

Exhibit 2

Ex. 2

11

Abstract

<http://ssrn.com/abstract=1111624>

Paper statistics

Abstract Views: 92,236
Downloads: 9,769
Download Bank: 271

Download This Paper

Open PDF in Browser

[Share](#) | [Email](#) | [Add to MyBriefcase](#) | [Purchase Bound Hard Copy](#)

Paper comments

No comments have been made on this paper

[Add Comment >](#)

Copyright and the World's Most Popular Song

[Robert Brauneis](#)

George Washington University - Law School

October 14, 2010

56 Journal of the Copyright Society of the U.S.A. 335 (2009)
[GWU Legal Studies Research Paper No. 392](#)

Abstract:

"Happy Birthday to You" is the best-known and most frequently sung song in the world. Many - including Justice Breyer in his dissent in *Eldred v. Ashcroft* - have portrayed it as an unoriginal work that is hardly worthy of copyright protection, but nonetheless remains under copyright. Yet close historical scrutiny reveals both of those assumptions to be false. The song that became "Happy Birthday to You," originally written with different lyrics as "Good Morning to All," was the product of intense creative labor, undertaken with copyright protection in mind. However, it is almost certainly no longer under copyright, due to a lack of evidence about who wrote the words; defective copyright notice; and a failure to file a proper renewal application.

The falsity of the standard story about the song demonstrates the dangers of relying on anecdotes without thorough research and analysis. It also reveals collective action barriers to mounting challenges to copyright validity: the song generates an estimated \$2 million per year, and yet no one has ever sought adjudication of the validity of its copyright. Finally, the true story of the song demonstrates that a long, unitary copyright term requires changes in copyright doctrine and administration. With such a term, copyright law needs a doctrine like adverse possession to clear title and protect expectations generated when, as with this song, putative owners do not challenge distribution of unauthorized copies for more than 20 years. And Copyright Office recordkeeping policy, which currently calls for discarding correspondence after 20 years and most registration denials and deposits after five years, must be improved to facilitate resolution of disputes involving older works.

Over two hundred unpublished documents found in six archives across the United States have been made available on a website that will serve as an online appendix to this article.

Number of Pages in PDF File: 69

Keywords: Copyright, Copyright Notice, Copyright Renewal, Authorship, Collective Action, Copyright Office, Anecdotes, Happy Birthday to You, Prescription, Adverse Possession, Copyright History

JEL Classification: K19, K20

LexisNexis CaseMap® Trial
Request A Free, 30 Day Trial Today! Easy To Use Case Analysis Software.

Date posted: March 21, 2008 ; **Last revised:** July 5, 2013

Download This Paper

Open PDF in Browser

Suggested Citation

Brauneis, Robert, Copyright and the World's Most Popular Song (October 14, 2010). *56 Journal of the*

Contact Information

Robert Brauneis (Contact Author)

George Washington University - Law School ([email](#))

2000 H Street, N.W.
Washington, DC 20052
United States