

Abstract of Decision of the Toulouse Court of Appeal, March 16, 2000.

Bouffard, et al. organized a number of « raves » attended by up to 2500 people. These events were held in remote areas, and without authorization by the owners of their venues. Food and alcohol were sold at unauthorized concessions, as were narcotics. They generated numerous noise complaints from residents in the neighborhoods in which these nuisances occurred.

The amplified music played at the raves was produced by a DJ who simultaneously played recordings of more than one popular song. The songs that were mixed were within the repertoire of SACEM, the French performing rights organization that licenses performances of these works on behalf of their authors. Bouffard, et al. had not obtained permission from, or paid royalties to, SACEM for mixing and playing these works, which, SACEM claimed, constituted copyright infringement.

In 1999 the Tribunal de grande instance d'Albi found the defendants guilty of various offenses, including drug possession, disturbance of the peace, illegal sale of alcohol, etc., but not of copyright infringement. The defendants appealed to the Cour d'appel in Toulouse, which upheld in large part the lower court's decision, including its finding that the defendants did not infringe the performance copyright of the songs managed by SACEM. Like the lower court, the Cour d'appel found that the "mashups" played at the raves were "a new and different music" [different from the SACEM songs] such that the original works were no longer recognizable to the average listener." If the average listener did not associate what he heard at the rave with preexisting works, the mashup could not be considered infringement of them.