

South African sisters hold Mickey Mouse hostage

Three impoverished South African sisters may yet taste a bit of justice if their country's foremost copyright attorney has his way.

At issue is one of the most recognizable popular songs in the world, "The Lion Sleeps Tonight." First recorded as "Mbube" (the Zulu word for lion) in 1939 by a Zulu herdsman named Solomon Linda, the melody eventually enjoyed three decades of airplay in the U.S. and generated approximately \$15 million. Solomon Linda died with \$25 in his bank account, according to journalist Rian Malan, who has unearthed a story all too typical of cultural interactions between the developing world and Euro-America.

The three sisters, one of whom works as a nurse in an HIV clinic, are Solomon Linda's daughters, and Dr. Owen Dean is representing Linda's estate in a copyright infringement suit against Disney, whose musical "The Lion King" includes Mbube's westernized version and is playing to packed houses while Linda's daughters live in shacks. It seems that the Imperial Copyright Act of 1911 says that under certain circumstances, 25 years after the death of an author, copyright reverts to heirs, and, according to Dr. Dean, this law applies throughout the former British Empire.

Dr. Dean, in his quest to return to Africa what is Africa's, has even obtained a court order allowing him to attach all of Disney's trademarks in South Africa. So a Zulu family is effectively holding Mickey Mouse, Donald Duck, and all the others hostage, and therefore has a lien against all of these Disney trademarks. If there is a judgment against Disney and it refuses to pay, the estate of Solomon Linda can sell the trademarks.

Folk singer Pete Seeger heard a recording of Mbube. Unfamiliar with African tribal languages, he rendered its chorus "Wimoweh," and along with his group, the Weavers, recorded it. Once Seeger, who

thought the song was a "traditional' piece," learned it was Linda's work, he made arrangements for the South African to receive a share of "Wimoweh"'s royalties.

"I have no axe to grind with Disney itself," Dean adds. "In fact, I assume they don't know much about Solomon Linda and the way he and his family have been treated. But they *are* using his music in The Lion King musical, which is running to full houses all over the world while Linda's daughters work as domestic

servants, live in shacks and struggle to feed their families. As far as we're concerned, this is both illegal and profoundly unfair, so we're detaining Mickey, Donald and all the others until proper justice is done by the Americans."

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by D.H. Kerby

Settlement proposed in class action suit

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days of publication, with lesser sums going to those registered later, and even smaller sums for infringements of unregistered work. By failing to register their work, "some people left tens of thousands of dollars on the table," Morrison said. "I wish we'd done a harder campaign to get people to register." He pointed out that articles can be registered online in batches once each quarter for \$30 to meet the 90-day requirement. Copyright can be registered after that, but the penalties for infringement are less.

Of the \$18 million maximum award, \$4.4 million will go to the plaintiffs' lawyers. Another \$800,000 will go to the claims administrator's office. Some of that will be spent to notify as many freelancers as possible. Regardless of how many writers file claims, a minimum of \$10 million will be distributed. If claims exceed \$18 million, awards will be reduced, starting at the lowest tier — articles that have never been registered.

Registered or not, payment releases the publishers from claims of infringement. Writers who don't want their work to remain in the databases may accept 65 percent of the award as payment for past use, and their articles must be removed.

Asked if he is satisfied with the

proposed settlement, Morrison said he thinks "\$18 million is about as good as it gets." NWU president Jerry Colby took a more neutral stance. "Individual writers will have to decide for themselves whether to opt out or stay in the settlement," he said. Colby added that writers must also decide about the prospects for future income from their articles, and whether to accept the lesser amount rather than compete with the database publishers for additional sales.

Although *Tasini v. New York Times* makes it clear that copyrighted works cannot be used without permission of the copyright holder, infringement continues.

Amazon.com and FindArticles.com have unlicensed articles for sale. Writers would do well to search for their work online and, if they find it being used without permission, register their copyright immediately. More litigation is almost a sure thing. "The NWU will not tolerate continuing infringements," Colby said. "We're prepared to continue to fight, and fight harder."

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