

USA: Commodores Entertainment Corp. v. McClary, United States Court of Appeals, Eleventh Circuit, No. 16-15794, 09 January 2018

Kluwer Trademark Blog

January 31, 2018

Thomas Long (Wolters Kluwer Legal & Regulatory US)

Please refer tot his post as: Thomas Long, 'USA: Commodores Entertainment Corp. v. McClary, United States Court of Appeals, Eleventh Circuit, No. 16-15794, 09 January 2018', Kluwer Trademark Blog, January 31 2018, <http://trademarkblog.kluweriplaw.com/2018/01/31/usa-commodores-entertainment-corp-v-mcclary-united-states-court-appeals-eleventh-circuit-no-16-15794-09-january-2018/>

When Thomas McClary, a former member of the rhythm and blues, funk, and soul music band, The Commodores, left the band in 1984, he left behind any common-law rights he had in the band's trademarks, according to the U.S. Court of Appeals in Atlanta. Those rights were retained by a corporation formed by two of the original Commodores who remained active with the group, Commodores Entertainment Corp. (CEC). A permanent injunction barring McClary from using the marks was affirmed, although the appellate court noted that McClary could make "fair use" of the band's name, such as referring to his tenure in the band as a historical fact. The Eleventh Circuit affirmed the district court's decision to apply the injunction extraterritorially to bar McClary's infringing uses of the marks abroad (Commodores Entertainment Corp. v. McClary, January 9, 2018, Marcus, S.).

A full summary of this case has been published on [Kluwer IP Law](#).