

MEDIA

Who Owns the Copyright to ‘This Land Is Your Land’? It May Be You and Me

By NIRAJ CHOKSHI JUNE 17, 2016

The classic folk song “This Land Is Your Land” may literally belong to you and me.

That’s the case being pressed by the same law firm that persuaded a federal judge last year that “Happy Birthday to You” belongs in the public domain.

The New York firm, Wolf Haldenstein Adler Freeman & Herz, also hopes to do the same for the Civil Rights-era protest song “We Shall Overcome.”

But the suit filed Tuesday over Woody Guthrie’s classic “This Land Is Your Land” is aimed at liberating a song known to generations of schoolchildren who have raised their voices to sing about a free country belonging to one and all, sprawling “from California to New York Island, from the redwood forest to the Gulf Stream waters.”

The suit was filed on behalf of the Brooklyn band Satorii, which recorded two versions of the song. It argues that the music belongs to the public and not to the Richmond Organization and its subsidiary, Ludlow Music, the publishing company that collects licensing fees to use the composition. Ludlow did not return phone calls or answer an email message seeking comment on Thursday.

The law firm seems to be developing a specialty in liberating classic musical works. An earlier lawsuit, also filed against Ludlow in April, focused on “We Shall Overcome,” a song long associated with the folk singer Pete Seeger, who died in 2014. The firm also successfully liberated the “Happy Birthday” copyright from Warner Music Group.

Interestingly, Seeger may have performed Guthrie’s song more than anyone else over the decades, including the so-called forgotten verses, in which the narrator ignores a “Private Property” sign. Those lyrics are not in the versions cited in this lawsuit.

Mark Rifkin, one of the firm’s lawyers, who joined two colleagues in filing the class-action suit on behalf of the band and anyone else who paid fees to license the work, explained their thinking: “Somewhere along the way we got sidetracked by giving corporations the right to own copyrights and to profit from them long after the creators of the work have died and long after anyone else has an interest in protecting the work.”

As with the earlier cases, the “This Land” suit, filed in the United States District Court for the Southern District of New York, traces what the firm calls a winding path of missed or illegitimate copyright claims.

Guthrie wrote the song in 1940 in response to the Irving Berlin song “God Bless America,” which he felt inadequately addressed land and wealth inequality, according to the Library of Congress. Originally titled “God Blessed America for Me,” the song earned its modern name after Guthrie introduced the refrain “this land was made for you and me.”

In 1945, he published the song with a copyright notice that was never renewed, Satorii and their lawyers say. As a result, that copyright would have expired — and the song would have entered the public domain — 28 years later, in 1973, they say.

Despite Guthrie’s publication, Ludlow filed for its own copyright of the song in 1956, according to the suit. It

asserted that copyright in 2004, when it threatened to sue JibJab Media over its now-famous “This Land” parody of that year’s presidential contest between the Democrat John Kerry and the Republican George W. Bush.

The groups reached a settlement that summer in which JibJab was allowed to continue distributing its parody.

But Satorii and its lawyers argue that Ludlow never had a right to claim the copyright in the first place.

Guthrie, they said, borrowed the melody from a Baptist gospel hymn from the late 19th or early 20th century known variously as “Fire Song,” “When the World’s on Fire,” “What You Gonna Do When the World’s on Fire,” and “O My Loving Brother.”

And even if he or Ludlow had rightfully secured the copyright to the lyrics, the band and firm note multiple occasions in which the words were printed in album liner notes without a copyright notice, in effect forfeiting rights to them, they argue.

The band is not only seeking a judicial declaration that the song belongs in the public domain, but also that the publisher return all fees related to the licensing of the song paid by any individual or group since 2010.