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Oldies groups go to court to challenge 'truth in music' law

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NEWARK, N.J.

The question of who is The Great Pretender and who is merely an impostor has moved from the stage to the courtroom.

Promoters of several rock 'n' roll oldies groups charged in court Friday that the state overstepped its authority when it served subpoenas on the Atlantic City Hilton



Casino last month over a series of performances by bands billing themselves as offshoots of rock 'n' roll legends the Platters, Drifters and Coasters.

The lawsuit against state Attorney General Anne Milgram is believed to be the first legal challenge to the so-called "truth in music" laws designed to prevent the unauthorized use of the names of existing groups like the Platters, who recorded "The Great Pretender" and other hits in the 1950s and '60s.

Seventeen states have passed similar laws in recent years, according to Jon "Bowzer" Bauman, former singer in the revival band "Sha Na Na" and a member of the Vocal Group Hall of Fame Foundation, which has lobbied for the legislation. New York Gov. Eliot Spitzer signed a bill into law last month.

"With these older groups there's a lot more confusion because people aren't familiar with the original members," Bauman said. "Take a group like the Platters, who sold more records than anyone until the Beatles came along. Compare them to U2 now: You can't put any four people up there 50 years from now and call them U2. People will laugh them off the stage."

In arguments on Friday before U.S. District Judge Dickinson R. Debevoise, attorney William Charron, representing plaintiffs Singer Management Consultants and Live Gold Operations, said his clients hold unregistered trademarks on the names and are legally entitled to use them, even though the groups don't feature any original members.

The three groups perform under the names The Cornell Gunter Coasters, The Elsbeary Hobbs Drifters and the Platters. Gunter was an original member of the Coasters who was shot to death in Las Vegas in 1990, according to the Rock and Roll Hall of Fame's Web site, and Hobbs sang with the Drifters in the late 1950s and died in 1996 of natural causes.

The groups were scheduled to play several concerts at the Hilton between Aug. 18 and Aug. 30. In late July, the state Attorney General's office served a subpoena seeking advertising and marketing materials.

The Hilton subsequently discontinued advertising and ticket sales to the shows, then reprinted tickets that billed the show as "a tribute to" the Coasters, Drifters and Platters. Charron filed a restraining order on Aug. 16, and the shows went on as scheduled.

The state contended that since the group's trademarks are unregistered, they are subject to a subsection of the law that requires them to obtain further authorization or else refer to themselves as a tribute group.

But in court Friday, Deputy Attorney General Lorraine K. Rak conceded, as did Debevoise, that an unregistered trademark can confer the same rights as a registered trademark. Rak said the state would continue its investigation into the validity of the groups' trademark claims.

Debevoise said he would reserve ruling on the lawsuit until he decides a separate case involving the use of the Drifters name.

Charron said Milgram's action could affect his clients in the future since some of the groups have shows scheduled in New Jersey later this year.

"She should be directing her attention at us, not at other people," Charron said, referring to prospective venues like the Hilton. "This is having a direct, concrete effect on our business."

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