

'Deep Throat' Star Biopic Can Be Released, Says Judge

By Jeff Sistrunk

Law360, New York (August 08, 2013, 5:56 PM ET) -- The filmmaking company behind the iconic 1972 pornographic film "Deep Throat" on Wednesday lost a bid to block the release of The Weinstein Co.'s biopic on the film's star, Linda Lovelace, two days after it filed a lawsuit claiming the biopic infringed its trademarks and copyrights.

U.S. District Judge Thomas Griesa, presiding in Manhattan, on Wednesday evening denied Arrow Productions Ltd.'s request for a temporary restraining order, permitting The Weinstein Co.-distributed "Lovelace" to be released as planned on Aug. 9.

In a statement, Mark Gill, president of "Lovelace" producer Millennium Films, applauded the decision, describing Arrow's suit as an effort to "control discussion about 'Deep Throat.'"

"We are relieved that common sense prevailed," Gill said. "The suit was completely unwarranted. We believe this case was an insult to the legal safeguards in place maintaining our right to freedom of speech."

The judge's ruling does not dispose of the case, but merely allows the distribution of "Lovelace" to proceed.

Arrow on Aug. 6 sued The Weinstein Co., Millennium Films and several other companies involved in the film's production, saying the biopic copies five minutes from its film. "Deep Throat," which first appeared in pornographic movie houses in 1972, graphically tells the story of a woman whose doctor prescribes a creative cure for her sexual dysfunction.

"Lovelace" chronicles the rise to fame of Linda Lovelace, whose real name is Linda Boreman, a small-town woman whose lead role in "Deep Throat" made her one of the iconic actresses of the 1970s. The biopic, which stars Amanda Seyfried as Lovelace and includes appearances from Sharon Stone and James Franco, premiered at the Sundance Film Festival in January.

[In its complaint](#), Arrow pointed out it has trademarked the name "Linda Lovelace" itself, along with "Deep Throat," and has marketed products as diverse as clothing and energy drinks using those marks.

"Arrow is in the business, among other things, of licensing the intellectual property it owns in 'Deep Throat,'" the complaint said. "Rather than negotiating licenses for 'Deep Throat' IP, rather than deferring to Arrow's vision for the 'Deep Throat' brand, defendants have simply taken what they wanted and crossed their fingers."

"Lovelace" includes a recreation of scenes from "Deep Throat" and a reenactment of their filming, Arrow said. Ultimately, the biopic copies more than five minutes of the 62-minute "Deep Throat," the company alleged.

The lawsuit includes claims of copyright infringement, trademark infringement and trademark dilution against The Weinstein Co., Millennium and the other defendants.

An attorney for Arrow did not immediately respond to a request for comment Thursday.

Arrow is represented by Evan Mandel of Mandel Bhandari LLP.

The defendants are represented by Tom J. Ferber of Pryor Cashman LLP.

The case is Arrow Productions Ltd. v. the Weinstein Co. et al., case number 1:13-cv-05488, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Richard Vanderford.