

Very Happy Birthday

By Reg P. Wydeven
December 13, 2015

One of the greatest birthdays I ever had was my 12th. My parents took me and some of my closest friends to see 'Star Wars: Return of the Jedi,' and then they all slept over at my house. Before the movie, however, we went to Happy Joe's for pizza.

I loved Happy Joe's pizza. And on your birthday, employees would come out and sing their original birthday song, honk a huge horn and give you a hot fudge Sunday with a candle in it. Pretty cool stuff when you're 12. Or 43, I suppose.

I always wondered why the Happy Joe's employees didn't sing the regular 'Happy Birthday' song. I noticed that other restaurants did the same thing, each with their own, unique take on a birthday tune.

Then I noticed that on TV shows and in movies, people didn't sing 'Happy Birthday,' or the camera cut in at the very end, catching only a few bars. I thought we were uncouth because we sang the traditional version until I finally learned why everyone had their own version: royalties.

Warner Music Group and its subsidiary, Warner/Chappell, have claimed the copyright to "Happy Birthday to You" for over a quarter of a century. Because it is the most popular song in the English language, the company reportedly collects over \$2 million every year in licensing fees for use of it.

Many people felt that no one should have the rights to such a popular song. Jennifer Nelson, an independent filmmaker, intends to make a documentary about the tune. She and several other independent artists filed suit against Warner in 2013, challenging the company's rights to the song. In addition, the suit, filed in U.S. District Court in Los Angeles, sought to have Warner return the licensing fees it collected for use of "Happy Birthday to You" going back to at least 2009.

Last month the court agreed with Nelson and held that Warner's copyright to the song was not valid. In the court's 43-page decision, Judge George H. King traced the history of the song that is over 100 years old.

In 1893, the Clayton F. Summy Company published the song, 'Good Morning to All,' written by sisters Mildred and Patty Hill. In the early 1900s, birthday-themed lyrics became attached to the Hills' melody, but the author was unknown. In 1935, Summy copyrighted the version of "Happy Birthday to You" we all know and love. Warner claims it obtained this copyright in 1988, when it acquired the company that held the rights to the Summy catalog.

The court held that while Summy had the rights to "Good Morning to All," it did not have the rights to the birthday lyrics. Judge King wrote that, "Because Summy Co. never acquired the rights to the 'Happy Birthday' lyrics, defendants, as Summy Co.'s purported successors-in-interest, do not own a valid copyright in the 'Happy Birthday' lyrics."

Obviously disappointed with the decision, Warner, through a spokesman, said the company was "looking at the court's lengthy opinion and considering our options." If the ruling stands, "Happy Birthday to You" would become part of the public domain.

Nelson exclaimed, "I am thrilled to be a part of the historic effort to set 'Happy Birthday' free and give it back to the public where it belongs."

My niece's 17th birthday is next week, and I think I'm going to risk it and sing "Happy Birthday to You." And honk a gigantic horn.

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