

[IP Law Daily, COPYRIGHT—S.D.N.Y.: Tracy Wolff's Crave series found not to infringe copyright of unpublished novels, \(Mar. 18, 2026\)](#)

IP Law Daily

By Steven Melendez

A court granted summary judgment in a case brought by another young adult fantasy novel author.

A federal court granted summary judgment on the issue of substantial similarity to Tracy Wolff, author of the *Crave* series of young adult fantasy novels, and affiliated parties, ordering a case brought by author Freeman dismissed. Freeman had alleged infringement of her copyright in various drafts of an unpublished novel known as *Blue Moon Rising* or *Masqued* (BMR/Masqued) but the U.S. District Court for the Southern District of New York found a lack of substantial similarity between the works after reviewing the material and arguments from both sides ([Freeman v. Deebs-Elkenaney](#), No. 1:22-cv-02435-CM-SN (S.D.N.Y. Mar. 16, 2026)).

"The Court has personally read every word of the four Wolff books and the six Freeman drafts and nine sets of notes at issue in this case. That was a lot of reading," the court wrote.

Background. Freeman, whose unpublished works are registered with the U.S. Copyright Office, in 2022 sued Wolff, her publisher Entangled Publishing LLC, her agent E. Kim, Kim's business Prospect Agency, distributor Holtzbrinck Publishers LLC, d/b/a Macmillan, and film studio Universal City Studios LLC, which licensed the film rights to *Crave*.

Freeman had also entered into an agency agreement with Kim in late 2010 as she unsuccessfully sought to publish her own novel. She sent multiple drafts to Kim, and in October 2013, Kim shared a draft with an editor at Entangled. Her novel is about a high school girl attending public school in Anchorage, Alaska, who is part witch, part shapeshifter, and part demon.

Years later, Entangled sought to publish a young adult novel involving an ordinary girl dealing with the paranormal and editors, including the one who had received Freeman's draft, reviewed several proposals submitted by Wolff, choosing one involving a paranormal boarding school. That would ultimately become the *Crave* series, starting with the first novel of the same title published in April 2020. Wolff and the other parties involved with the book say the book was solely written by Wolff, while Freeman alleges that Entangled's CEO, the editor, and Kim were "very involved" in writing the book.

Freeman separately sued various booksellers including Barnes and Noble, Apple, Amazon, Target, and Walmart, and she also filed a subsequent suit alleging infringement involving the most recent two books in the *Crave* series, not yet released when the first suit was filed.

Procedural issues. The case was referred the matter to a magistrate judge. After "years of contentious discovery," both sets of parties moved for summary judgment. The judge at the time recommended the court deny summary judgment, citing an issue of fact as to access to the allegedly copied work by Freeman. The issue of alleged "copious arguments about substantial similarity," was not addressed.

On September 17, 2025, the case was reassigned to another judge. She "raised the possibility of revisiting summary judgment" and asked them to make motions regarding the unaddressed issue of substantial similarity, which they did in January 2026. Freeman argued the court lacked the ability to consider summary judgment because it had been already ruled that the issue should go to a jury. But the judge to whom the case was reassigned found that the previous judge hadn't specifically found an issue of fact to go to the jury, nor did he address on the merits the issue

of substantial similarity.

Substantial similarity. Substantial similarity requires that a protected element of the work be copied, and the copying be “more than *de minimis*,” according to the ruling. And only an author’s expression of an idea, not a mere idea, is protectable.

“Accordingly, tropes (recurrent scenes or motifs) or *s cènes à faire* (sequences of events that necessarily result from the choice of a setting or situation) are not entitled to copyright protection,” according to the ruling, which noted that the court considered some expert testimony from both sides about what constitutes *scènes à faire* in the fantasy and romantasy genres.

The court also found that five similar drafts of Freeman’s novel could be considered a single, aggregated work, while a final, rather different version, should be considered as its own work. Freeman also argued that the court should adopt “comprehensive nonliteral similarity” and “fragmented literary similarity” tests to evaluate similarity. The court found that the “fragmented literary similarity” test, which “focuses upon copying of direct quotations or close paraphrasing,” is more commonly used in music plagiarism than literary cases, and found Freeman can’t prevail under such a standard anyway since the “similarities to which she points are simply ordinary words or common phrases that any author is free to use,” with the court ultimately adopting a “total concept and feel” test commonly used in the Second Circuit, considering the perspective of a “more discerning ordinary observer.”

Reviewing the works, the court then found themes and tropes—like a young girl discovering her supernatural powers, falling in love with a paranormal “hunky boy,” and fighting demonic forces—to be uncopyrightable. Similarly, merely setting a novel in Alaska or at a high school is not protected by copyright, the court ruled.

Other elements of the books differ, the court found. For instance, Freeman’s work is set in urban Anchorage, at settings like stores and restaurants, while Wolff’s work is set at a remote Alaskan boarding school that was previously the lair of a dragon. Wolff also introduces additional settings around the world, including an ice cave, a volcanic island, a Giant City among the California redwoods, and a Dragon Court in midtown Manhattan, while no counterparts exist in Freeman’s work.

The heroines also have significant differences, and similarities are generally unprotectable, the court found. So, too, with their boyfriends, according to the ruling, which noted that “hot, sexy, dangerous boys – central to virtually all young adult romance novels – cannot be copyrighted.”

And as far as the plot, “there are unquestionably similarities” between the plots, but the court found they “relate to uncontested tropes/*scènes à faire* that are the staple of this literary genre,” like a heroine who has “great powers” and is a sort of “Chosen One” despite not knowing her background, or are insubstantial overlaps, like the heroine wondering whether her love interest could be a space alien.

“After considering the works as a whole – and I again emphasize that the Court has read every word of the allegedly infringed and infringing works – no reasonable factfinder could conclude that their plots are substantially similar,” the court ruled.

Additionally, “BMR/Masqued is dark, mystical, foreboding, and solemn throughout,” while “ *Crave*, by contrast, is dramatic, romantic, and emotionally intense,” as well as more light-hearted and “in many places, very funny,” according to the ruling.

As a matter of law, the works are not substantially similar, the court ruled.

Procedural next steps. The judge directed the clerk of court to dismiss Freeman's case. At the same time, she left in place stays in the cases against the various booksellers, in case Freeman appeals the ruling. She also granted defendants in the case involving the most recent *Crave* novels 30 days to file a motion for dismissal and summary judgment, limited to the issue of substantial similarity.

The Case is [No. 1:22-cv-02435-CM-SN](#).

Judge: McMahon, C.

Attorneys: Mark D. Passin (Reeder McCreary, LLP) for Lynne Freeman. Benjamin Samuel Halperin (Cowen, Debaets, Abrahams & Sheppard LLP) for Tracy Deebs-Elkenaney.

Cases: Copyright NewYorkNews GCNNews

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