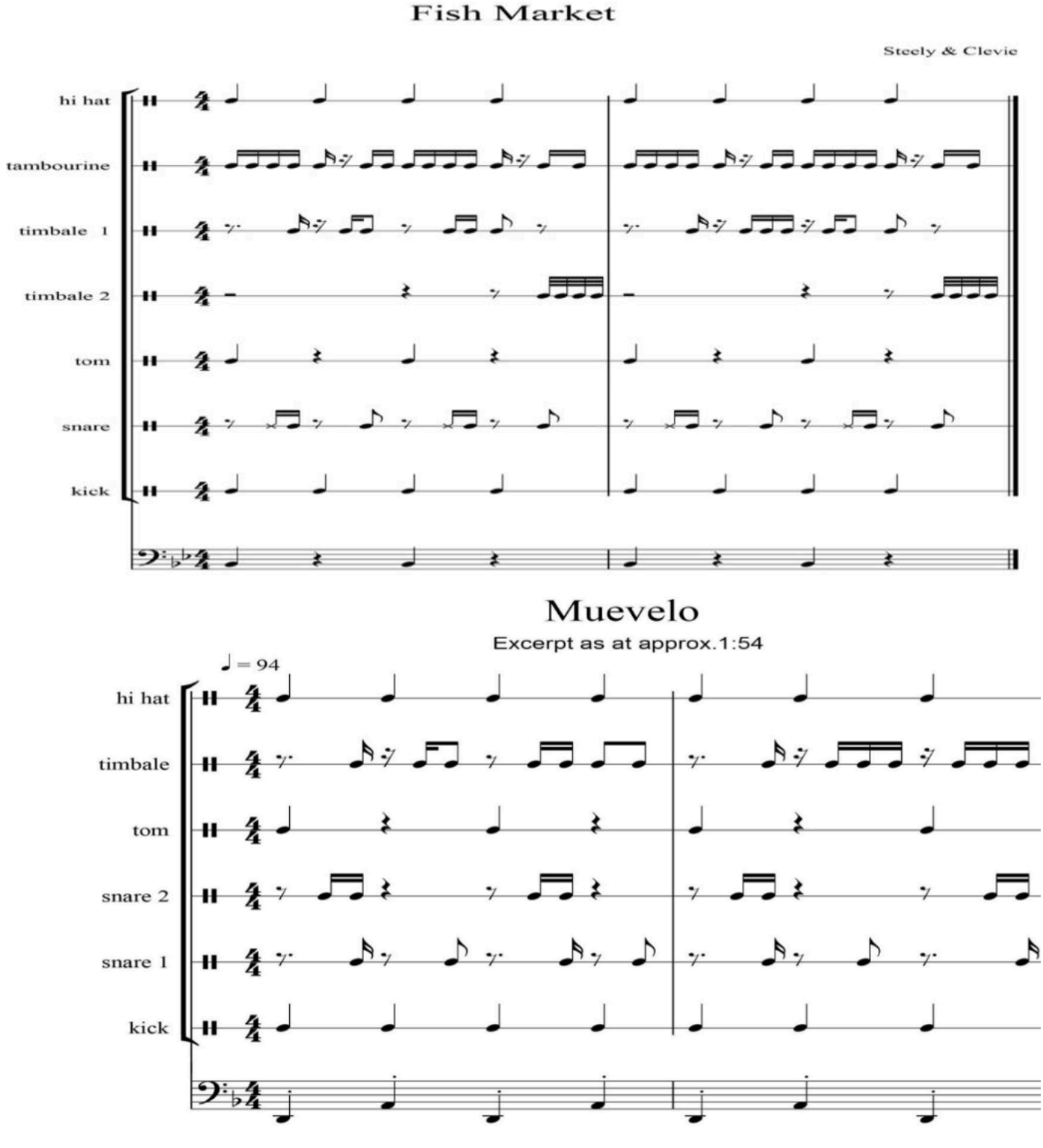
"We're talking about a claim that somebody owns a rhythm and a relatively commonplace rhythm," said Donald Zakarin of Pryor Cashman LLP, which is representing more than 100 defendants. "If you view it as habanera, it has existed for over a hundred years. If you view it as surf beat, it has existed for decades. You can dress it up with all sorts of embellishments, but that's what it is."

The plaintiffs contend that their specific percussive arrangement did not exist before they created it. Steely & Clevie also licensed "Fish Market" to reggae artist Gregory Peck and dancehall star Shabba Ranks in 1989 and 1990, respectively, according to their complaint.

"The Dem Bow Riddim is made up of multiple drum and percussion instruments playing multiple rhythmic patterns all happening simultaneously over a bassline," Stephen Doniger of Doniger Burroughs, the firm representing the plaintiffs, said in written comments to Law360. "Defendants have not found this particular combination of 'building blocks' to exist in any prior works and thus argue that smaller iterations of those building blocks are not protectable — but under that analysis no music would ever be protectable."

Johnson's estate and Browne filed multiple lawsuits in 2021 that were eventually consolidated, claiming that as many as 3,600 reggaeton songs contain elements of their instrumental work. Last year, U.S. District Judge André Birotte Jr. denied the defendants' motion to dismiss direct copyright infringement claims, saying he was unprepared to "examine the history of the reggaeton and dancehall genres" at that stage.

The judge also said he could not yet "dissect the genres' features to determine whether the elements common between the allegedly infringing works and the subject works are commonplace."



