

Kanye West may have broken the law by recording call with Taylor Swift

Kim Kardashian West's posting of an audio recording of her husband's call with Swift discussing his song Famous may violate California wiretapping law

Sam Levin in San Francisco

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Kanye West could face legal action and even criminal prosecution as a result of his feud with Taylor Swift if it turns out he secretly recorded a phone call with her in California, according to legal experts.

Kim Kardashian West launched a media firestorm after she posted an audio recording of her husband's phone call with Swift discussing Kanye West's new song Famous, which includes a line about the pop star.

In the song, Kanye raps: "I feel like me and Taylor might still have sex / Why? I made that bitch famous."

Kanye faced intense backlash for the lyric, prompting him to defend the song on Twitter in February, saying: "I called Taylor and had a hour long convo with her about the line and she thought it was funny and gave her blessings."

Swift appeared to address the line in a Grammys acceptance speech in February, when she said, "I want to say to the young women out there, there are going to be people along the way who try to undercut your success or take credit for your accomplishments or your fame."

Now, Kanye and his reality TV star wife are attacking Swift with the release of highly edited excerpts of a phone call recording on Kardashian's Snapchat account. The audio includes Kanye citing an excerpt of a lyric and Swift saying, "I really appreciate you telling me about it, that's really nice."

Swift has since responded on Twitter, saying that Kanye "secretly" recorded the phone call.

If Kanye recorded the correspondence in California, where he and Kim Kardashian live, and failed to get Swift's consent, then he would have violated state law, experts say.

In California, the wiretapping law dictates “two-party consent”, which means it’s a crime to record or eavesdrop on any communication - including a private conversation or phone call - without the consent of all parties involved.

The law stipulates a possible punishment of a \$2,500 fine or a year in county jail.

Outside of statutory damages, Swift could pursue civil damages through a lawsuit, which experts said is a more likely course of action.

“California is an ‘all-party consent’ wiretapping state. What that means is, even on things like a conference call, before you record it, you’re supposed to announce to everyone, ‘I’m going to record this call,’” said Chris Hoofnagle, professor of law at the University of California and an expert on privacy.

“There’s civil and criminal liability,” he said, adding that criminal prosecution would be unlikely in this kind of case, but that Swift could allege damages to her reputation.

Paul Schwartz, co-director of the Berkeley Center for Law and Technology, said Swift could also bring a “tort claim” alleging “public disclosure of private facts”.

Representatives for Swift and Kanye West did not respond to requests for comment on Monday.

People and TMZ have reported that Kanye West recorded the audio while in Los Angeles.

The recording of the conversation does not feature Kanye reading out the line “I made that bitch famous”, but he did read the rest of the lyric - and asked for Swift’s approval.

“Go with whatever line you think is better,” Swift responded. “It’s obviously really tongue in cheek, either way.”

West’s video for Famous also sparked widespread criticisms, including from actor and writer Lena Dunham, a friend of Swift, who said it was emblematic of “rape culture”. The video shows Swift and other celebrities appearing to be naked next to West in bed.

Swift’s statement released Sunday said, “You don’t get to control someone’s emotional response to being called ‘that bitch’ in front of the entire world.”

She added, “Of course I wanted to like the song. I wanted to believe Kanye when he told me I would love the song. I wanted us to have a friendly relationship.”

Kanye’s “I made that bitch famous” line is a reference to the 2009 MTV VMAs, when Kanye infamously interrupted Swift’s acceptance speech, saying, “Taylor, I’m really happy for you and I’mma let you finish, but Beyoncé had one of the best videos of all time. One of the best videos of all time.”

At that time, Swift was already a hugely successful and critically acclaimed singer-songwriter.

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