

Beating Beats: A Q&A With the Susman Lawyer Behind the \$25M Verdict Against Dr. Dre and Jimmy Iovine

Susman Godfrey partner Brian Melton led a team that won a \$25 million verdict for client Steven Lamar in a royalty dispute over the high-end, celebrity-endorsed headphones.

By Ross Todd

Susman Godfrey partner Brian Melton spearheaded a team that won a **\$25 million verdict** on Wednesday in a royalty dispute with music executive Jimmy Iovine and rapper/producer Andre “Dr. Dre” Young over Beats, the ubiquitous high-end, celebrity-endorsed headphones now owned by Apple Inc.

Melton and his team handled the case on contingency against a **Morrison & Foerster** defense team led by trial heavyweight Arturo González, whom Melton called “a great trial lawyer ... one of the best ones in the world.” Melton spoke with The Recorder on Thursday about the trial and the challenge of handling a case against celebrity defendants in front of a Los Angeles state court jury. What follows has been edited for length and clarity.



Brian Melton of Susman Godfrey. (Courtesy photo)

Was Susman Godfrey on this from the get-go?

Our client Steve Lamar hired [Thomas] Girardi’s firm out of Los Angeles and he filed it on his behalf sometime in May 2014. The suit was originally filed by [separate plaintiffs] in January of

’14. They went to the court and said ‘We don’t know who’s owed what. Y’all figure it out’ and then they brought Beats and Lamar [into the suit]. Then there was a series of tolling agreements. I think many of the articles that are out there wrongly suggest

that [our client] only brought his lawsuit after Apple announced they were buying Beats, and that's just wrong. The suggestion was that he was just laying behind a log. There were already tolling agreements and the case was on file long before that.

To answer your question, we weren't in it from the start. Lamar contacted me personally in September 2014 and said 'Look, I want to make a change, and I hear Susman Godfrey and you specifically are the people to handle this.' [There were] drawings attached to the [underlying] contract, and I'd done a boatload of patent litigation, and that's how he got my name.

What were the key bits of evidence or testimony for you to end up with this result?

I think it's two-fold. One is evidence, documents, the hard proof versus just what people say. Then it goes to witness credibility. So, on the documents and the proof, for example, we showed this jury that it was Lamar who brought the business concept for the high-end, celebrity-endorsed headphones to Jimmy Iovine and Dr. Dre. They, at trial and to anybody who will listen for the past dozen years, have spun a story about how Jimmy and Dre were

walking on a Malibu beach—it was in **"The Defiant Ones"** if you've watched that—it was their 'Aha!' moment. I think what we showed at trial is that isn't true. These guys have no email, no piece of paper, no napkin drawing, nothing, no designer until after they met Lamar in January 2006. We showed the jury that through email correspondence, PowerPoint presentations, and actual evidence that it was Lamar who had this great idea while he was the president of an audio company and brought it to them. That was the starting point where the jury said 'Somebody's telling the truth here and somebody's not.'

Even though that wasn't a critical issue in the contract—the contract was signed after that event—I think [it was important to prove] it right up front and say 'We're going to prove this because it does go to credibility. It does go to who's telling the truth.'

You had asked for north of \$100 million, right?

We asked for a royalty on each headphone that was released after the contract was signed. We presented them with 12 headphones and the jury decided that three of those 12 met the definition of headphone within the contract. For each of those three,

they gave us 100 percent of what we were asking for.

The Studio 2 Remastered, the Studio 2 Wireless and the Studio 3, which is still being produced, right?

Correct.

What were the obstacles you had to overcome to get to the result you got?

By the time I got into the case, Apple owned Beats. I was taking on the biggest company in the world, two of the most beloved celebrities in LA with the best trial lawyer they could find in the world out of California. I was taking them on their home court, in their backyard. (Laughs.) I think that is an obstacle. My client is a San Francisco-based individual. But going into LA against celebrities, who are loved: that was an obstacle.

I think the celebrity thing came up throughout trial. Apple, the big company with a lot of assets: Susman Godfrey has all the wherewithal and all the assets to make it through those fights. We've been doing it for years. But the celebrity aspect of this case was different. I think you start off a little bit behind the eight ball just in jury selection through the openings. As the plaintiff, your witnesses have to be strong and

credible to overcome. But I think once you overcome it, it's gone.

Opposing counsel and Apple and Jimmy and Dre injected it throughout the trial. I think they were hoping, given the language of the contract, that the celebrity status might carry them to a "Get Out of Jail Free" card. They played music in openings. They played music during Dr. Dre's direct examination. I think it was a calculated strategy to hope to ride that to a defense verdict.

Was the goal there to paint your client as a hanger-on?

They said that out-and-out over-and-over again to the jury: 'He was in the right place at the right time.' 'He didn't come up with the idea.' That's why you do that. You don't have to play music to know Dr. Dre's famous. They were putting on a little Hollywood theater. This jury was extremely well-educated, so I don't think it mattered to them.

How did you and your team divide up the load in this case?

Before I was a lawyer I was an Army Ranger. I incorporate a lot of stuff I learned in the Army in running a trial team. We had four lawyers who actually stood up who actually took direct examination or cross-examination of

significant witnesses at trial. It starts with good teamwork and we had clear communications. In the four years leading up to trial we had 30-minute conference calls every week: Same time, same place, same phone number. I do that with all my trial teams. We have an agenda and we don't waste time. We spend 30 minutes every week organizing ourselves and focusing everybody and then you go out and do your work. You don't assign a bunch of lawyers to a task. You assign one lawyer to a task and then you go do it. And that carried through trial.

Did you open and close?

I opened. Associate Davida Brook put our client, our most important witness, on direct. Chanler Langham conducted voir dire. Then I closed the first hour and then Steve Morrissey, my partner, did rebuttal.

Who handled Iovine and Dr. Dre?

Morrissey handled Iovine and I handled Dre. I guess the main point on that is that this is a high-profile case and there's firms all over the country talking about, "We give opportunities to associates. We spread it around." Whatever. When the spotlight is

the brightest that's the best time to share it, right?

On this case, our trial team members all contributed equally. Everybody had significant roles. Chanler Langham took on what I thought was the hardest witness in Robert Brunner, who was the designer, who was Apple and Beats' guy, who was coming into trial to act as a disinterested witness to say that it was a one product deal, [Lamar] shouldn't get any money. He was the most dangerous witness, and [Langham] neutralized him.

Davida Brook is amazing. She's an associate, and we let her argue the appeal and let her put on our direct case through Mr. Lamar. I don't think she's going to be an associate for long. My partners may get mad at that quote, but put it in there. (Laughs) I trusted her in putting on our client and he was on the stand for two days. A well-done direct is one of the hardest things we do because you need to take weeks. It doesn't just come together overnight.

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