



Business Opinion

Drake, Snoop learned the hard way: Why releasing private conversations is not OK



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When former Los Angeles Clippers owner Donald Sterling was secretly recorded making racially insensitive statements to his girlfriend V. Stiviano in 2014, few were sympathetic. This was in spite of some being concerned about privacy measures that weren't taken during what was believed to be a private argument between a couple. Politically savvy talk show host Bill Maher didn't quite defend Sterling so much as state that he felt that people shouldn't be recording private calls. Technically, he's not wrong.





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In the state of **California**, all parties in a confidential conversation must provide consent before agreeing to be recorded whether face-to-face or by electronic communications. In **Illinois**, "an eavesdropping device cannot be used to record or overhear a conversation or intercept, retain or transcribe a telephone or electronic communication without the consent of all parties involved." (The latter does not apply to police officers.)

But what happens when an entertainer chooses to make a private conversation public on a record? Toronto rapper Drake is already getting backlash from two ex-girlfriends for doing so. **Billboard** reports that his ex-girlfriend Ericka Lee is the voice on "Marvin's Room" and wanted co-writing royalties.

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On the beginning of Drake's "How About Now," an alleged private voicemail from Kandice Henry (who he admitted "**broke his heart**" in a XXL fill-in questionnaire) included the opener "Yo, you cheesed me, dog." Although it's not immediately clear whether the OVO rapper got the OK from his ex-girlfriend about using this message, there were **some outlets** suggesting he apologize before a lawsuit could occur.



Is it possible to financially gain from an artist releasing a private conversation to the public for commercial use? Yes. Snoop Dogg found that out the hard way.

Although Snoop jokingly admitted to **The Breakfast Club** that he didn't pay for a recording (although his record label warned him to) he admitted that a fan did not take the released recording in stride.

"**Charlamagne**, I done a conversation with somebody," Snoop told the **radio trio**. "Where dude called me, telling me how much he love me and whoop dee whoop whoop whoop, and I put it on a album, and three weeks later, he sued me. Twenty-five racks."





Photo: iStock

Although it might sound bizarre to some, that fan was well within legal rights to do so. Each state has different consent laws when it comes to recording private conversations. Some states are single consent jurisdictions and others require both parties to consent. It's advisable to be aware of the state consent laws where the recording is being made.

Record labels and music publishers don't want to buy a lawsuit. Typically, they will ask for contractual agreements proving the artist has obtained a release or license to incorporate third-party material into a song.

A release is a legal agreement that grants a person permission to use another person's voice, likeness or image. The parties can negotiate if the artist will pay a fee for the right

third-party material into a song.



A release is a legal agreement that grants a person permission to use another person's voice, likeness or image. The parties can negotiate if the artist will pay a fee for the right to use the fan or ex-girlfriend's recorded voice in a song. Or the parties can agree no monetary payment will be made for the right to use the recording because compensation will come in the form of public recognition for being featured on the song.



Have more entertainment-related right to privacy and right of publicity questions? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

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