

Insights: Industry Summaries

# IP Industry Summary: Happy Birthday, Everyone: Central District of California Rules Popular Song Is In Public Domain

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*Marya v. Warner/Chappell Music, Inc., Case No. 2:13-cv-04460-GHK-MRW (C.D. Cal. Sept. 22, 2015)*

For decades, use of the popular song “Happy Birthday to You” has been subject to licensing fees based on a copyright owned by the Defendants in this case. Recently, the Central District of California held that the copyright does not cover the lyrics of the song, such that Defendants can no longer collect licensing fees for the song.

The song’s history began over a century ago when two sisters wrote a song titled “Good Morning to All.” “Happy Birthday” borrows its melody from “Good Morning,” but the origin of the lyrics of the song is less clear. The melody of the song entered the public domain long ago, so this case hinged on whether the lyrics of the song were protected by a valid copyright owned by Defendants.

In ruling for Plaintiffs on summary judgment, the Court answered this question in the negative. First, in reviewing the enforcement history of the song, the Court noted that none of the actions mentioned the lyrics of the song. Rather, these previous enforcement actions focused on infringement of rights in the melody of the song. Further, the Court found that the copyright registration that Defendants asserted protected the lyrics of “Happy Birthday” could not cover the lyrics of the song. Although the registration covered a piano arrangement “with text,” Defendants admitted in their pleadings that the author of the arrangement, Preston Ware Orem, did not write the lyrics to “Happy Birthday.” Thus, the Court found that the text mentioned in the copyright registration could not have been the lyrics to “Happy Birthday,” and the normal presumption of validity did not apply to this copyright registration.

Ultimately, the Court found that Defendants could not show that their predecessors in interest had received any rights in the lyrics to “Happy Birthday” from its authors. After reviewing various agreements and litigation documents regarding the song between the song’s authors and Defendants’ predecessors, the Court found that none of them made reference to the lyrics of the song or any transfer of the author’s common law rights in the lyrics. Further, as shown through the enforcement actions the authors took, there was no evidence that the authors fought to protect any rights in the lyrics of the song from which the Court could infer that they intended to transfer such rights to Defendants’ predecessors. Thus, the Court granted summary judgment to Plaintiffs on the issue of whether Defendants received any rights in the lyrics of “Happy Birthday,” and the song is now in the



public domain.

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