

Judge Blocks Sale Of Whitney Houston's Emmy

By **Bill Donahue**

Law360, New York (June 24, 2016, 3:25 PM ET) -- The organizers of the Emmy Awards won a restraining order Thursday blocking the estate of Whitney Houston from auctioning off an award statuette won by the late singer.

A California federal judge ruled that The Academy of Television Arts & Sciences was likely to succeed in its accusations, filed just a day before, that the estate would be committing copyright infringement and conversion by selling the statuette, which Houston won for her 1986 performance in *Saving All My Love for You*.

"At least based on the record before the court at this preliminary stage, the Television Academy has a strong likelihood of success on the merits of its copyright infringement and conversion claims," wrote U.S. District Judge Percy Anderson.

The restraining order, which will expire on July 7 if it isn't replaced by a longer-lasting preliminary injunction, came just a day after The Television Academy sued Houston's estate over the auction, which was planned for Friday with a starting bid of \$10,000. Heritage Auctions, which was to hold it, was also named in the complaint.

"If Heritage's highly publicized auction is allowed to go forward, it will undermine the prestige of the Emmy Award and tarnish the Television Academy's reputation, leaving the impression that the highest honor in the television industry is a commodity available for sale to the highest bidder," the complaint claims.

The argument from the Academy goes like this: Even though stars like Houston are allowed to take home their Emmy Awards after the big night, the Academy retains the copyright ownership of it, including a written advisory on the statuette that it "is the property of and all rights are reserved by the Academy."

Facing the lawsuit and the bid for a restraining order, Houston's estate argued that she never intended to agree to the terms of the advisory. On Thursday, Judge Anderson said contracts were not even the issue at hand.

"Contrary to Heritage's assertion that the Television Academy is attempting to enforce an agreement between the Television Academy and Ms. Houston that she did not sign or agree to be bound by, the label is instead evidence of the Television Academy's ownership of the statuette, not evidence of an

unenforceable agreement between the parties,” the judge wrote Thursday.

The Television Academy isn't the only awards group that keeps close tabs on resale of its statuettes.

The Academy of Motion Picture Arts and Sciences, which gives out the Oscars, also claims tight copyright and trademark control over its iconic statuette, but it goes a step further, imposing a contract on winners that they cannot sell it without first offering to sell it back to the Academy for \$10.

In December 2014, the Academy cited that provision when it sued Carol Surtees — the daughter-in-law of 1953 Oscar winner Robert Surtees — after she auctioned off the late cinematographer's prize for \$40,000.

The Television Academy is represented by David W. Quinto and Scott R. Commerson of Davis Wright Tremaine LLP and Dixon Q. Dern.

Heritage is represented by Robert A Levinson of Levinson Arshonsky and Kurtz LLP.

The case is Academy of Television Arts & Sciences v. Heritage Auctions et al., case number 2:16-cv-04518, in the U.S. District Court for the Central District of California, Western Division.

--Editing by Kelly Duncan.

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