Yahoo! News - Guthrie Publisher Lets Cartoon Use Song

Entertainment - AP
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By TIM MOLLOY, Associated Press Writer

LOS ANGELES - This song is my song, this song is your song. That's the agreement reached between the publishers of Woody Guthrie's classic "This Land is Your Land" and JibJab Media, creators of an animated Internet short that uses the tune in a comic sendup of President Bush (news - web sites) and Sen. John Kerry (news - web sites)'s presidential campaigns.

With nary a jab thrown, Ludlow Music, the song's publisher, agreed in a settlement Tuesday to allow the cartoon — one of the biggest Internet draws of the summer — to keep using the song.

In return, JibJab dropped a lawsuit against Ludlow that sought an order saying its use of the song was protected because it was a parody and "This Land" was in the public domain.

The creators also agreed to provide a link on their Web site to the song's original lyrics and to donate 20 percent of any profits to the Woody Guthrie Foundation.

"The settlement accomplished Ludlow's goals, which was to bring people back to the immediate message of Woody Guthrie," said Paul LiCalsi, an attorney for the firm.

LiCalsi said JibJab's version of the song wasn't protected under copyright law because it targeted the election rather than the song itself. Protection under the fair use clause of the law requires that copyrighted material be the subject of the parody, he said.

JibJab's lawyers said Ludlow was misinterpreting the law and that the song in the cartoon clearly was a parody.
"This Land' is known as an iconic song about national unity, and the JibJab parody is predominantly about the lack of national unity at this time," said Fred von Lohmann, an attorney for the Electronic Frontier Foundation, which represented JibJab.

Since its July 9 debut on the JibJab Web site, the cartoon has been viewed by about 20 million people, according to Santa Monica-based JibJab.

Equal opportunity insults fly as the candidates cheerfully trade jibs and jabs. At one point Bush sings to Kerry, "You're a liberal sissy," and the senator answers, "You're a right-wing nut-job."

Ludlow demanded in late July that the company stop using the song. The Electronic Frontier Foundation, a nonprofit group dedicated to protecting Internet expression, signed on to represent JibJab and sued Ludlow in federal court in San Francisco.

JibJab: http://www.jibjab.com

Woody Guthrie Foundation: http://www.woodyguthrie.org

EFF's copy of the 1945 sheet music: http://www.eff.org/IP/20040823_Jibjab_Copyright_Scans.pdf

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