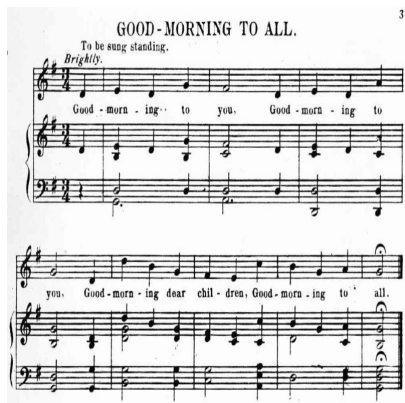
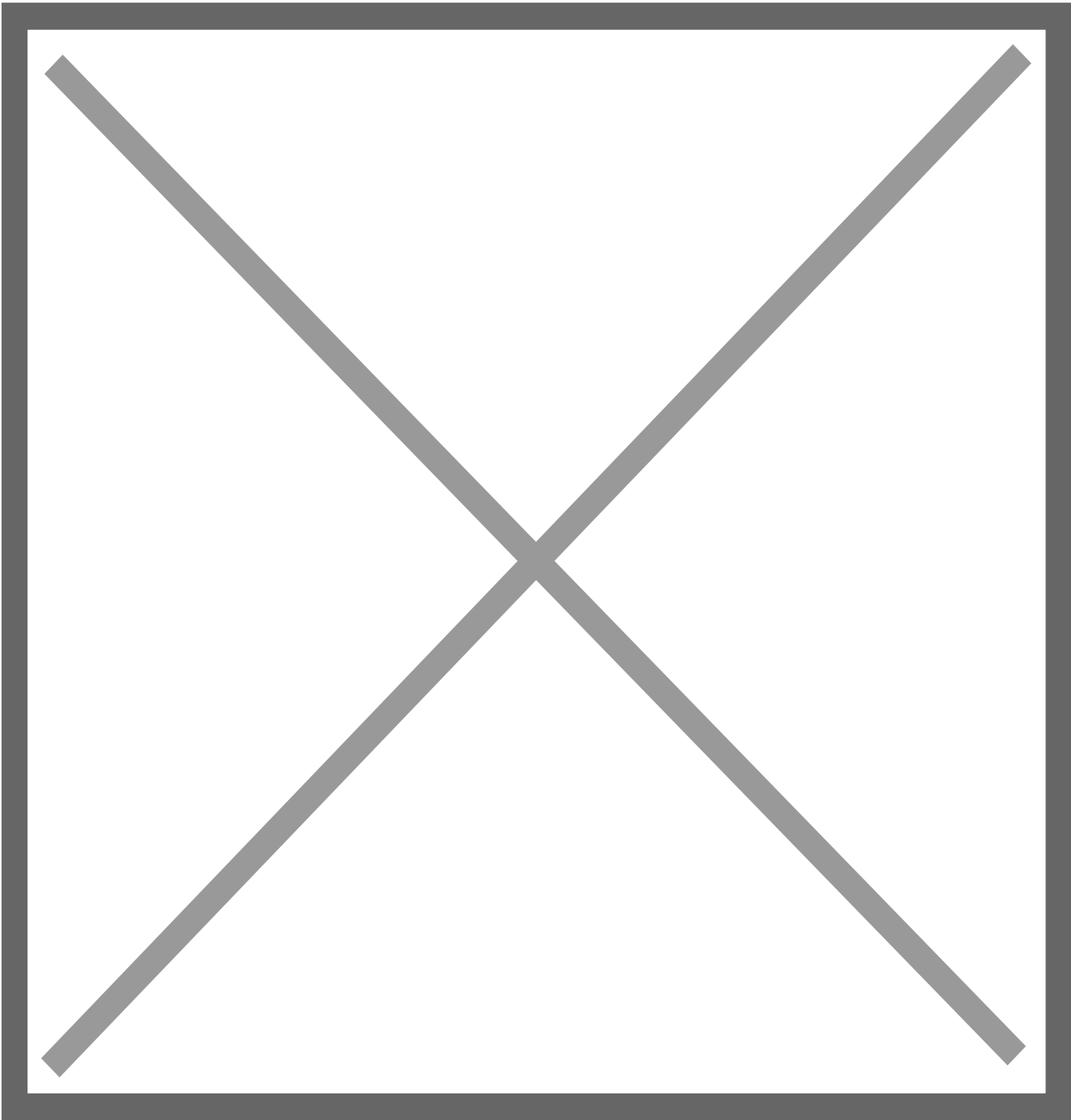




The Story Behind the Copyright of the Happy Birthday Song

Description



Typically sang around a birthday cake, Happy Birthday, is one of the most popular songs around the world. It has been named the world's most recognisable English language song by Guinness World Records and has also been translated into at least 18 different languages, [including the fictional Klingon language from Star Trek](#). Famously, it was the song that Marilyn Monroe sang a sultry version of in front of an audience to John F. Kennedy on his forty-fifth birthday.

