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April Songwriter News

04/26/2016 | KEVIN CORNELL 1 COMMENT

By Dwight Brown

As spring settles in, songs, activists and artists are creating news.

- The iconic civil rights song “We Shall Overcome” may be headed to Public Domain territory.
- Government regulations are stymying songwriters, but there may be a way out.
- Led Zeppelin may have a “Whole Lotta Love” for borrowing tunes.

There’s a lot going on.

The attorneys who liberated “Happy Birthday” go after “We Shall Overcome.”

Making the case that copyrighted songs like “Happy Birthday” belong in the public domain is becoming the norm for the law firm of Wolf Haldenstein. As reported in [Hollywood Reporter](#), their newest lawsuit cen-

ters on the classic civil rights song “We Shall Overcome.” “The lead plaintiffs in the lawsuit, the We Shall Overcome Foundation, say they are producing a documentary movie and that “We Shall Overcome” will be performed in it. They requested a quote for a sync license from the defendants.” The outcome: 1. “We Shall Overcome” is a difficult song to clear. 2. The song cannot be cleared without review by the rights’ holder. 3. Their request was denied.

A putative class action was filed in New York federal court against the Richmond Organization and Ludlow Music, Inc., seeking a declaratory judgment, injunctive relief and the return of money for the licensing of the song. An investigation and a piece in [The Atlantic](#) reveals that the song’s melody may date back to a 1792 hymn, “O Sanctissima.” The lyrics probably evolved from a 1901 hymn by Philadelphia’s Reverend Charles Albert Tindley, were adapted in 1945 by striking union workers, then by singer Pete Seeger and in 1960 by folksinger Guy Carawan, among others.

Looks like “We Shall Overcome,” the song The Library of Congress calls “the most powerful song of the 20th Century,” has a lot of parents and a brand new lawsuit.

Which government regulations choke the lifeblood out of the songwriting industry?

A guest post in [Forbes.com](#) gave David Israelite, the President and CEO of the [National Music Publishers’ Association](#), an opportunity to raise awareness about government regulations that stymie songwriters. “Songwriters are the most heavily regulated part of the music industry. A stunning 75% of their income is controlled by the federal government. In 1909, the sale of copies of compositions was put under a compulsory license—meaning anyone could use them, for a government-mandated rate. At that time, the rate was two cents. Now it is only nine cents.”

Around WWII the main non-profit organizations that license songs and distribute royalties to songwriters (ASCAP and BMI) were dealt a massive blow by the Department of Justice (DOJ). Forced regulations, “consent decrees,” prevented songwriters and music publishers from selling their work in a truly free market.



Israelite, “DOJ has opened a formal review of the regulations governing ASCAP, BMI and the thousands of publishers and songwriters they represent.”

Possible outcome?

1. Relaxing the 70-year old shackle of the PRO consent decrees,
2. Allowing ASCAP and BMI to license music creators' songs in a free market.
3. Ending policies in the digital age that were created before transistor radios.

Led Zeppelin climbs a stairway to other people's music. Is anything new?

Led Zeppelin's song "Stairway to Heaven" is being scrutinized by [Billboard](#) as it follows a ruling by U.S District Judge R. Gary Klausner that lawyers for the trustee of late songwriter/guitarist Randy Wolfe (of the 1960s rock group Spirit) had shown enough evidence to support a case that the 1971 hit "Stairway to Heaven" copies music from the 1966/'67 Spirit song "Taurus."

Circumstantial evidence: Led Zeppelin and Spirit performed at some concerts and festivals around the same time, but not on the same stage. Klausner wrote that there's a circumstantial case that Zeppelin may have heard "Taurus" performed.

Incriminating evidence: [Digital Music News](#) printed a Roger Plant quote from the bio/book [Led Zeppelin IV](#) that notes an instance where Zeppelin copied music: "I think when Willie Dixon turned on the radio in Chicago twenty years after he wrote his blues [You Need Love], he thought, 'That's my song [Whole Lotta Love].' ... When we ripped it off, I said to Jimmy, 'Hey, that's not our song.' And he said, 'Shut up and keep walking.'"

Stairway and Taurus may have a Granddaddy: A nearly identical tune by baroque composer Giovanni Battista Granata, written in 1630, has similar sounds. That melodic line may push both songs into public domain territory.

Someday, will all songs be derivative in one way or another?

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