In one of many examples from their complaint, the plaintiffs compared sheet music from Steely & Clevie's "Fish Market" (top) to Daddy Yankee's "Muévelo" (bottom), arguing they show remarkable similarities. (Court documents)

Darius Gambino, sports and entertainment practice chair at Saul Ewing LLP, called the dispute "a study in musicology" and noted that, although he understood the judge's decision to not dismiss the case, he doubts the plaintiffs have a strong case.

"Based on existing precedent, it's not a particularly strong case because you are talking about things within this 'Fish Market' rhythm that were preexisting," he said. "Even if they are able to prove that it's original and protectable, I think the copyright in it will be what we call a thin copyright," requiring nearly identical copying for infringement.

Summary judgment arguments are scheduled for Sept. 26.

Musical Building Blocks

Zakarin was one of the attorneys who defended British singer-songwriter Ed Sheeran against allegations that he unlawfully copied the harmonic rhythm and chord progression of Marvin Gaye's Motown classic "Let's Get It On." Last year, the Second Circuit **affirmed** a lower court's conclusion that those musical elements in Gaye's song were so commonplace, in isolation and in combination, that ruling they were protectable would result in "an impermissible monopoly over a basic musical building block."

The plaintiff in that case, Structured Asset Sales LLC, unsuccessfully appealed to the U.S. Supreme Court this year, arguing that the Second Circuit had improperly deferred to the U.S. Copyright Office on another aspect of the case, contradicting the justices' decision overturning the so-called Chevron deference to agencies. A separate suit against Sheeran by the same plaintiff over Gaye's song is pending in New York federal court.

"It was a musical building block," said Zakarin, who is also representing Sheeran in the second suit. "Even though 'Let's Get It On' is an absolutely brilliant song and entitled to [copyright] protection, they can't prevent others from using that chord progression because if you remove that chord progression from the tool chest, as it were, music gets truncated."

In Skidmore v. Zeppelin, the Ninth Circuit in 2020 **affirmed** a jury's 2016 verdict that found that Led Zeppelin's iconic "Stairway to Heaven" did not infringe the copyright of an instrumental track called "Taurus" by the band Spirit. The ruling became significant precedent in copyright law because the appeals court acknowledged that some musical elements are considered to be in the public domain.

Doniger said the reggaeton defendants did not "just copy certain building blocks or their arrangement, they copied the Dem Bow Riddim — often sampling the work itself and referring to it by name."

"So even under 'thin' protection, our client's work is protectable," he said.

Doniger noted that in moving to dismiss the case, the defendants argued that Dem Bow was "scènes à faire," a commonplace expression not protected by copyright.

"But 'scènes à faire' analysis looks to the time of the creation of the asserted work (here 1989) and the relevant field of music (here dancehall). Since nobody has found the same combination as the Dem Bow Riddim in existence before Fish Market's release, in dancehall or otherwise, the district court rightly rejected defendants' scènes à faire argument," he said. "Tellingly, the defendants haven't raised this argument again since."

An Original Rhythm?

Music copyright infringement disputes often involve claims that a particular song rips off certain elements of another, not that a whole genre of songs has been built on a loop or hook that someone invented.

"To my knowledge, we've never seen anything like this before," Gambino said.

He said the court is staging the case appropriately by first focusing summary judgment arguments on whether the elements in "Fish Market" are original and protectable. If the plaintiffs clear that hurdle, the next phase would be analyzing, on a song-by-song basis, which reggaeton songs are infringing.

"What I'm interested in, if it goes forward, is how the heck do they do a copyright analysis of what is it, 3,600 songs? I mean it's insane," said Eric Lane, an intellectual property attorney and jazz musician who writes the blog musicalIPy.

As the parties litigate the current phase of the case, they are at odds over what the role prior art — a term most associated with patents — should play in determining the protectable elements in "Fish Market."

Unlike with patents, where an invention needs to be novel and not obvious to be patentable, it is possible to copyright a work even if it is similar to something that existed before. If individuals independently create a song that is similar or nearly identical to a song they have never heard before, it could be copyrighted. But any elements found in preexisting works cannot be monopolized, the defendants' attorneys say.

"So it really is, in our view, probably the most consequential issue in this stage because you can't say something's original and protectable without knowing what existed before it," said James Sammataro of Pryor Cashman LLP.

He added that the possibility of plaintiffs prevailing should alarm the music industry.

"We don't know how they possibly could, but if they were to prevail, you'd almost have to have a whole separate clearing department for anything that has a certain drum pattern to it," Sammataro said.

Doniger has a different view of prior art's role in the case, saying the concept "has been creeping into music copyright cases" despite being "inconsistent with fundamental tenants of copyright law."

He said the case is an opportunity to keep the prior art analysis in its place and recognize the originality of rhythmic, or primarily rhythmic, compositions.

"Western music historically values melodic and harmonic compositions over rhythmic compositions far more than African and other cultures, with Western musicological analysis acting as if the former have some inherent value or creativity that rhythmic compositions don't," Doniger said.

Lane agreed that perhaps drummers do not get enough credit for their original compositions.

"It's like it becomes a psychological hurdle when it's just an original drum or percussion piece because there's no melody," he said.

Kenneth Freundlich of Freundlich Law APC, who represents Bad Bunny and his record label, Rimas Music LLC, said the plaintiffs are wrong to dismiss prior art's role in the case.

"That makes no sense whatsoever," he said, adding that just because originality requires some creative spark, it does not render something protectable, "and not everything that's original is protectable."

"It would just make it fair game for anybody, whoever sat behind a drum kit, to now claim that a 'foundational' beat that they brought forward from beats that have been around forever is suddenly theirs," Freundlich said.

--Editing by Adam LoBelia.