Despite having an almost folkloric status, passed down from generation to generation as a part of a traditional celebration, it's also been tightly locked up under copyright laws for decades and its use is restricted in public by Warner/Chappell Music.

Marilyn Monroe â?? Happy Birthday Mr. President

While itâ??s commonplace for families to sing Happy Birthday together in the privacy of their own home, if one was to move that song to a public setting, such as a restaurant, then there would be a copyright issue. In order to legally perform that song in a public space, you would first need to license the song from Warner/Chappell, even if you are not using it for commercial purposes.

This copyright legislation left the American Society of Composers, Authors and Publishers (ASCAP) [particularly embarrassed in the 1990s](#), when they attempted to recover royalties from the Girl Scouts of America for their performances of campfire songs including â??Happy Birthdayâ??.

To avoid such legal disasters, more and more public organisations are creating their own Happy Birthday style songs. [Chain restaurants in America](#) are unwilling to pay the licensing fee, which is why when they bring out a cake to customers, they donâ??t sing the expected Happy Birthday song, they instead sing their own rendition of a birthday-themed song.

Happy Birthday â?? Chilliâ??s Restaurant Version

But itâ??s not just restaurants that are avoiding licensing the song. For a long time now, advertisers, films and TV shows have completely avoided using the song or made up their own version because the licensing fees far outweighed the need for the original. Itâ??s been estimated that Warner/Chappell have been earning around [\\$2 million a year](#) in commercial use of the song, with their charges for the use of the song varying. It was [reported by the Business Insider](#), that the highest license fee for the song has been up to \$10,000.

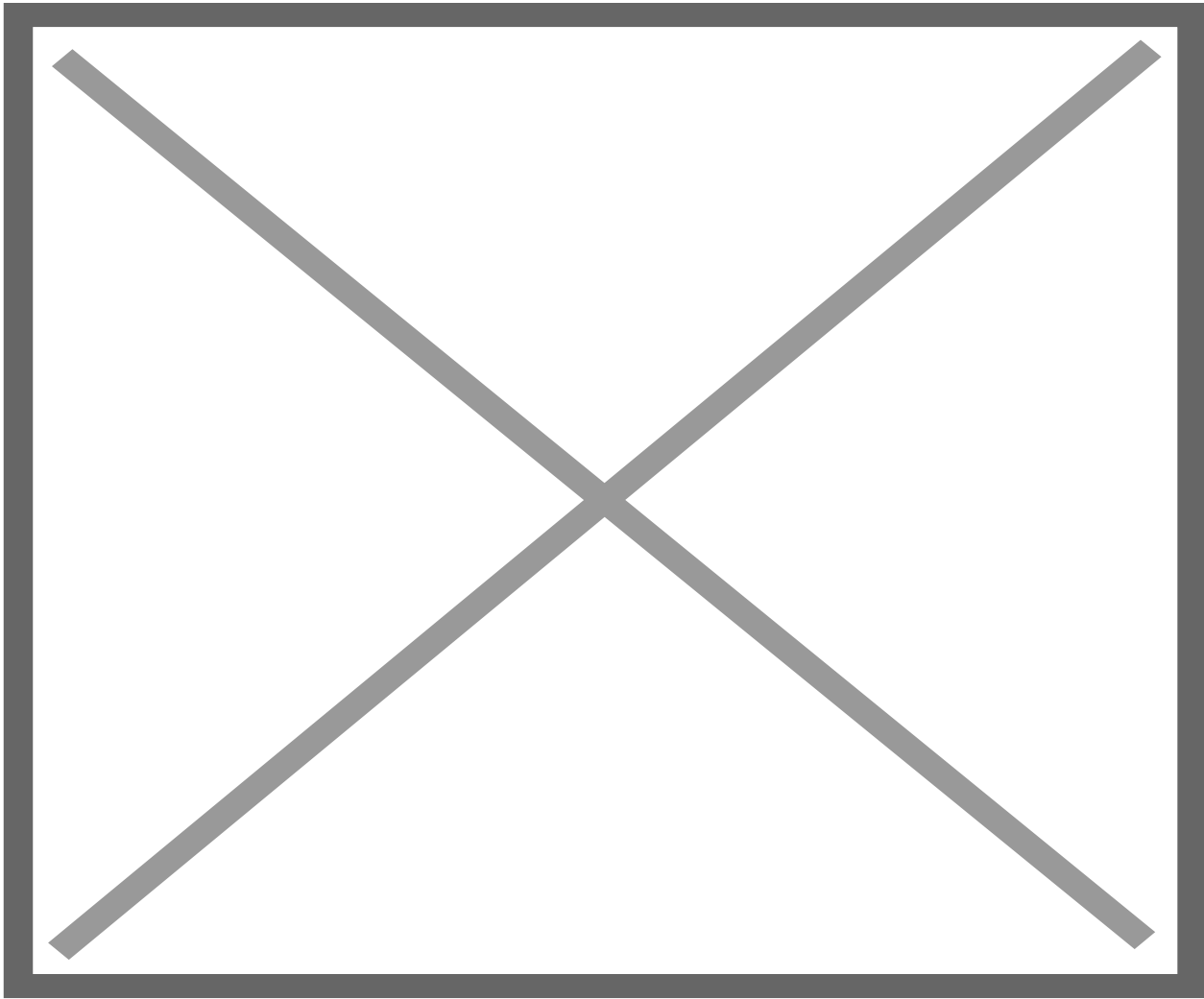
As an advertising music producer for J Walter Thompson, Paul Greco, expressed to the BBC, creative ideas were often scrapped due to the license fee surrounding the song. [He told the BBC](#): â??Once we found out that there was a copyright involved, the sort of idea would go another way because it just seemed like for advertisements it was a bit cost prohibitive to use the songâ??.

