



Westlife reached No 1 in Ireland and the UK with *You Raise Me Up* in 2005. The court in California heard the song has a similar melody to *Danny Boy*, which is outside copyright law
SHIRLAINE FORREST/GETTY IMAGES

Songwriting duo lifted by *You Raise Me Up* ruling

US court rejects plagiarism case over track performed by Westlife

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An American judge has dismissed a copyright claim that *You Raise Me Up*, co-written by Irish songwriter Brendan Graham, plagiarised a 1970s Icelandic song.

Johann Helgason had alleged that *You Raise Me Up*, written by Rolf Lovland and Graham, had infringed on *Soknudur*, which he wrote in 1977. *You Raise Me Up*, first sung by Brian Kennedy, has been covered by more than 100 artists, including Westlife and Celtic Woman.

According to court documents, Graham and Lovland did not attend proceedings in the Californian district court. The defendants were described as “corporations involved in publishing and/or selling” *You Raise Me Up* and included

Warner Bros Records, UMG Recordings and Peermusic, Graham's publisher.

Helgason had hired Judith Finell, a musicologist who helped Marvin Gaye's estate win a copyright suit against *Blurred Lines*, a song by Pharrell Williams and Robin Thicke. However, Judge Andre Birotte ruled that Finell's findings in the *You Raise Me Up* case were unreliable. The court found the findings of Dr Lawrence Ferrara, a musicologist working on behalf of the defence, to be conclusive.

"Any melodic similarities between *Soknudur* and *You Raise Me Up* are either unprotectable because they are found in prior art songs including *Londonderry Air* aka *Danny Boy*, or too scattered to amount to substantial similarity," he said.

The Irish folk tune is public domain and therefore outside copyright law, said Joe Bennett, a forensic musicologist at Berklee College of Music in Boston.

"I've listened to *Soknudur* and I can see why people hear melodic similarity to *You Raise Me Up*," said Bennett. "But in my opinion most of these similarities are coincidences, and others can be explained by shared allusions to earlier folk tunes . . . Lovland did not need to have heard *Soknudur* to compose *You Raise Me Up*— he could have got the same melodic ideas from earlier sources."

A spokesman for Peermusic said the publishing house was "gratified by the court's very thorough analysis and recognition of the historical provenance and cultural roots that led to the creation of this timeless song". Graham could not be reached for comment.

Lovland composed *You Raise Me Up* as an instrumental piece before Graham, whose hits include Eurovision winners Rock 'n' Roll Kids and The Voice, added the lyrics. In 2005, Westlife went to No 1 in Ireland and the UK with their version.

Bennett described *You Raise Me Up* as having "characteristics of classic folk songs, hymns and psalms. It has a clear melodic similarity to *Londonderry Air* . . . I'd argue that part of the reason it sounds like an instant classic is it uses melodic tropes we hear in other works."





Brian Kennedy: first to perform track
C BRANDON/GETTY IMAGES

Kennedy, who performed the song in 2002 with Lovland's band Secret Garden, commented: "Songs like *You Raise Me Up* don't come along that often. It's hard to believe it was written in the 21st century."

Sandy Wilbur, a forensic musicologist who served as an expert witness for Williams and Thicke, said the *Blurred Lines* verdict in 2018 set off a barrage of similar suits. Two years ago, The Script sued James Arthur, an English singer-songwriter, claiming his 2016 single *Say You Won't Let Go* plagiarised their hit *The Man Who Can't Be Moved*. Richard Busch, the lawyer who represented Gaye's estate in the *Blurred Lines* suit, claimed Arthur generated \$20m (€18m) from the song. Last July there was a joint stipulation from both parties to dismiss this case.

The latest judgment over *You Raise Me Up* suggests a new attitude towards copyright lawsuits in US courts. "It's for the better," said Wilbur. "*The Blurred Lines* ruling blurred the line between what is protectable and what is not. I believe there are few No 1 hits that have not had a claim made against them."

Bennett said: "Coincidental melodic similarity is much more common than many people think, whereas deliberate copying of melodies in professional songwriting is uncommon. So I'm pleased to see some of these arguably spurious lawsuits being overturned."

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