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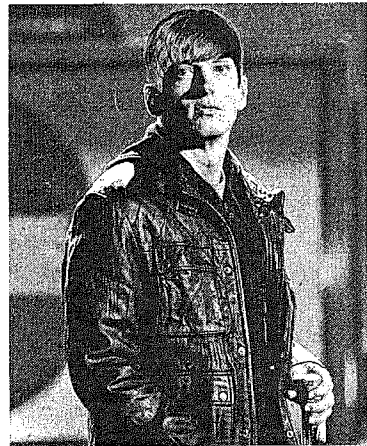
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Court lets Eminem royalties victory stand



Eminem and his Detroit-based producers stand to gain millions in retroactive royalties.

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By Anita Wadhvani
THE TENNESSEAN

The U.S. Supreme Court won't get involved in a royalty dispute between Universal Music Group and rap artist Eminem, leaving intact a lower court ruling that opens the door to bigger payouts for the self-made singer and perhaps far-reaching implications for other record deals.

The dispute centers on the rate of royalties Eminem and his producers are entitled to for music sold online, in downloads from iTunes, for example, or ringtones sold through cellphone providers.

The U.S. 9th Circuit Court of Appeals in San Francisco ruled last year that the artist and his producers were entitled to be paid a

much bigger percentage of royalties from digital music retailers than when Universal sells physical CDs and albums, about 50 percent of the sale price.

Universal Music Group appealed to the Supreme Court, saying the online royalties should be limited to the physical sale rate of about 12 percent.

The higher court's denial of that appeal means the case will go back to the Los Angeles courtroom where it was first argued within the next 30 to 60 days to determine damages, said Richard Busch, a Nashville-based attorney with King & Ballou, who represents Eminem's Detroit-based producers, F.B.T. Productions.

"Universal took this case all the way to the Supreme Court, and

they've been told in no uncertain terms that they were wrong," Busch said of the 4-year-old case. Universal representatives did not return a call for comment.

Case's impact may widen

Eminem and FBT stand to gain tens of millions of dollars in retroactive royalties in the difference between the 12 percent of online music royalties they had been receiving and the 50 percent the 9th Circuit ruled they were entitled to. Eminem is not a party to the lawsuit, but via his contract with F.B.T. he'll get a share of the payments.

Industry observers say the case could affect more than just Eminem's royalties, and at a

potentially high cost to other recording companies. Some industry observers think it could affect as many as 90 percent of all contracts signed before 2000.

A large percentage of record contracts like Eminem's, which was signed in 1998, predating the digital era, spelled out smaller royalty payments for music sold in physical form than music licensed for other uses, for movies, for example.

Online sales weren't envisioned as part of the equation at the time.

But the 9th Circuit has ruled that the sale of online music under the contract is a license rather than a physical sale and merits payment at the 50 percent rate.

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