Adverts often avoid using the song or make their own, for example in this Weetabix advert from 2014.

With the license fee infringing on creativity, one documentary filmmaker had enough and decided to sue. In a [landmark case settled in September 2015](#), the song was ruled effectively in the â??public domainâ?? and no longer under Warner/Chappellâ??s copyright, but how did such a traditional song come under the companyâ??s copyright?

The Origin of the Happy Birthday Song

The origin of the song has been disputed over the years, with the lyrics being said to have spontaneously transformed from a very similar, and melodically the same, song entitled â??Good Morning to Allâ??.



The song “Good Morning to All” was written by the Hill sisters, Patty and Mildred J. Hill in the 1890s and was first published in the songbook *Song Stories for the Kindergarten* in 1893. It was first used as a simple melody to help teach young children literacy, [with the simple verse](#): “Good morning to you, good morning to you, good morning dear children, good morning to all”. But what the Hill sisters did not expect was that the song’s lyrics would be hijacked and that it would gain even more notoriety with the simple switch of “good morning” for “happy birthday”.

After many years of unlicensed use, the song Happy Birthday gained popularity while Good Morning to All faded from memory. In an attempt to claim copyright for the altered piece, [a different Hill sister, Jessica Hill, copyrighted the specific piano arrangement of the song](#) and melody under music publisher Summy Company in 1935.

The song was then [passed down through company acquisition and restructuring](#). Summy Company acquired CC Birchard & Company in 1957, to become Summy-Birchard Company. Later the company re-named itself Birch Tree Group Limited in the 1970s and then was later bought by Warner/Chappell Music in 1988 for \$25 million. The copyright of the song and the collection of royalties was now in the hands of Warner/Chappell.

The 2013-2015 Lawsuit

For almost 23 years Warner/Chappell's rights over the song went unquestioned. As has been previously mentioned, advertisers, filmmakers and even restaurants avoided using the song due to the heavy licensing fees.

But all of that changed when documentary filmmaker [Jennifer Nelson](#) filed a lawsuit against Warner/Chappell. Nelson was preparing a documentary on the history of the song and had been asked to pay \$1500 in licensing fees to Warner/Chappell. Nelson had previously come across [a research paper by American law professor Robert Brauneis](#), whose 2010 research argued that the song was not under copyright, and if it was it was only "a specific piano arrangement".

Based on the research, and in what the media reported as a groundbreaking case, the US district Judge George H. King declared in September 2015 that Warner/Chappell did not have copyright over the lyrics or melody to the song. The song was therefore "effectively in public domain" and free for use.

Further Cases and Appeal of Warner/Chappell

While this outcome rings like a success for people hoping to license the song for free, the future of the case still remains uncertain. At the moment Warner/Chappell is not commenting on the case, but there are reports that they are lodging an appeal. For Warner/Chappell the original copyright was set to stand until 2030 in the US and it has been estimated by [The Hollywood Reporter](#) that the September 2015 ruling will lose the company \$30 million in gathered licensing fees.

Furthermore, it is uncertain whether Warner/Chappell will be forced to pay back licensing fees for past royalty claims, costing the company even more in unexpected damages.

Finally, it is not just the music-publishing giant that is said to be losing out on the royalties. In November 2015, another defendant of the copyright stepped forward, the charity, the Association for Childhood Education International (ACEI). [According to Music Business Worldwide](#), ACEI were given rights to the Happy Birthday song when they became beneficiaries of Jessica Hill's estate upon her death. They claim that they earn up to a third of the revenue on licensing fees of Happy Birthday, and that if the song were to become public domain, its work as a charity would no longer be able to function.

The 2015 judge ruling may have brought the legal issue of Happy Birthday to the forefront of the media's attention, but the case of Happy Birthday appears to be far from over, and it will be interesting to see how Warner/Chappell's appeal will be lodged.