



HOME > NEWS > GENERAL NEWS

Michael Jackson's Likeness Valued at \$4.1 Million in Big Tax Court Win for Estate

BY ASHLEY CULLINS MAY 3, 2021 2:52PM



STEVE GRANITZ/WIREIMAGE



More than four years after going head-to-head with the IRS in U.S. Tax Court, Michael Jackson's estate has emerged largely victorious — with a federal judge finding the artist's worth at the time of his death to be much closer to its estimate than the government's and declining to issue any penalties.

The dispute centered on how much Jackson's image and likeness were worth when he died in 2009, which would determine how much in taxes the estate would owe the IRS. It also includes the worth of Jackson's interest in New Horizon Trust II, which included his stake in Sony/ATV Music Publishing, and New Horizon Trust III, which included Mijac Music, a publishing catalog that owned the copyrights to compositions Jackson wrote or co-wrote and works by other songwriters. (The estate and IRS generally agreed on the value of the other assets.)

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On Monday, after a lengthy deliberation process, U.S. Tax Court Judge Mark Holmes issued a more than 250-page ruling that begins by acknowledging the complexities of the situation.

“From the time he was a child Michael Jackson was famous; and there were times in his life, testified his executor, when he was the most famous person in the world,” writes Holmes. “There were certainly years when he was the most well-known popular-music star, and even after his death there have been years when he was the world’s highest-earning entertainer. But there were also many years when he was more famous for his unusual behavior and not his unusual talent. And there were some years where his fame was turned infamous by serious accusations of the most noisome acts. We make no particular judgment about what Jackson did or is alleged to have done, but we must decide how what he did and is alleged to have done affected the value of what he left behind.”

The IRS valued Jackson’s likeness and image at about \$434 million, while the estate said it was only worth about \$2,000 at the time he had died. The reason? Jackson struggled to rehabilitate his image amid allegations of child molestation. In fact, one of the estate’s experts estimated that in the final six months of his life Jackson only made \$24 in image- and likeness-related revenue. (After further expert consultation leading up to the trial, the estate would increase its valuation to around \$3 million.)

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Holmes notes that, in a situation like this, it's vital to separate what the value was at the time of Jackson's death from what the value would later become because of the estate's management of those assets.

Because there's no seeing the future, the estate's experts compared Jackson's posthumous prospects to those of other departed celebrities, specifically Marilyn Monroe, James Dean, Bettie Page, Jackie Robinson, Princess Diana and Elvis Presley. It also factored in public perception, balancing respect for his artistic talents against damage to his reputation. Holmes notes that the "stigma is reflected in his lack of endorsements or merchandise agreements unrelated to a musical tour or album from 1993 until his death."

The IRS, however, gave greater weight to "foreseeable opportunities," including themed attractions, branded merchandise, a Cirque du Soleil show, a film and a Broadway musical. Again, Presley was used as a bit of a template, as were other celebrities with brand deals (Tony Hawk, Paris Hilton, Regis Philbin, Jennifer Lopez and Tyra Banks). Meanwhile, the Cirque show became a factor because Jackson's ex-manager Tohme Tohme **said negotiations were underway** before Jackson's death.

Holmes found the hypotheticals to be "unreliable and unpersuasive" — and notes that the government's expert failed to account for any costs of managing the likeness rights and seems to have ignored the hit Jackson's reputation had taken. He writes, "Any projection that finds a torrent of revenue, and not just a trickle, from such a man's image and likeness — especially one who in the last two years of his life was so unpopular he did not even have a Q score — is simply not reasonable." (Then, there's **the whole perjury thing**.)

Ultimately, Holmes found Jackson's likeness to be worth approximately \$4.15 million at the time of his death, his interest in New Horizon Trust II (which included the Sony/ATV stake) to be valueless because at the time he died its liabilities exceeded its assets by about \$89 million, and his interest in New Horizon Trust III (which included Mijac) to be just more than \$107 million. (Read the full ruling below.)

Holmes doesn't fault the estate for its valuations and found no penalties are warranted.

"Jackson had outlived the peak of his popularity, but in the decades before his death he kept spending as if he had not," writes Holmes. "Popular culture always moves on. There will come a time when Captain EO joins Monte Brewster and Terry Forbes as names that without googling sort of sound familiar, but only to people of a certain age or to students of entertainment history. And just as the grave will swallow Jackson's fame, time will erode the Estate's income. It resurrected and then sold what became its most valuable asset to Sony before trial. The value of what it has left, no matter how well managed, will now dwindle as Jackson's copyrights expire and his image and likeness shuffle first into irrelevance and then into the public domain."

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John Branca and John McClain, co-executors of The Estate of Michael Jackson, on Monday issued this statement in response to the decision: "This thoughtful ruling by the U.S. Tax Court is a huge, unambiguous victory for Michael Jackson's children. For nearly 12 years Michael's Estate has maintained that the government's valuation of Michael's assets on the day he passed away was outrageous and unfair, one that would have saddled his heirs with an oppressive tax liability of more than \$700 million. While we disagree with some portions of the decision, we believe it clearly exposes how unreasonable the IRS valuation was and provides a path forward to finally resolve this case in a fair and just manner."

The estate was represented by attorneys from Hochman Salkin Toscher Perez; Hoffman Sabban & Watenmaker; Freeman Freeman Smiley; and longtime Jackson estate lawyer the late Howard Weitzman of Kinsella Weitzman Iser Kump.