

“The Man Who Brought the Beatles to America” is Bringing Them Back...to a U.S. District Court

September 16, 2016 – The TMCA

by Brian J. Janura



Sid Bernstein was a legendary promoter and producer of iconic rock-and-roll performers including the Rolling Stones, the Moody Blues and, of course, the Beatles. Bernstein earned his moniker as “The Man Who Brought the Beatles to America” after arranging for the Beatles to play in New York’s Carnegie Hall and Shea Stadium in the 1960’s. Sid Bernstein Presents, LLC, an assignee of the late promoter’s intellectual property, recently sued Apple Corps Ltd., an entity created by the Beatles, for ownership of the footage of the famous concert at Shea in 1965.

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation

Shea Stadium was once home to the New York Mets baseball team and until the Beatles came in 1965, no concert had ever been played within its giant blue walls. Bernstein’s idea was to use the stadium and its 50,000-plus seats as a music venue to cash in on “Beatlemania.” He convinced the Beatles to play at Shea and claims to have arranged all the concert’s details, including paying the Beatles a guaranteed minimum fee. A film crew captured the Beatles’ iconic performance that day and the footage was subsequently turned into a film named “The Beatles at Shea Stadium.”

In a complaint filed in U.S. District Court for the Southern District of New York, Sid Bernstein Presents claims ownership of the 51 year-old footage and alleges Apple Corps infringed upon Bernstein’s work by broadcasting that footage and by creating infringing derivative works. The timing of the lawsuit might seem *long, long, long* overdue, but this week Ron Howard’s new movie about the Beatles - *Eight Days A Week* - is scheduled to be released containing footage of the 1965 show at Shea.

The complaint notes that Apple Corps’ subsidiary is the registered owner of the copyright in “The Beatles at Shea Stadium” movie. But Bernstein alleges authorship of the underlying footage “[b]y reason of being the producer of and having made creative contributions to the 1965 Shea Stadium performance, as well as being the employer for hire of the Beatles and the opening acts, who performed at his instance and expense.”

Bernstein's complaint notes that the Copyright Office refused its application for registration of the underlying footage earlier this year. According to the complaint, Bernstein never actually had possession of the underlying footage it claimed to author, so it submitted stills from the "The Beatles at Shea Stadium" movie as the deposit work for its copyright application. The Copyright Office concluded that Bernstein's claim in the underlying footage was "adverse" to Apple Corps' 1988 registered copyright in Shea Stadium movie, and that the stills of the movie provided in the application represented "infringing" works of the movie.

After being turned away by the Copyright Office, Bernstein now asks the federal court for a judgment declaring Bernstein as the "dominant and sole author" of the concert footage and the owner of all copyrights in "The Beatles at Shea Stadium" movie. It may soon be up to the court to determine where this *long and winding road* finally comes to an end.