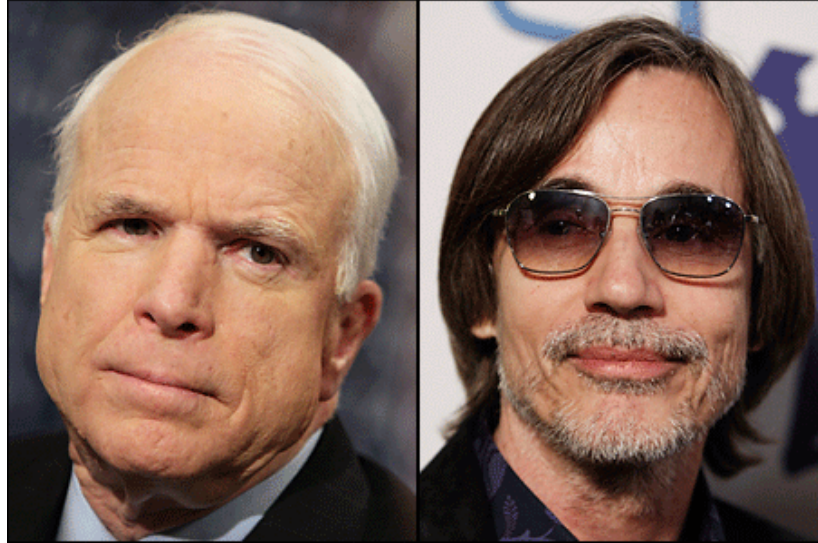


The Washington Post

Jackson Browne Defeats John McCain



(McCain: Face the Nation, Karin Cooper; Browne: AP, Matt Sayles)

Updated, 9:35 a.m. (7/22): Chuck DeVore, the conservative California state assemblyman challenging Sen. Barbara Boxer (D-Calif.) in 2010, has written to us objecting to our comparison of the Jackson Browne v. John McCain case to Don Henley v. Chuck DeVore.

DeVore says the Browne v. McCain case, which was settled on Tuesday, is "very different." Unlike the pro-McCain video that used Browne's hit song "Running On Empty," DeVore's parodies using Henley's "Boys of Summer" and "All She Wants To Do Is Dance" tunes don't actually use Henley's lyrics, he points out.

"Henley's voice was not used," says DeVore, who made up his own lyrics and changed the title of his parody of Boxer to "All She Wants To Do Is Tax." Furthermore, he says, his video used a karaoke track instead of Henley's band. "Our case is more like Nader v. MasterCard," he claims.

Original Post:

Singer **Jackson Browne** has won his copyright battle against **Sen. John McCain** (R-Ariz.), getting an apology and an undisclosed sum of money from the 2008 presidential nominee for a pro-McCain Web video that appropriated the artist's hit song "Running On Empty."

McCain, the Republican National Committee and the Ohio Republican Party jointly settled the lawsuit and issued a statement Tuesday saying:

"We apologize that a portion of the Jackson Browne song 'Running On Empty' was used without permission. Although Senator McCain had no knowledge of, or involvement in, the creation or distribution of the Web campaign video, Senator McCain does not support or condone any actions taken by anyone involved in his 2008 presidential election campaign that were inconsistent with artists' rights or the various legal protections afforded to intellectual property."

McCain, the RNC and the Ohio GOP Party also pledged to get artists' permission in the future before using their work.

Browne, an outspoken liberal, insists his lawsuit was "not a partisan effort. This case was about artists' rights and trying to ensure that our intellectual property rights are respected."

Browne's attorney, **Lawrence Iser**, tells The Sleuth that while the case isn't binding, it still sets a precedent for future political campaigns.

Will Browne have any more music on Wednesday night? Probably not, says Iser. "What this case means is, just because you're running for office doesn't give you the right to use copyrighted works without license or permission," Iser, a partner with the Los Angeles (Santa Monica)-based firm known as KWIKA, said by telephone.

That would suggest that **Don Henley** of the Eagles, who is suings a Republican Senate candidate, stands to win his case. The defendant, **Charles DeVore**, is accused of misusing Henley's songs "The Boys of Summer" and "All She Wants To Do Is Dance" without authorization to attack **Sen. Barbara Boxer** (D-Calif.).

McCain's lawyer, **Lincoln Bandlow**, disagrees with Iser that the Jackson Browne v. John McCain et al. case is precedent-setting. He says it's "unique" and "doesn't really relate to any particular future use" of copyrighted songs in political ads or videos.

Neither McCain's nor Browne's lawyers would discuss the financial settlement, or how much McCain had to pay Browne compared to the RNC or the Ohio Republican Party.

The "Running On Empty" Web video was made by the Ohio GOP.

McCain has maintained that neither he nor his campaign had anything to do with the making of the video, which was intended as parody to lampoon **Barack Obama** for suggesting Americans should inflate their tires to save gas.

Yet McCain still settled -- final proof, more than six months after the election, that the "Running On Empty" gag backfired.