

## Chapter 27

### Confusion in the Marketplace

The next week, the album was in mix down. Sam Taylor and Mike Gage essentially lived in the control room finding levels, applying effects, setting EQs, and tweaking the songs. They would call us in from the living room every so often to have us take a listen. It was sounding just as good as we all hoped it would.

One morning that week, our bass player, David Gouldin, was arriving for the day. A couple of us were sitting in the living room in Palmyra Studios when he walked in and said, "Hey, there's a band, they're #11 on the charts right now, called The Vines."

*Wait. What did he just say? If he just said what I think he said, that's not good.*

David continued, "But, I guess that's okay. They're plural, *The Vines*, and we're singular, *Vine*."

I thought about it for maybe ten seconds and I said, "I've got The Vine CD out in my car...what did I just tell you?"

David looked at me, thought for a second, then said, "*Oh*. Yeah, that's a problem."

"yeah", I replied, "it causes confusion."

I sat there for a minute just thinking.

*...Oh no.*

*...This other band used our name?*

*...Why didn't my trademark keep this from happening?*

*...They're on the charts, so that means they have a hit song.*

*...That also means they're already well known and they obviously have a Record Company funding and marketing them.*

*...All the years of work and investment in the name, was it all for nothing?*

*...What about this album we're doing right now?*

*...How do I fix it?*

*..How is this possible?*

*...I own the Trademark!!*

*...Why didn't my trademark work?*

*...Could there be any way around this?*

*...What do I do?*

I sat there dumbfounded for several minutes. The other guys in the room were talking about it, but I don't recall any of their conversation. I was completely consumed in my thoughts trying to figure out what to do.

After a while I stood up from the couch. The guys looked at me.

"We have to tell Sam", I said.

Everyone agreed and we all walked in to the control room.

When we walked in, Mike Gage turned off the music and looked at us. It felt a little tense in the room, as though we had just interrupted something very important. Sam didn't look up, he was looking down at a piece of paper where he was keeping notes on the songs.

"We've got a problem."

Sam looked up at me, "What's the problem?"

I don't remember exactly who said it (it may have been me) but one of us repeated what David had said a few minutes earlier, "There is a band, #11 on the charts right now, called The Vines."

I could tell by the look in Sam's eyes that he instantly recognized the problem. Bands can't have the same name only differentiated by singular and plural. In other words, we can't call ourselves The Led Zeppelin's and expect Led Zeppelin to be okay with it. Same thing with businesses, we can't start a food chain and call it McDonald and expect McDonald's to sit back and do nothing. The legal term is "Confusion in the Marketplace".

Sam was still looking at me when he asked, "You own the Trademark, right?"

"yes, I do."

Sam slowly nodded his head and looked back down at the sheet of paper in front of him.

"Okay, I'll help you find a lawyer."

Sam nodded at Mike Gage. He fired the music back on and they kept on working.